

PUBLIC MEETING MINUTES FOR TUESDAY, SEPTEMBER 6, 2011

A public meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Tuesday September 6, 2011, was called to order at 7:00 p.m. by Commissioner Blaine Young, *President*. Present were Commissioners C. Paul Smith, *Vice President*; Billy Shreve, David Gray, and Kirby Delauter. Also in attendance were Mr. Dave Dunn, 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 web page. 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 web page 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.

The meeting began with the recitation of the Pledge of Allegiance led by scouts from Boy Scout Troop 1011.

PUBLIC HEARINGS

Rezoning #R-11-01 – Richard Choate (with the Catoctin Wildlife Preserve and Zoo) – Denis Superczynski, Community Development Division

Commissioner Young swore in all those who were testifying.

A public hearing was held, as duly advertised, on rezoning case #R-11-01, the Choate property to rezone 24.5 acres on Brice Road from Agricultural (A) to Open Space Recreation (OSR).

Mr. Superczynski presented the staff report and noted the Frederick County Planning Commission (FcPc) recommended approval with two (2) recommendations.

Mr. Dick Choate, applicant, spoke on the rezoning request.

Public comment was heard from:

- Naomi Smith

Mr. Michael Chomel, Office of the County Attorney, commented on the case.

Mr. Richard Hahn, Executive Director, Catoctin Wildlife Preserve and Zoo, gave a rebuttal of the public comments heard.

Commissioner Smith moved to approve rezoning case #R-11-01 to rezone 24.5 acres, located on the east side of MD 806, west side of Brice Road at Catoctin Furnace, from A to OSR including references to Section X (Summary of Findings) and Section XI (Staff Recommendations) in the staff report and directed legal staff to draft an ordinance to be acted on at a future Board meeting. Commissioner Shreve seconded the motion that passed 5-0.

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Commissioner Smith moved include a waiver on the requirement as stated in Section 1.19.10-1000 (A)(1)(b) of the Frederick County Zoning Ordinance, that parcels in the OSR zone have frontage on, and direct access to, a roadway with at least a “collector” status as designated by the County Comprehensive Plan because the subject parcel is located within two (2) miles of a grade-separated interchange. Commissioner Gray seconded the motion that passed 5-0.

It was indicated legal staff would prepare the ordinance and bring it back for signature at a future Board meeting

To Consider a Draft Ordinance to Amend the Frederick County Moderately Priced Dwelling Units (MPDU) Ordinance – Jenny Short, Citizens Services Division

A public hearing was held, as duly advertised, to add an option for payment in lieu of building MPDUs.

Ms. Short presented the draft ordinance which would permit the option of a payment in lieu fee which would create a sustained funding source for affordable housing programs that would utilize the existing housing for MPDUs and assist with the removal of foreclosures from the market. The source of funding would come from the private sector in the form of payments from developments that were required to meet MPDU requirements and would not require ongoing taxpayer support.

Mr. Eric Soter, Community Development Division, commented on a number of zoning provisions that relaxed certain standards in anticipation of MPDU units being built within the planned development. He indicated it may become an issue if developers could utilize the density bonus provision by paying the additional payment in lieu and increase the overall density that would otherwise not be permitted in the base zoning.

Public comments were heard from:

- Ron Cramer, Executive Director, Habitat for Humanity
- Mark Friis, Land Use Council
- Barry Weller, Drees Homes
- Jason Wiley, Elm Street Development
- Andrew DiPasquale, Esquire, Miles and Stockbridge

Commissioner Smith moved to approve and adopt the MPDU Ordinance and fee in lieu regulations, and allow the use of the MPDU relaxed standards and/or density bonus on currently approved projects with an effective date of September 6, 2011. Commissioner Delauter 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.)

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To Consider an Ordinance to Amend Certain Sections of the Frederick County Adequate Public Facilities Ordinance (APFO) Regarding Road Adequacy Testing – Ron Burns, Community Development Division

A public hearing was held, as duly advertised, on the text amendments to the APFO and the *Guidelines for the Preparation of Traffic Impact Analyses for Development Applications* (Guidelines).

Mr. Burns presented the amendments that were considered to address the needs of the current economic climate and the strategic plan goals of the Board. He indicated the proposed ordinance would modify the road adequacy provisions to be more jobs friendly, fairer and simpler to interpret and apply.

Mr. Burns noted the FCPC recommended the Board not adopt the proposed ordinance or the changes to the Guidelines.

Public comments were heard from:

- Chris Smariga, Land Use Council

Commissioner Smith moved to approve the ordinance to amend the Frederick County APFO regarding road adequacy testing with an effective date of September 6. Commissioner Delauter seconded the motion that passed 4-1 with Commissioner Gray opposed.

(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.)

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

A public hearing was held, as duly advertised, on a proposed ordinance that would repeal the existing Ethics and Lobbying Ordinances and would enact a new consolidated Ethics Ordinance.

Ms. Thall briefed the Board on the proposed ordinances. She indicated the draft Ethics Ordinance was based largely on Model B (state model ethics law) with Model A used to draft the section on lobbying. The draft ordinance was sent to the State Ethics Commission on August 9, 2011, and no response has been received as of the date of this meeting.

There were no public comments.

Commissioner Smith moved to close the public hearing and following the receipt of comments from the State Ethics Commission the draft ordinance would come back to the Board at a future meeting for final action prior to the October 1 deadline. Commissioner Gray seconded the motion that passed 5-0.

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Commissioner Young indicated he was pleased with the business friendly action items that have been implemented by the Board.

PUBLIC COMMENTS AND/OR REQUESTS

None.

ADJOURN

The meeting adjourned at 9:00 p.m.

Patricia A. Morrow
Recording Secretary