

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, OCTOBER 9, 2014**

Commissioner Blaine R. Young, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, (“Board”) for Thursday, October 9, 2014, at 9:30 a.m. at Winchester Hall. Present were Commissioners C. Paul Smith, *Vice President*, David Gray, Billy Shreve, and Kirby Delauter. Also present was Ms. Patti Morrow, Recording Secretary.

Invocation and Pledge of Allegiance

The meeting began with an invocation followed by the recitation of the Pledge of Allegiance.

Business Recognition – Wells Fargo

The Board recognized Wells Fargo for their contributions to the community.

National Procurement Institute (NPI) Achievement of Excellence Award for the Department of Procurement and Contracting

The Board recognized the Department of Procurement and Contracting for receiving the Achievement of Excellence Award for 2014.

Proclamation – National Business Womens Week

The Board proclaimed the week of October 20 as National Business Womens Week in Frederick County.

Commissioner Comments

Comments were provided by Commissioners Smith and Gray.

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.

PUBLIC COMMENTS

- Bill Ashton
- Matt Seubert
- Teddy Kroll
- Pam McKay
- George Rudy
- Lillian Herrs
- Jan Gardner

CONSENT AGENDA

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The following items were considered on the consent agenda:

- Purchasing Memo #15-063 – Construction Management and Inspection Services for Water and Sewer Facilities for Various Projects (IDQ Contract)
- Purchasing Memo #15-068 – Supervisory Control and Data Acquisition Infrastructure Support
- Budget Transfer #BT-15-058, Child Advocacy Center, Citizens Services Division
- Board of Education School Construction Amendment #15-05
- Change Order No. 1 – Boyers Mill Road Replacement Bridge over Lake Linganore
- FY 2015 Child Support Collaborative Reimbursement Agreement (CRA) Grant for Sheriff’s Office
- FY 2015 Child Support CRA Grant for State’s Attorney’s Office

Motion to approve the consent agenda as presented – Passed 5-0.

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

Approval of Minutes

The minutes for August 5 and the events from September 15 – September 30, 2014, were approved by unanimous consent.

ADMINISTRATIVE BUSINESS

Presentation of Ordinances for Signature Purposes – Kathy Mitchell, Office of the County Attorney

Ms. Mitchell presented the following ordinances for signature purposes:

- Rezoning Case R-12-01(A) - Oakdale Planned Unit Development (PUD) Ordinance (Public Hearing Held 8/26/14)
- Rezoning Case R-14-01 - Ratley PUD Ordinance (Public Hearing Held 7/22/14)
- Farm Lot Impact Fee Waiver Ordinance (Public Hearing Held 9/25/14)

No action was taken as this item was for signature purposes.

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

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PUBLIC HEARINGS

Amendment of the List of Exempt Employees – Linda Thall, Office of the County Attorney

A public hearing was held, as duly advertised, on the list of exempt employees.

Ms. Thall presented the proposed resolution.

There was no public comment.

No action was taken by the Board as this public hearing was for the benefit to receive public comments. The Board will make a decision at their administrative business meeting scheduled for Thursday, October 23, 2014.

FY 2015/2016 Maryland Agricultural Land Preservation Fund (MALPF) Easement Acquisition Program – Anne Bradley, Community Development Division

A public hearing was held, as duly advertised on the top 10 MALPF applications.

Ms. Bradley presented the top 10 applicants. She noted the Agricultural Preservation Advisory Board recommended approval of the top 10 out of the 19 applications to be forwarded to public hearing and then for MALPF to conduct the necessary appraisals.

Public comment was heard from:

- Robert Saylor
- Phylis Jones

Motion to forward the top 10 applications to a public hearing and and for MALPF to conduct the necessary appraisals – Passed 5-0.

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

Development Rights and Responsibilities Agreement (#DRRA 14-02) - Rayburn Planned Unit Development Property and Determination of Adequacy for the Adequate Public Facilities Ordinance (APFO) Review and Approval of the Letter of Understanding (LOU) – Jim Gugel, Community Development Division

Commissioner Young swore in all who would give testimony.

A public hearing was held, as duly advertised, on #DRRA 14-02.

