

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, March 1, 2016**

Council Members Bud Otis, President; M.C. Keegan-Ayer, Vice-President; Tony Chmelik, Treasurer; Jerry Donald, Jessica Fitzwater, and Billy Shreve were present for the meeting. Council Member Kirby Delauter was absent from the meeting.

Also present were Ragen Cherney, Council Chief of Staff; Michael Chomel, County Attorney's Office; Joyce Grossnickle, Office of the County Executive, and Patti Morrow, Recording Secretary.

Council President Otis called the meeting to order at 4:30 p.m. in the first floor hearing room, Winchester Hall, 12 East Church Street, Frederick, Maryland.

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

Council Member Keegan-Ayer moved to approve the agenda as presented. Council Member Donald seconded the motion.

*Council Member Shreve moved to table Bill No. 16-01 – Ethics until Council Member Delauter was present. Council Member Chmelik seconded the motion that **failed** 2-4 with Council Members Otis, Keegan-Ayer, Donald, and Fitzwater opposed and Council Member Delauter absent.*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald		X	
District 2 - Chmelik	X		
District 3 - Keegan-Ayer		X	
District 4 - Fitzwater		X	
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis		X	

The motion to approve the agenda was then voted on and passed 4-2 with Council Members Chmelik and Shreve opposed.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik		X	
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		X
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

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CONSENT AGENDA

The following item was considered on the consent agenda:

- #BT-16-156 – Department of Aging, Citizens Services Division

Council Member Keegan-Ayer moved to approve the consent agenda as presented. Council Member Fitzwater seconded the motion that passed 5-0-1 with Council Member Shreve abstained and Council Member Delauter absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

Approval of Minutes for February 16, 2016

Council Member Keegan-Ayer moved to approve the minutes for February 16, 2016, as presented. Council Member Fitzwater seconded the motion that passed 5-1 with Council Member Shreve opposed and Council Member Delauter absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

Approval of the Transit Services Division's Authorizing Resolution #16-01 – Nancy Norris, Transit Services Division

Council Member Keegan–Ayer moved to adopt Resolution No. 16-01 to authorize approval to submit the FY 2017 grant application and Annual Transportation Plan to the Maryland Department of Transportation/Maryland Transit Administration. Council Member Donald seconded the motion that passed 5-1 with Council Member Shreve opposed and Council Member Delauter absent.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

(A copy of the adopted/approved resolution can be obtained from the county's website <http://www.frederickcountymd.gov/>)

Third Reading Calendar:

To Consider Bill No. 16-01 - Amend Chapter 1-7.1 of the Frederick County Code - Ethics - Council President Bud Otis

Council Member Keegan-Ayer moved to adopt and enact into law Bill No. 16-01 as presented. Council Member Donald seconded the motion.

*Council Member Chmelik moved to adopt Amendment No. 5 (see below) to Bill No. 16-01 proffered by himself and seconded by Council Member Shreve that **failed** 2-4 with Council Members Otis, Keegan-Ayer, Donald, and Fitzwater opposed and Council Member Delauter absent.*

Ms. Linda Thall, Office of the County Executive, commented on the amendments presented by Council Member Chmelik.

§ 1-7.1-10. ENFORCEMENT.

Under E add the following language after:

(E) A(n) appointed County official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald		X	
District 2 - Chmelik	X		
District 3 - Keegan-Ayer		X	
District 4 - Fitzwater		X	
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis		X	

Council Member Chmelik moved to adopt Amendment No. 3 as amended (see below) to Bill No. 16-01 proffered by himself and seconded by Council Member Shreve that **failed** 2-4 with Council Members Otis, Keegan-Ayer, Donald, and Fitzwater opposed and Council Member Delauter absent.

§ 1-7.1-5. CONFLICTS OF INTEREST (E) Contracts with elected officials, add the following language at the end of (2) **on Page 7:**

An opinion from the Ethics Commission, signed by the County Attorney assigned to the Commission, advising that no Conflict of Interest exists, creates a rebuttable presumption that no ethics violation exists.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald		X	
District 2 - Chmelik	X		
District 3 - Keegan-Ayer		X	
District 4 - Fitzwater		X	
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis		X	

Council Member Chmelik moved to adopt Amendment No. 2 as amended (see below) to Bill No. 16-01 proffered by himself and seconded by Council Member Shreve that **failed** 2-4 with Council Members Otis, Keegan-Ayer, Donald, and Fitzwater opposed and Council Member Delauter absent.

§ 1-7.1-3. DEFINITIONS. Under **COMPENSATION** add the following language after (2) **on Page 2:**

CONTRACT. Contract shall not mean Emergency Purchases in accordance with Article II, §1-2-30, Public Works Agreements or Public Improvements Agreements.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald		X	
District 2 - Chmelik	X		
District 3 - Keegan-Ayer		X	
District 4 - Fitzwater		X	
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis		X	

*Council Member Chmelik moved to adopt Amendment No.1 as amended (see below) to Bill No. 16-01 proffered by himself and seconded by Council Member Shreve that **failed** 2-4 with Council Members Otis, Keegan-Ayer, Donald, and Fitzwater opposed and Council Member Delauter absent.*

§1-7.1-12 EFFECTIVE DATE.

