

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR TUESDAY, FEBRUARY 22, 2011**

Commissioner Blaine R. Young, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Tuesday, February 22, 2011, at 8:30 a.m. Present were Commissioners C. Paul Smith, *Vice President*, Billy Shreve, David Gray and Kirby Delauter. Also present were Barry Stanton, 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.)

PLEDGE OF ALLEGIANCE

The meeting began with the Pledge of Allegiance.

COMMISSIONER COMMENTS

None.

ADMINISTRATIVE BUSINESS

Introductory Presentation on Water/Sewer Planning, Including the 2011 Update of the Water and Sewerage Plan - Tim Goodfellow, Community Development Division

Mr. Goodfellow presented a PowerPoint presentation on the overview of the county's water and sewerage plan that included its components and functions as well as the proposed revisions to the 2008 Water and Sewerage Plan as required by the Maryland Department of Environment.

PUBLIC HEARING

Fall 2010 Cycle of Water and Sewer Plan Amendment Requests – Tim Goodfellow, Community Development Division

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

Commissioner Young swore in all those who were testifying.

Mr. Goodfellow presented the fall 2010 amendment requests.

WS-10-10: Adcock Holdings, LLC, Request for the reclassification of 1.82 acres from W-5 Dev. to W-3 Dev. at 6001B Urbana Pike.

Recommendation: Planning staff and Utilities and Solid Waste Management Division (DUSWM) recommended approval of the W-3 Dev. designation and the Frederick County Planning Commission (FcPc) found the request consistent with the Comprehensive Plan.

Mr. Scott Miller, Esquire, Weinberg and Miller, commented on the request on behalf of the applicant.

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There were no public comments.

Decision: Commissioner Gray moved to approve WS-10-10 (Adcock Holdings LLC) to reclassify 1.82 acres located at 6001B Urbana Pike from W-5 Dev. to W-3 Dev. Commissioner Smith seconded the motion that passed 5-0.

WS-10-11: Marley Gate, LLC, Request to reclassify five (5) acres from W-5 Dev. to W-3 Dev. at the northwest corner of Marley Street and MD 144 (Main Street) in New Market.

Recommendation: Planning staff and DUSWM recommended continuance of this request to allow approval of improvement plans. The FcPc found the request consistent with the Comprehensive Plan.

Mr. Scott Miller, Esquire, Weinberg and Miller, and Mr. Bob Mochi, Rodgers Consulting, commented on the request on behalf of the applicant.

Mr. Rod Winebrenner, DUSWM, and Ms. Wendy Kearney, Office of the County Attorney, commented on the request.

There were no public comments.

Decision: Commissioner Shreve moved to continue amendment WS-10-11, Marley Gate, LLC to Tuesday, March 22, 2011. Commissioner Delauter seconded the motion that passed 5-0.

WS-10-12: Town of New Market (Olsen/Pippin), Request to reclassify .57 acres from W-5 Dev. to W-3 Dev. at 13 West Main Street, New Market.

Recommendation: Planning staff and DUSWM recommended approval of WS-10-12 (Town of New Market) of the W-3 Dev. designation and the FcPc found the request consistent with the Comprehensive Plan.

There were no public comments.

Decision: Commissioner Gray moved to approve WS-10-12, (Town of New Market) to reclassify .57 acres at 13 West Main Street from W-5 Dev. to W-3 Dev. Commissioner Smith seconded the motion that passed 5-0.

WS-10-13: Monocacy Land Company, LLC. c/o Natelli Communities, Request to reclassify 47 acres from W-4 Dev./S-4 Dev. to W-3 Dev./S-3 Dev. for the property known as Tax Map 96, Parcel 249, lots 1-107 plus 15 open space parcels located within the Boxwood Section of the Villages of Urbana.

Recommendation: Planning staff and DUSWM recommended approval of the W-3 Dev./S-3 Dev. designation and the FcPc found the request consistent with the Comprehensive Plan.

Mr. Rick Boyle, Natelli Communities, commented on the request on behalf of the applicant.

There were no public comments.

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Decision: Commissioner Smith moved to approve WS-10-13, (Monocacy Land Company, LLC) to reclassify 47 acres located within the Boxwood Section of the Villages of Urbana from W-4 Dev./S-4 Dev. to W-3 Dev./S-3 Dev. Commissioner Delauter seconded the motion that passed 5-0.

WS-10-14: Segall Development Associates, Request to reclassify property located on the north side of MD 144 bordered by the Monocacy River and I-70 within The City of Frederick, Tax Map 78, Parcels 420, 421, 422, 694, and 699 from Planned Service (PS) to W-4 Dev./S-4 Dev. and for Tax Map 422, Parcel 2146, from W-5 Dev./S-5 Dev. to W-4 Dev./S-4 Dev.