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Mr. Gugel presented the staff report. He indicated the petition for the DRRA from the Hogan Realty Partners, LLC, was submitted to the county on February 14, 2014, and on April 3, 2014, the Board voted to accept the petition and move forward with the review and negotiation of the DRRA. He noted Zoning Map Amendment #R-13-04 was approved on April 1, 2014, to rezone 80.22 acres located on the south side of Baltimore Road and Old National Pike (MD 144), 2,000 feet west of Ijamsville Road, from Agricultural to PUD with a maximum of 160 single-family detached dwelling units and one (1) new lot. He also noted the Frederick County Planning Commission found the draft DRRA to be consistent with the County Comprehensive Plan.

The applicant, Mr. Tim Hogan of Hogan Realty Partners, LLC, was present and represented by Mr. Noel Manalo, Esquire, Miles and Stockbridge; and Mr. Victor White, Hogan Companies.

There was no public comment.

Motion to approve #DRRA 14-02 for Rayburn PUD as presented – Passed 4-1.

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

Motion to make a finding of adequacy in accordance with the Revised APFO LOU for the Rayburn PUD – Passed 4-1.

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

Development Rights and Responsibilities Agreement (#DRRA 14-03) - Ratley Planned Unit Development (PUD) Property and Determination of Adequacy for the Adequate Public Facilities Ordinance (APFO) Review and Approval of the Letter of Understanding (LOU) – Jim Gugel, Community Development Division

A public hearing was held, as duly advertised, on #DRRA 14-03.

Mr. Gugel presented the staff report. He indicated the petition for the DRRA from the Hogan Realty Capital, LLC, was submitted to the county on February 27, 2014, and on April 3, 2014, the Board voted to accept the petition and move forward with the review and negotiation of the DRRA. He noted Zoning Map Amendment #R-14-01 was approved on July 22, 2014, with an effective date of October 9, 2014, to rezone 23.6 acres on the east and west sides of Terra Firma Road, between I-70 and MD 144 from Agricultural and R-1 to PUD with a maximum of 34 single-family detached dwelling units. He also noted the

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Frederick County Planning Commission found the draft DRRA to be consistent with the County Comprehensive Plan.

The applicant, Mr. Patrick Hogan of Hogan Realty Capital, LLC, was present and represented by Mr. Noel Manalo, Esquire, Miles and Stockbridge; and Mr. Victor White, Hogan Companies.

There was no public comment.

Motion to approve #DRRA 14-03 for Ratley PUD as presented – Passed 4-1.

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

Motion to make a finding of adequacy in accordance with the APFO LOU for the Ratley PUD – Passed 4-1.

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

Development Rights and Responsibilities Agreement (#DRRA 14-07) - Hogan Property – Jim Gugel, Community Development Division

A public hearing was held, as duly advertised, on #DRRA 14-07.

Mr. Gugel presented the staff report. He indicated the petition from the Hogan family was submitted on July 3, 2014, and on July 24, 2014, the Board voted to accept the petition and move forward with the review and negotiation of the DRRA. He noted the DRRA does not involve a concurrent rezoning request nor does it include an APFO component. The property is currently zoned R-16 High Density Residential and is located in the Ballenger Creek community growth area. The Frederick County Planning Commission found the DRRA to be consistent with the County Comprehensive Plan.

The applicant, Mr. Patrick Hogan representing the family, was present and represented by Mr. Noel Manalo, Esquire, Miles and Stockbridge; and Mr. Victor White, Hogan Companies.

There was no public comment.

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Motion to approve #DRRA 14-07 for the Hogan property – Passed 4-1.

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

AGENDA BRIEFING

Commissioner Young noted the following public hearing was scheduled for Thursday October 23 at 9:30 a.m.: Frederick County Affordable Housing Land Trust Request for Real Property Tax Exemption.

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

Board of Gaming Appeals

There was no public comment.

Motion to appoint Mr. George Stipe to serve a term to expire June 30, 2017 – Passed 5-0.

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

Companion Animal Welfare Advisory Committee

There was no public comment.

Motion to appoint Dr. Daniel Paré to serve a term to expire June 30, 2017 – Passed 5-0.

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

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Electrical Board

There was no public comment.

Motion to appoint Mr. Sheldon Davis to serve a term to expire June 30, 2017 – Passed 5-0.

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

Substance Abuse Council

There was no public comment.

Motion to reappoint Ms. Monica Kirkpatrick and Ms. Christine Marquardt to serve terms to expire June 30, 2018 – Passed 5-0.