The measure shall take effect on December 1, 2018.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald		X	
District 2 - Chmelik	X		
District 3 - Keegan-Ayer		X	
District 4 - Fitzwater		X	
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis		X	

The original motion to adopt and enact into law Bill No. 16-01 as presented passed 4-2 with Council Members Chmelik and Shreve opposed and Council Member Delauter absent.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik		X	
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

(A copy of the adopted/enacted bill can be obtained from the county's website <http://www.frederickcountymd.gov/>)

To Consider Bill No. 16-04 - Revisions to Public School and Library Development Impact Fees and Annual Adjustments – Council President Bud Otis (on behalf of the County Executive)

Council Member Keegan-Ayer moved to adopt and enact Bill No. 16-04. Council Member Fitzwater seconded the motion.

Council Member Keegan Ayer moved to adopt Amendment No. 1 (see below) to Bill No. 16-4 proffered by herself. Council Member Fitzwater seconded the motion that passed 5-1 with Council Member Shreve opposed and Council Member Delauter absent.

- 1) Revise Exhibit 1, §1-22-12 as shown below:

§ 1-22-12. AMOUNT OF IMPACT FEE.

All new residential development in the service area shall be subject to the payment of a public school development impact fee payable at the time of issuance of a building permit/zoning certificate by the county or a municipality, as applicable, pursuant to this Chapter 1-22, as follows:

<i>Residential Development</i>	<i>Impact Fee Per Dwelling Unit (As of 7/1/16)</i>	<i>Impact Fee Per Dwelling Unit (As Of 7/1/17)</i>
Single-Family Detached	\$ [13,478.00] [[14,747.00]] 14,112.50	\$14,747.00
Townhouse/Duplex	\$ [13,412.00] [[15,002.00]] 14,207.00	\$15,002.00
All Other Residential	\$ [5,595.00] [[6,291.00]] 5,942	\$6,291.00

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2) Revise Exhibit 1, §1-22-13 as shown below:

§1-22-13. [Reserved] ANNUAL ADJUSTMENT

~~[[On July 1, 2017, and on July 1 of each year thereafter in which the public school development impact fee is in effect, the amount of the public school development impact fee, per dwelling unit, shall be adjusted as follows:]]~~

~~(A) On or before January 15, 2017, and on or before January 15 of each year thereafter, the County Executive shall provide to the County Council a report which proposes an annual adjustment to the public school development impact fee, based on the most recent data from the State of Maryland School Construction Cost Index.~~

~~(B) The proposed annual adjustment ~~[[shall automatically]]~~ will not take effect ~~[[on the following July 1]]~~ unless the County Council enacts a bill adopting it.~~[[to change the public school development impact fee by the May 1 following receipt of the report.~~~~

~~(C) Unless the County Council bill to change the public school development impact fee takes effect before the following June 30, then the proposed annual adjustment shall automatically take effect on the July 1 following receipt of the report.]]~~

3) Revise Exhibit 1, §1-22-23 as shown below:

§1-22-23. [Reserved] ANNUAL ADJUSTMENT

~~[[On July 1, 2017, and on July 1 of each year thereafter in which the library development impact fee is in effect, the amount of the library development impact fee, per dwelling unit, shall be adjusted as follows:]]~~

~~(A) On or before January 15, 2017, and on or before January 15 of each year thereafter, the County Executive shall provide to the County Council a report which proposes an annual adjustment to the library development impact fee, based on the most recent 20 City Annual National Average Data from the Engineering News Record Construction Cost Index.~~

~~(B) The proposed annual adjustment ~~[[shall automatically]]~~ will not take effect ~~[[on the following July 1]]~~ unless the County Council enacts a bill adopting it.~~[[to change the public school development impact fee by the May 1 following receipt of the report.~~~~

~~(C) — Unless the County Council bill to change the library development impact fee takes effect before the following June 30, then the proposed annual adjustment shall automatically take effect on the July 1 following receipt of the report.]]~~

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Boldface *Heading or defined term.*

Underlining *Added to existing law by original bill.*

[Single boldface brackets] *Deleted from existing law by original bill.*

Double underlining *Added by amendment*

[[Double boldface brackets]] and ~~strikethrough~~ *Deleted by amendment*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

Because a substantial change was made to the original bill a public hearing will be held on the amended bill on Tuesday, March 22, 2016, at 7:00 p.m.

To Consider Bill No. 16-05 - Regarding Revisions to Adequate Public Facilities Ordinance (APFO) School Construction Fees and Annual Adjustments – Council President Bud Otis (on behalf of the County Executive)

Council Member Keegan-Ayer moved to adopt and enact Bill No. 16-05. Council Member Fitzwater seconded the motion.

