

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

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

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

Council Member 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.

**Action on the Agenda**

*Council Member Keegan-Ayer moved to change the order of the public hearings and approve the agenda as amended by moving Bill No. 16-13, Hotel Rental Tax Rate, to be heard first. Council Member Donald seconded the motion that passed 6-1 with Council Member 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		
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

**Public Comments**

- Pat Schempf

**Consent Agenda**

The following items were considered on the consent agenda:

- J-17-016 – Workforce Services, Office of Economic Development
- J-17-017 and J-17-018 – Workforce Services, Office of Economic Development
- J-17-021 – Utilities and Solid Waste Management Division
- J-17-025 – Animal Control Division
- BT-16-271 – Department of Aging, Citizens Services Division
- Board of Education Current Expense Fund Amendment No. 1-17

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

- Board of Education School Construction Fund Amendment No. 17-1

Ms. Linda Shea, Animal Control Division, commented on J-17-025.

Council Member Delauter questioned the Board of Education Current Expense Fund Amendment No. 1-17.

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

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		

**Business Items:**

**Approval of Minutes**

*Council Member Keegan-Ayer moved to approve the minutes for June 7, July 5, and July 6, 2016, as presented. Council Member Fitzwater seconded the motion that passed 6-1 with Council Member 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		
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

**Affirm the Confirmation of the County Executive’s Appointments/Reappointments to Boards and Commissions – Joyce Grossnickle, Office of the County Executive**

Ms. Grossnickle presented the appointments and reappointments recently made by County Executive Gardner. Ms. Grossnickle requested the Council’s confirmation of the appointments and reappointments as presented.

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

Commission For Women

*Council Member Keegan-Ayer moved to confirm the appointment of Ms. Kimba Green for a term to expire June 30, 2019. Council Member Fitzwater seconded the motion that passed 7-0.*

<b>Council Members</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent/ Abstain/ Present</b>
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		

Containment Laboratory Community Advisory Committee

*Council Member Keegan-Ayer moved to confirm the appointment of Mr. Ray Hunter for a term to expire June 30, 2017, and Dr. Joany Jackman for a term to expire June 30, 2019. Council Member Fitzwater seconded the motion that passed 7-0.*

<b>Council Members</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent/ Abstain/ Present</b>
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		

Fire and Rescue Advisory Board

*Council Member Keegan-Ayer moved to confirm the reappointment of Mr. Tim Clarke for a new term to expire June 30, 2019. Council Member Donald seconded the motion that passed 7-0.*

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

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		

Transportation Services Advisory Council

*Council Member Keegan-Ayer moved to confirm the appointment of Mr. Michael Levengood for a term to expire June 30, 2019, and Mr. William Hall to serve as the Frederick County Planning Commission’s representative on the Council with no term assigned. Council Member Donald seconded the motion that passed 7-0.*

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		

**First Reading Calendar:**

**Introduction of a Bill regarding Frederick County Code Chapter 1-2  
Administration, Article IV – Fire and Rescue Services – Council President Bud  
Otis (On behalf of the County Executive)**

Council Member Otis introduced a bill amending the Code to add provisions identifying the role of the Director of Volunteer Fire and Rescue Services; to revise the minimum response criteria based upon designation of the company; to revise the minimum standards for a company/station and to add definition of: “operational volunteer member” and “live.”

The proposed bill will be scheduled for a public hearing at a future Council meeting.

COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016

**Introduction of a Bill regarding Nuisance – Noise Levels and Enforcement amending Frederick County Code Chapter 1 Sections 1-11-6 & 1-11-7 and Introduction of a Bill regarding Enforcement of County Laws and Regulations amending Frederick County Code, Chapter 1 Section 1-1-9 – Council President Bud Otis (On behalf of the County Executive)**

Council Member Otis introduced two bills to establish measurable criteria and enforcement to restrict generation of excessive noise and designate Enforcing Agencies and Enforcement Officials.

The proposed bills will be scheduled for a public hearing at a future Council meeting.

**Third Reading Calendar:**

**Bill No. 16-07 – Agricultural Rights Transfer Ordinance – Council President Bud Otis (On behalf of the County Executive)**

*Council Member Keegan-Ayer moved to adopt and enact into law Bill No. 16-07 as presented. Council Member Fitzwater seconded the motion.*

*Council Member Chmelik moved to amend the bill as follows:*

Title Page:

An ACT to: To repeal the agricultural Rights Transfer Option (section 1-19-7.300(D))

**WHILE ALLOWING APPLICATIONS FILED UNDER SUCH SUBSECTION PRIOR TO THE EFFECTIVE DAE OF THE DELETION TO PROCEED.**

And add to the last sentence:

**AND BE IT FURTHER ENACTED THAT ANY APPLICATION FILED AND ACCEPTED BY THE COUNTY PRIOR TO THE EFFECTIVE DATE AUGUST 15, 2016, OF THIS BILL MAY PROCEED THROUGH THE PROCESS SET FORTH IN SECTION 1-19-7.300 (d) AS THAT SUBSECTION EXISTED PRIOR TO THE EFFECTIVE DATE OF THE BILL.**

**(CAPITALS INDICATE MATTER ADDED TO THE BILL)**

*Council Member Shreve seconded the motion.*

After discussion the effective date was changed to August 15, 2016.