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

ADMINISTRATIVE BUSINESS

BOCC Support for Priority List of FY 2016 Funding Request to the State – Ray Barnes, Frederick County Public Schools

Ms. Beth Pasierb, Frederick County Public Schools, presented the request for support.

Motion to approve sending a letter of support to the Interagency Committee on School Construction for the Frederick County Board of Education’s FY 2016 school construction project requests – Passed 5-0.

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

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Request for Public Hearing Regarding Proposed Ordinance to Revise the General Conditions and Standard Specification for Water Mains, Sanitary Sewers and Related Structures – Robert Creighton, Utilities and Solid Waste Management Division

Mr. Kevin Demosky commented on the proposed ordinance.

Motion to approve taking to public hearing the 2014 General Conditions and Standard Specification for Water Mains, Sanitary Sewers and Related Structures – Passed 5-0.

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

(The Board took a break at 12:00 p.m. and returned at 12:15 p.m.)

Northeast Maryland Waste Disposal Authority (NMWDA) Waste Transportation and Disposal Request for Proposals (RFP) Results/Recommendations – Mike Marschner, Office of the County Manager

Mr. Chris Skaggs and Mr. John Schott, NMWDA, were present for the discussion. Mr. Phil Harris, Utilities and Solid Waste Management Division, commented on the issue.

Staff was directed to take to public hearing the Vendor #1 proposal for municipal solid waste transportation and disposal and to direct the NMWDA to terminate the service agreement with Wheelabrator Technologies, Inc. for a waste to energy facility.

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

Mr. Dunn presented the updates.

No action taken as this item was informational.

PUBLIC COMMENTS

- Teresa Gallagher
- Matt Seubert
- Steve Cassis
- Mary Posey
- George Rudy
- Julie Stuart, Mom’s Clean Air Force

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QUESTIONS – PRESS

None.

COMMISSIONER COMMENTS

Zoning Map Amendment #R-14-02 - Monocacy Glen Planned Unit Development (PUD)

Commissioner Delauter inquired if there was any interest by the Board to reconsider the matter of the Monocacy Glen Zoning Map Amendment #R-14-02.

Motion to continue the Monocacy Glen PUD rezoning hearing to hear new testimony and evidence – Failed 2-3.

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

CLOSED SESSION

Maryland Annotated Code General Provisions Article §3-305(b)(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 anticipated MS4 permit action by Maryland Department of the Environment and county options.

Maryland Annotated Code General Provisions Article §3-305(b) (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’s Personnel Rules.

Motion to go into closed session – Passed 5-0.

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

ADJOURN

The meeting adjourned at 2:25 p.m.

Patricia Morrow
Recording Secretary

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, OCTOBER 9, 2014**

STATUTORY AUTHORITY TO CLOSE SESSION

Maryland Annotated Code General Provisions Article §3-305(b):

(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.

Motion:

Upon a motion by Commissioner Smith, seconded by Commissioner Shreve, the Board voted 5-0 to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b): (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.

Time and Location:

2:00 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To discuss with the county's attorneys and staff the anticipated MS4 permit action by Maryland Department of the Environment and county options.

Patti Morrow
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON THURSDAY, OCTOBER 23, 2014,
FOLLOWING THE CLOSED MEETING OF THURSDAY, OCTOBER 9, 2014**

STATUTORY AUTHORITY TO CLOSE SESSION

Maryland Annotated Code General Provisions Article §3-305(b):

(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.

Motion:

Upon a motion by Commissioner Smith, seconded by Commissioner Shreve, the Board voted 5-0 to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b): (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.

Time and Location:

2:00 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

S. Moore, K. Mitchell, C. Pomeroy and R. Santangelo,

Topic Discussed:

To discuss with the county's attorneys and staff the anticipated MS4 permit action by Maryland Department of the Environment and county options.

Action Taken:

No action was taken.

Patti Morrow
Recording Secretary

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Time and Location:

2:00 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

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
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Motion:

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Time and Location:

2:00 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

M. Hose, M. Chomel and J. Grossnickle

Topic Discussed:

To consider an appeal under the County Personnel Rules.

Action Taken:

Staff was authorized to uphold the determination of the division director.

Patti Morrow
Recording Secretary