

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, DECEMBER 5, 2013**

Commissioner Blaine R. Young, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Thursday, December 5, 2013, at 9:30 a.m. at Winchester Hall. Present were Commissioners C. Paul Smith, *Vice President*, Billy Shreve, and Kirby Delauter. Also present were Ms. Lori Depies, County Manager and Ms. Patti Morrow, Recording Secretary. Commissioner David Gray was absent from the meeting.

Invocation and Pledge of Allegiance

The meeting began with a moment of silence followed by the recitation of the Pledge of Allegiance.

Young Professional of the Year Recognition

The Board recognized Ms. Michelle Day, Frederick County Workforce Services, for receiving the Generation Connect Young Professional of the Year 2013 award from the Chamber of Commerce and Ms. Tracy Capone, Interagency Information Technologies Division, for being named one of the top finalists.

Proclamation – Winter Preparedness Week

The Board proclaimed the week of December 1, 2013, as Winter Preparedness Week.

Business Recognition – Naturalawn of America

The Board recognized Naturalawn of America for their contributions to the community.

Commissioner Comments

Comments were provided by Commissioners Young, Smith, Shreve and Delauter.

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

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

Mr. Chuck Nipe, Public Works Division (DPW), updated the Board on the relocation of DPW to the former Montevue site.

PUBLIC COMMENTS

None.

Request for Letter of Support

Sheriff Chuck Jenkins and Mr. Jack Markey, Emergency Management Division, requested a letter of support to be sent to the state regarding funding cuts that would effect the local Call 9-1-1 system.

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Motion to send a letter of support to the state regarding public safety – Passed 4-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young	X		X			
Smith			X			
Shreve			X			
Gray						X
Delauter		X	X			

CONSENT AGENDA

The following items were considered on the consent agenda:

- Purchasing Memo #14-072- Technology Solutions (Piggyback Contract)
- FFY 2013 Assistance to Fire Fighters Grant Program Application to the Department of Homeland Security

Motion to approve the consent agenda as presented – Passed 4-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young			X			
Smith	X		X			
Shreve		X	X			
Gray						X
Delauter			X			

PUBLIC HEARINGS

To Consider the Possible Sale of Property Located at 115 and 117 East Church Street, Frederick – Richard McCain, Office of the County Attorney

A public hearing was held, as duly advertised, on the possible sale of county surplus real property.

Mr. McCain and Ms. Crystal Chamberlain, Public Works Division, presented the offers for the properties located at 115 and 117 East Church Street.

Mr. Gary Large, representing Ausherman Development Corporation, II, (“Ausherman”) and Mr. Hogan, Hogan Realty Company, LLC, (“Hogan”) were present.

There was no public comment.

Motion to approve the offer from Hogan to purchase 115 and 117 East Church Street properties, noting the properties are not needed by the county – failed 2-1-1.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young				X		
Smith	X		X			
Shreve					X	
Gray						X
Delauter		X	X			

(Commissioner Shreve left the meeting.)

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Motion to reconsider the prior vote – Passed 3-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young			X			
Smith	X		X			
Shreve						X
Gray						X
Delauter		X	X			

Motion to accept the cash offer from Ausherman with the amendment that Ausherman would purchase both properties, noting the county has no use for the properties – Passed 2-1.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young	X		X			
Smith				X		
Shreve						X
Gray						X
Delauter		X	X			

Motion to extend the offer to Hogan as presented if Ausherman rejects the offer (time frame of 72 hours), noting the county has no use for the properties – Passed 3-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young	X		X			
Smith			X			
Shreve						X
Gray						X
Delauter		X	X			

(Commissioner Shreve returned to the meeting.)

To Consider the Solid Waste Management Administration of Landfill Accounts – Phil Harris and Lori Finafrock, Utilities and Solid Waste Management Division (DUSWM)

A public hearing was held, as duly advertised, on a proposed resolution which would update and amend the Department of Solid Waste Management policy for administration of delinquent landfill accounts.

Mr. Harris, Ms. Finafrock and Mr. Kevin Demosky, DUSWM, were present. It was noted the updates would allow, with a payment guarantee in one of three forms, new accounts to be established, as well as account holders with previous delinquencies to establish a new account.

There was no public comment.

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Motion to approve the proposed resolution to establish new account application and service agreement forms for billable customers and delegate the authority to make changes to the forms to the DUSWM director with the approval of the Office of the County Attorney – Passed 4-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young			X			
Smith	X		X			
Shreve		X	X			
Gray						X
Delauter			X			

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

Amendment of the Frederick County Ethics Ordinance – Linda Thall, Office of the County Attorney

A public hearing was held, as duly advertised, on the proposed amendments to the Frederick County Ethics Ordinance.

Ms. Thall presented the proposed amendments that would revise the Ethics Ordinance to require candidates for County Executive and County Council to file financial disclosure statements when they file their certificates of candidacy.

There was no public comment.

Motion to approve and adopt the proposed amendments to the Ethics Ordinance as presented – Passed 4-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young			X			
Smith	X		X			
Shreve			X			
Gray						X
Delauter		X	X			

(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

Expansion of the Residential Curbside Recycling Program to Include Eligibility of Certain Multi-family Dwellings – Phil Harris and Lori Finafrock, Utilities and Solid Waste Management Division

Mr. Harris and Ms. Finafrock noted that based on results from a direct mail survey of potentially eligible properties, a majority were not interested in curbside recycling service and the accompanying Service Benefit Charge increase.

