

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, JULY 28, 2011**

Commissioner Blaine R. Young, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Thursday, July 28, 2011, at 10:00 a.m. Present were Commissioners C. Paul Smith, *Vice President*, Billy Shreve, David Gray and Kirby Delauter. Also present were Mr. Dave Dunn, Acting County Manager and Ms. 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

Commissioner Smith stated he had visited the county communication sites with Mr. Jack Markey, Emergency Management Division.

Update of Board of County Commissioners' Administrative Actions – Commissioner Blaine R. Young and Dave Dunn, Office of the County Manager

Commissioner Young and Mr. Dunn briefed the public on the Board's recent administrative actions.

PUBLIC HEARING

To Consider Changes to Chapter 1-21 of the Frederick County Code (Forest Resource Ordinance) (FRO) – Mike Wilkins, Community Development Division

A public hearing was held, as duly advertised, on proposed text amendment FT11-0 1 to the FRO.

Mr. Wilkins presented the revisions in the proposed ordinance. He indicated staff worked with representatives of the Land Use Council, Frederick County Farm Bureau and the Appalachian Chapter of the Maryland Surveyors to develop the language in response to the concerns raised by stakeholders.

Public comment was heard from:

- Dusty Rood, Rodgers Consulting, on behalf of the Land Use Council

Commissioner Smith moved to adopt the proposed ordinance which approved FRO text amendment FT11-01 as amended below:

§ 1-21-31. Forest Stand Delineation

(A)(2)(c)(3) *Before proceeding beyond testing* submit normal FSD information that includes forest canopy conditions prior to removal for testing, ~~Before proceeding beyond testing.~~

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Commissioner Shreve seconded the motion that passed 5-0.

(A copy of the approved/adopted ordinance can be obtained in the County Manager's Office or from the county's website, www.FrederickCountyMD.gov.)

WORKSESSION

Revision to the Frederick County Ethics and Lobbying Ordinances – Linda Thall, Office of the County Attorney

Ms. Thall presented a draft ordinance that repealed the existing Ethics and Lobbying Ordinances and would enact a new consolidated Ethics Ordinance.

Public comment was heard from:

- Rolan Clark
- Eric Soter
- Mark Friis

Commissioner Smith moved to proceed with "Model B" to public hearing with changes to the conflict of interest language in §1-7.1-5(E)(1); changes to the financial disclosure provision in §1-7.1-6(E)(8); and include the lobbying provision from "Model A." Commissioner Gray seconded the motion that failed 2-3 with Commissioners Young, Shreve and Delauter opposed.

Commissioner Smith moved to approve the draft ordinance using "Model B" with changes to the conflict of interest language in §1-7.1-5(E)(1) and changes to the financial disclosure provision in §1-7.1-6(E)(8). Commissioner Shreve seconded the motion that passed 4-1 with Commissioner Gray opposed.

It was noted Commissioner Smith would work on the wording of the revisions with Ms. Thall.

(Commissioner Young left the meeting at 11:15 a.m. and passed the gavel to Commissioner Smith.)

Revisions to the Moderately Priced Dwelling Units (MPDU) Ordinance – Jenny Short, Citizens Services Division and Kathy Mitchell, Office of the County Attorney

Ms. Short presented the draft ordinance to the Board.

Public comment was heard from:

- Jason Wiley, Land Use Council

Commissioner Shreve indicated he would request, at the end of a 12 month period, any money that remained in the fund to be transferred into an account for the renovation of schools.

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Commissioner Delauter moved to take the draft ordinance through the public hearing process. Commissioner Gray seconded the motion that passed 4-0 with Commissioner Young absent.

(Commissioner Young returned to the meeting at 11:30 a.m. and Commissioner Smith passed the gavel back to him.)

FY 2011 – Installment Purchase Program (IPP) Easement Acquisition Cycle – Anne Bradley, Community Services Division

Ms. Bradley reviewed the 29 applications for the FY 2011, IPP easements and presented the staff recommendation to take 10 applications to public hearing.

Mr. Michael Chomel, Office of the County Attorney, commented on corporate ownership of farmland.

Mr. Eric Soter, Community Development Division, commented on the Lehigh Cement property.

Commissioner Shreve moved to take the 29 applicants to public hearing with the price per acre based on the total amount in the program (\$3 million) divided by the total number of acres of all 29 properties and offer that amount to each property on the list. Commissioner Smith seconded the motion that failed 1-4 with Commissioners Young, Smith, Gray and Delauter opposed.

Ms. Tara Lehtonen commented on her property.

Commissioner Young moved to proceed forward with the IPP as presented with taking the top 10 properties to public hearing (#1-5 and #7-11). Commissioner Gray seconded the motion.

There was discussion regarding taking 20 applications to public hearing and to offer them 80% of the amount recommended.

Commissioner Young requested to withdraw the motion. Commissioner Gray did not accept. The vote on the motion failed 1 – 4 with Commissioners Young, Smith, Shreve and Delauter opposed.

Commissioner Young moved to table the issue for 30 days to seek input from staff and the Agriculture Preservation Advisory Board. Commissioner Shreve seconded the motion that passed 4-1 with Commissioner Gray opposed.

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

Adult Public Guardianship Review Board

There were no public comments.

Commissioner Smith moved to appoint Ms. Kathy Hutchens, RN, for an unexpired term to expire June 30, 2012. Commissioner Shreve seconded the motion that passed 5-0.