Council Member Keegan Ayer moved to adopt Amendment No. 1 (see below) to Bill No. 16-5 proffered by herself. Council Member Fitzwater seconded the motion that passed 5-1 with Council Member Shreve opposed and Council Member Delauter absent.

3) Revise Exhibit 1, §1-20-62(E) as shown below:

§ 1-20-62. SCHOOL CONSTRUCTION FEE OPTION.

(E) School construction fees due to the county shall be determined by using the chart below. The school construction fees shall be calculated by multiplying the appropriate school construction fee component(s) (based on the proposed development's failure to meet public school adequacy at the elementary, middle or high school level) by the number of residential units of each type.

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School Construction Fees			
<i>Housing Unit Type</i>	<i>Failure at Elementary School Level</i>	<i>Failure at Middle School Level</i>	<i>Failure at High School Level</i>
Single Family Detached	\$3,977 [[\$6,709]]	\$1,752 [[\$2,660]]	\$3,721 [[\$5,623]]
Townhouse/Duplex	\$4,981 [[\$ 8,402]]	\$1,533 [[\$2,327]]	\$2,894 [[\$4,373]]
Other Residential	\$2,181 [[\$3,680]]	\$594 [[\$902]]	\$1,148 [[\$1,735]]

4) Revise Exhibit 1, §1-20-62(G) as shown below:

(G) ~~[Reserved]~~ ANNUAL ADJUSTMENT.

~~[[On July 1, 2017, and on July 1 of each year thereafter in which the school construction fees are in effect, the amount of the school construction fees, per dwelling unit and school level, shall be adjusted as follows:]]~~

~~(C) On or before January 15, 2017, and on or before January 15 of each year thereafter, the County Executive shall provide to the County Council a report which proposes an annual adjustment to the school construction fees, based on the most recent data from the State of Maryland School Construction Cost Index.~~

~~(C) The proposed annual adjustment ~~[[shall automatically]]~~ will not take effect ~~[[on the following July 1]]~~ unless the County Council enacts a bill adopting it. ~~[[to change the public school development impact fee by the May 1 following receipt of the report.~~~~

~~(C) Unless the County Council bill to change the public school construction fees takes effect before the following June 30, then the proposed annual adjustment shall automatically take effect on the July 1 following receipt of the report.]~~

Boldface *Heading or defined term.*

Underlining *Added to existing law by original bill.*

~~[Single boldface brackets]~~ *Deleted from existing law by original bill.*

Double underlining *Added by amendment*

~~[[Double boldface brackets]] and ~~strikethrough~~~~ *Deleted by amendment*

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

Because a substantial change was made to the original bill a public hearing will be held on the amended bill on Tuesday, March 22, 2016, at 7:00 p.m.

Public Hearings:

Brunswick Enterprise Zone – Helen Propheter, Office of Economic Development

A public hearing was held regarding a request for the incorporated City of Brunswick to be designated an Enterprise Zone as defined by the Maryland Department of Commerce.

Ms. Propheter presented the request from the City of Brunswick. Also present were Ms. Sandy Wagerman, Office of Economic Development; City of Brunswick Mayor Karen Tome, and City of Brunswick Administrator Mr. Bob McGrory.

There were no public comments.

Council Member Donald moved to adopt Resolution No. 16-04 to establish an Enterprise Zone in the City of Brunswick. Council Member Fitzwater seconded the motion that passed 6-0 with Council Member Delauter absent.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

(A copy of the adopted/approved resolution can be obtained from the county's website <http://www.frederickcountymd.gov/>)

Agricultural Preservation Easement Applications - Anne Bradley, Planning and Permitting Division

A public hearing was held, as duly advertised, on the request to approve the top 14-ranked applications on 2,774 acres to the FY 2016 Installment Purchase Program (IPP).

Ms. Bradley presented the applications. She noted the Agricultural Preservation Advisory Board recommended sending the 14 applications to public hearing and the Frederick County Planning Commission found them to be consistent with the Frederick County Comprehensive Plan.

Public comment was heard from:

- Steve Cassis
- Richard Griffin, The City of Frederick

Council Member Keegan-Ayer moved to approve the agricultural preservation easement applications as presented. Council Member Fitzwater seconded the motion that passed 6-0 with Council Member Delauter absent.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter			X
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

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(The Council took a break at 6:30 p.m. and reconvened at 7:00 p.m.)

Second Reading Calendar:

To Consider Bill No. 16-06 – Amendment to Frederick County Code Chapter 1-2-126 – Negotiation of Wages and Benefits - President Bud Otis (on behalf of the County Executive)

A public hearing was held, as duly advertised, on a proposed change to the Frederick County Code regarding the negotiation of wages and benefits to permit collective bargaining with certain employees in the Fire and Rescue Services Division to begin by October 1 and be completed by the following February 28 of each year.

There was no public comment.

It was noted Bill No. 16-06 would be scheduled for a Third Reading Calendar at a later date.

Public Comments

- Robert Cline

Council Member Comments

Comments were provided by the Council Members.

Adjourn

The meeting adjourned at 7:30 p.m.

Bud Otis, President
County Council