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Motion to accept the staff recommendation to make no changes to the existing residential curbside recycling program – Passed 4-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young			X			
Smith	X		X			
Shreve		X	X			
Gray						X
Delauter			X			

ADMINISTRATIVE BUSINESS

Bid Award – Purchasing Memo #14-063 – NPDES Consulting Services - Diane George, Finance Division

Motion to approve Purchasing Memo #14-063 as presented – Passed 3-1.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young			X			
Smith	X		X			
Shreve		X	X			
Gray						X
Delauter				X		

Present for Signature Purposes the Ordinance Regarding Rezoning Amendment #R-13-02, MS Gladhill / Plankstone Branch PUD (Public Hearing Held 11/19/13) – Michael Chomel, Office of the County Attorney

Mr. Chomel presented the ordinance regarding Rezoning Amendment #R-13-02 for signature.

No action was taken.

Russell Holdings, LLC Memorandum of Understanding (MOU) Amendment – Ron Burns, Community Development Division

Mr. Burns presented the request to amend the executed MOU with Russell Holdings, LLC, regarding certain road improvements and the acquisition of property for future road improvements to MD 85.

Motion to approve the MOU as presented – Passed 4-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young			X			
Smith	X		X			
Shreve			X			
Gray						X
Delauter		X	X			

Mr. Matt Holbrook, St. Johns Properties, commented on the status of various properties in Frederick County.

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**Monrovia Town Center PUD and DRRA Public Hearing Procedures for December 10 and
Subsequent Days – Jim Gugel, Community Development Division**

The procedures for the public hearing were discussed. It was noted the applicant would have 30 minutes for rebuttal.

The Board took no action as this item was informational.

**Middletown Volunteer Fire Station Progress Update – Sue Barthol, Public Works
Division**

The following were present for the update: Mr. Chuck Nipe, Public Works Division, Chief Denise Pouget, Mr. Michael Grierson and Mr. John North, Fire and Rescue Services Division.

By unanimous consent, staff was directed to return in February with an update on findings regarding an alternate location for the fire station, program adjustments, and impacts of an additional \$1 million or up to \$5.4 million to the budget.

**Updates from County Commissioners' Liaison – Dave Dunn, Community Development
Division**

Mr. Dunn presented the updates.

The Board took no action as this item was informational.

CLOSED SESSION

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.

Topic: To consider an appeal under the county personnel rules.

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.

Topic: To discuss with the county's attorneys and staff the legal options available to respond to an administrative decision.

Topic: To discuss with the county's attorneys and staff issues related to an upcoming public hearing.

Maryland Annotated Code State Government Article § 10-508(a) (14) Before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

Topic: To consider the disposal of county surplus property.

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Motion to go into closed session – Passed 4-0.

COMMISSIONERS	MOTION	SECOND	YES	NO	ABSTAIN	NOT PRESENT
Young			X			
Smith	X		X			
Shreve			X			
Gray						X
Delauter		X	X			

PUBLIC COMMENTS

None.

QUESTIONS – PRESS

None.

COMMISSIONER COMMENTS

None.

ADJOURN

The meeting adjourned at 12:15 p.m.

Patricia Morrow
Recording Secretary

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, DECEMBER 5, 2013**

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; (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; and (14) Before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process. Commissioner Delauter seconded the motion that passed 4-0 with Commissioner Gray absent.

Time and Location:

12:25 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To consider an appeal under the county personnel rules.

Patti Morrow
Recording Secretary

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, DECEMBER 5, 2013**

**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON THURSDAY, DECEMBER 19, 2013,
FOLLOWING THE CLOSED MEETING OF THURSDAY, DECEMBER 5, 2013**

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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Time and Location:

12:25 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

J. Mathias, L. Depies, M. Chomel and M. Hose.

Topic Discussed:

To consider an appeal under the county personnel rules.

Action Taken:

The Board authorized staff to deny the appeal.

Patti Morrow
Recording Secretary

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**FORM OF STATEMENT FOR
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STATUTORY AUTHORITY TO CLOSE SESSION

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.

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Time and Location:

12:25 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To discuss with the county's attorneys and staff the legal options available to respond to an administrative decision.

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Time and Location:

12:25 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

J. Mathias, L. Depies, M. Marschner, R. McCain, and R. Santangelo.

Topic Discussed:

To discuss with the county's attorneys and staff the legal options available to respond to an administrative decision.

Action Taken:

The Board directed staff to appeal the decision to the Circuit Court.

Patti Morrow
Recording Secretary

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Time and Location:

12:25 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To discuss with the county's attorneys and staff issues related to an upcoming public hearing.

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Time and Location:

12:25 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

J. Mathias, L. Depies, R. McCain, K. Mitchell, J. Gugel, D. Superczynski, R. Burns and R. Santangelo.

Topic Discussed:

To discuss with the county's attorneys and staff issues related to an upcoming public hearing.

Action Taken:

No action was taken.

Patti Morrow
Recording Secretary

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Topic to be Discussed:

To consider the disposal of county surplus property.

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Time and Location:

12:25 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

J. Mathias, L. Depies, R. McCain, C. Nipe, C. Chamberlain and R. Santangelo.

Topic Discussed:

To consider the disposal of county surplus property.

Action Taken:

Staff was directed to negotiate further.

Patti Morrow
Recording Secretary