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Companion Animal Welfare Advisory Committee

There were no public comments.

Commissioner Smith moved to reappoint Ms. Linda Junkins Smith and Ms. Deborah Simoldoni to serve three-year terms to expire June 30, 2014. Commissioner Shreve seconded the motion that passed 5-0.

Human Relations Commission (HRC)

Angela Spencer, Chair, HRC, commented on the Commission.

There were no public comments.

Commissioner Smith moved to appoint Ms. Tonya Brown, Mr. Chris Huckenpoehler and Mr. David Perez to serve three-year terms to expire June 30, 2014. Commissioner Gray seconded the motion that passed 5-0.

CONSENT AGENDA

The following items were considered on the consent agenda:

BID AWARDS

1. Purchasing Memo #12-012 - Bid #11-CP-51, Ballenger Creek Trail, Phase I
Award to: David H. Martin Excavating, Inc.
Estimated total amount: \$702,581.15 and a construction contingency of \$70,000.00
2. Purchasing Memo #12-013 – Water and Sewer Chemicals
Award to: Various Vendors
Award amount: \$771,362.40
3. Purchasing Memo #12-014 – Purchase and Installation of Fall Protection Systems and
Associated Budget Transfer
Award to: Lamco Safety Products
Award amount: \$29,694.00

BUDGET TRANSFERS

1. #BT-12-016, Management Services Division
2. #BT-12-017, Fire and Rescue Services Division

CHANGE ORDER

1. New Design Water Transmission Main, Contract No. 110-W, Design Change Order No. 23
– Kevin Demosky, Utilities and Solid Waste Management Division

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EASEMENT

1. Amended and Restated Forest Resource Ordinance (FRO) Easement – Urbana Corporate Center Lot 801 (GSA/SSA Lot) – Mike Wilkins, Community Development Division

MISCELLANEOUS

1. Installment Purchase Program (IPP) – Renehan Unrestricted Lot Request – Anne Bradley, Community Development Division

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

The meeting adjourned for lunch at 12:20 p.m.

Commissioner Young reconvened a meeting of the Board for Thursday, July 28, 2011, at 1:00 p.m. Present were Commissioners Billy Shreve, David Gray and Kirby Delauter. Also present were Mr. Dave Dunn, Acting County Manager and Ms. Patti Morrow, Recording Secretary. Please note the arrival time below of Commissioner C. Paul Smith, *Vice President*.

ADMINISTRATIVE BUSINESS

Bid Award – Purchasing Memo #12-018 – Amendment to Existing L.W. Consulting Contract and Budget Transfer - Hal Good, Finance Division

Mr. Good and Mr. Collier Baird, Citizens Care and Rehabilitation Center / Montevue Assisted Living, commented on the request.

Commissioner Gray moved to approve Purchasing Memo #12-018. Commissioner Shreve seconded the motion that passed 4-0 with Commissioner Smith absent.

Priority Two Draft Zoning Ordinance Text Amendments – Eric Soter, Community Development Division

Ms. Shawna Lemonds, Community Development Division, reviewed the proposed amendments.

Mr. Larry Smith, Community Development Division, commented on the storage of petroleum gas.

(Commissioner Smith entered the meeting at 1:25 p.m.)

By unanimous consent the Board was in favor of the following proposed items to be moved forward as priority two draft text amendments:

- Light Industrial (LI) / General Industrial (GI) industrial standards
- Return Planned Development Residential (PDR)/Planned Development Employment back to Mixed Use Development (MXD)/ Planned Unit Development (PUD)
- Land use restrictions within the Priority Preservation Areas

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- Zoning ordinance text amendments
- Accessory apartments
- Temporary mobile homes
- Animal hospital or veterinary clinic in General Commercial (GC)
- Sign calculations use vs. zoning district
- Sign calculation for multiple lot frontage
- Outdoor storage in the GC and LI
- Non-governmental utilities
- Limited Roadside stand (Commissioner Gray opposed)
- Highway Service zoning district

The Board was not in favor of the restricted funeral establishments.

It was indicated staff would bring the items back to a future Board meeting in August for a final review and then would be taken through the public hearing process.

COMMISSIONER COMMENTS

None.

PUBLIC COMMENTS

None.

QUESTIONS – PRESS

- Bethany Rogers, The Frederick News-Post

CLOSED SESSION

Commissioner Smith moved to go into closed session under 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 Delauter seconded the motion that passed 5-0

ADJOURN

The meeting adjourned at 1:45 p.m.

Patricia A. Morrow
Recording Secretary

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, JULY 28, 2011**

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 under 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 Delauter seconded the motion that passed 5-0

Time and Location:

1:50 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To discuss a personnel matter involving an individual county employee.

Patricia Morrow
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON TUESDAY, AUGUST 4, 2011,
FOLLOWING THE CLOSED MEETING OF THURSDAY, JULY 28, 2011**

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 under 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 Delauter seconded the motion that passed 5-0

Time and Location:

1:50 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

D. Dunn, J. Mathias, M. Gastley, M. Hose and P. Morrow.

Topic Discussed:

To discuss a personnel matter involving an individual county employee.

Action Taken:

The Board provided direction to staff regarding the retirement of an individual county employee and the appointment of another employee.

Patricia Morrow
Recording Secretary