Recommendation: Planning staff recommended a reclassification of the properties to W-5 Dev./S-5 Dev. DUSWM recommended approval to change to the S-5 Dev. designation for Tax Map 78, Parcels 420, 421, 422, 694, and 699; did not approve the change to the S-4 Dev. designation for Tax Map 422, Parcel 2146; and had no recommendation for water reclassification as the property resided within The City of Frederick. The FcPc found the request consistent with the Comprehensive Plan.

Mr. Scott Miller, Esquire, Weinberg and Miller, and Mr. Fran Zeller, Harris, Smariga and Associates, commented on the request on behalf of the applicants.

There were no public comments.

Decision: Commissioner Smith moved to approve WS-10-14 (Segall Development Associates reclassification of the subject properties listed in the case to W-5 Dev./S-5 Dev. Commissioner Shreve seconded the motion that passed 5-0.

ADMINISTRATIVE BUSINESS**Second Amendment to the Waste Disposal Agreement between Frederick County and the Northeast Maryland Waste Disposal Authority - Mike Marschner, Utilities and Solid Waste Management Division**

Mr. Marschner presented the second amendment to the waste disposal agreement to the Board.

Commissioner Shreve moved to approve the second amendment as presented. Commissioner Smith seconded the motion that passed 5-0.

The Board directed Mr. Marschner to schedule a waste to energy briefing in the near future.

Acceptance of Terms and Conditions - PayFlow Pro (Gateway Services for Customer Service Website) - Brenda Teach, Utilities and Solid Waste Management Division

Ms. Teach presented the request to the Board. Mr. Richard McCain, Office of the County Attorney, commented on the terms and conditions.

Commissioner Smith moved to accept the terms and conditions for the PayFlow Pro. Commissioner Shreve seconded the motion that passed 5-0.

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**Review Staff Recommended FY 2011 – 2017 Capital Improvements Program (CIP) and
Meet with Requesting Agencies and Departments – Kelly Weaver, Finance Division**

Ms. Weaver reviewed the staff recommended FY 2011 – 2017 CIP with the Board. It was indicated there would be two (2) more reviews before the CIP would go to public hearing on Tuesday, March 15, 2011, at 7:00 p.m.

COMMISSIONER COMMENTS

None.

PUBLIC COMMENTS

None.

QUESTIONS – PRESS

None.

CLOSED SESSION

Commissioner Smith moved to go 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; (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 Shreve seconded the motion that passed 5-0.

ADJOURN

The meeting adjourned at 11:50 a.m.

Patricia A. Morrow
Recording Secretary

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF TUESDAY, FEBRUARY 22, 2011**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

- (7) To consult with counsel to obtain legal advice on a legal matter.
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

Motion:

Commissioner Smith moved to go 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 Shreve seconded the motion that passed 5-0.

Time and Location:

12:00 P.M. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To discuss issues related to performance under construction contracts.

Patricia Morrow
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON THURSDAY, FEBRUARY 24, 2011,
FOLLOWING THE CLOSED MEETING OF TUESDAY, FEBRUARY 22, 2011**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

- (7) To consult with counsel to obtain legal advice on a legal matter.
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

Motion:

Commissioner Smith moved to go 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 Shreve seconded the motion that passed 5-0.

Time and Location:

12:00 P.M. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

B Stanton, J. Mathias, W. Kearney, R. McCain, K. Demosky, R. Winebrenner, J. Kroll, D. Dunn, R. Santangelo and P. Morrow.

Topic Discussed:

To discuss issues related to performance under construction contracts.

Action Taken:

The Board directed staff to discuss the assignment of a contract and to negotiate a resolution to the issue, and if there was no meaningful outcome, staff was given the authority to pursue the appropriate steps associated with breach of contract.

Patricia Morrow
Recording Secretary

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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 Smith moved to go 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 Shreve seconded the motion that passed 5-0.

Time and Location:

12:00 P.M. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To discuss the candidates for possible appointment to the Frederick County Charter Board.

Patricia Morrow
Recording Secretary

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Motion:

Commissioner Smith moved to go 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 Shreve seconded the motion that passed 5-0.

Time and Location:

12:00 P.M. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

B Stanton, J. Mathias, J. Grossnickle, R. Cherney , R. Santangelo and P. Morrow.

Topic Discussed:

To discuss the candidates for possible appointment to the Frederick County Charter Board.

Action Taken:

The Board indicated they would interview the top 15 candidates for the Frederick County Charter Board.

Patricia Morrow
Recording Secretary