**AND BE IT FURTHER ENACTED THAT ANY APPLICATION FILED AND ACCEPTED BY THE COUNTY PRIOR TO ~~THE EFFECTIVE DATE~~ AUGUST 15, 2016, OF THIS BILL MAY PROCEED THROUGH THE PROCESS SET FORTH IN SECTION 1-19-**

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

**7.300 (d) AS THAT SUBSECTION EXISTED PRIOR TO THE EFFECTIVE DATE OF THE BILL.**

*The vote on the amendment **failed** 3-4 with Council Members Otis, Keegan-Ayer, Donald, and Fitzwater 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		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis		X	

*The vote on the main motion was 4-3 with Council Members Chmelik, Delauter, 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	
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, [www.FrederickCountyMD.gov](http://www.FrederickCountyMD.gov).)

**Bill No. 16-08 – Extension of the Expiration of Section 1-6A-5.1 to Allow Payment of a Fee in Lieu of Building Moderately Priced Dwelling Units until June 30, 2017 – Council Member Jessica Fitzwater**

*Council Member Fitzwater moved to adopt and enact Bill No. 16-08 as presented. Council Member Keegan-Ayer seconded the motion that passed 7-0.*

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

<b>Council Members</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent/ Abstain/ Present</b>
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, [www.FrederickCountyMD.gov](http://www.FrederickCountyMD.gov).)

**PUBLIC HEARINGS:**

**Financial Assurance Plan (FAP) and Watershed Protection and Restoration Program Annual Report (WPRP) – Shannon Moore, Planning and Permitting Division**

A public hearing was held, as duly advertised, on the FAP and WPRP.

Ms. Moore briefed the Council on the reports and answered many questions. A detailed discussion followed.

Public comment was heard from:

- Ronnie Poklemba
- Ben Alexandro, Maryland League of Conservation Voters
- Jennifer Kunze, Clean Water Action
- Elaine Lutz, Chesapeake Bay Foundation
- Patrick Schempf

*Council Member Keegan-Ayer moved to approve the FAP and WPRP reports as presented. Council Member Donald seconded the motion that passed 5-2 with Council Members Delauter and Shreve opposed.*

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

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		

**Ballenger Run Development Rights and Responsibilities Agreement (DRRA)  
Amendment – Jim Gugel, Planning and Permitting Division**

(Council Member Otis swore in all who would be testifying.)

A public hearing was held, as duly advertised, on the amendment to a DRRA for the Ballenger Run Development.

Mr. Gugel briefed the Council on the proposed amendment that would allow the use of recent amendments to Chapter 1-6A – Moderately Priced Dwelling Units of the County Code.

Mr. Dave Severn, Esquire, Offit Kurman, representing the applicant commented on the request.

There were no public comments.

*Council Member Keegan-Ayer moved to approve the adoption of the resolution that would authorize the execution of the amended DRRA by the County Executive as presented. Council Member Chmelik seconded the motion that passed 6-0-1 with Council Member Delauter abstained.*

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		

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

(A copy of the adopted resolution can be obtained from the county’s website, [www.FrederickCountyMD.gov](http://www.FrederickCountyMD.gov).)

**Payment in Lieu of Tax Agreement (PILOT) – 520 North Market Apartments LLC (Owner) – Milton Bailey, Housing and Community Development, Citizens Services Division**

A public hearing was held, as duly advertised, on a PILOT Agreement for the Apartments.

Mr. Milton Bailey, Department of Housing and Community Development, and Ms. Margaret Nusbaum, Office of the County Executive, commented on the request for the Owner to enter into a PILOT agreement with the The City of Frederick and Frederick County.

Public comment was heard from:

- CJ Tyree, PIRHL Developers, LLC

*Council Member Keegan-Ayer moved to approve and enter into a PILOT agreement as presented and adopt the resolution to reflect the approval. Council Member Fitzwater seconded the motion that passed 4-2-1 with Council Members Delauter and Shreve opposed and Council Member Chmelik abstained.*

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 resolution can be obtained from the county’s website, [www.FrederickCountyMD.gov](http://www.FrederickCountyMD.gov).)

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

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

**Second Reading Calendar:**

**To Consider Bill No. 16-13 - Frederick County's Hotel Rental Tax Rate – Council President Bud Otis (On behalf of the County Executive)**

A public hearing was held, as duly advertised, to change the Frederick County's hotel rental tax rate from 3% to 5%.

Ms. Helen Propheter, Office of Economic Development and Mr. John Fieseler, Tourism Council of Frederick County, Inc., presented the request to increase the hotel rental tax rate.

Public comment was heard from:

- Randy McClement, Mayor, The City of Frederick
- John Kinnaird, Mayor, Town of Thurmont
- Abbey Ricketts, Main Street Manager, and Jeff Snoots, Mayor, City of Brunswick
- Brian Gaudet
- Brett Kramer
- Bruce Bereano, Esquire
- Janice Rockwell, Main Street Program, Town of Middletown
- Mike Irons
- Barry Weller
- Mark Lancaster
- Joe Donegan
- Kara Norman, Downtown Partnership
- Elizabeth Cromwell, President and CEO, Frederick Chamber of Commerce
- Michel Cyr, Vice President and General Manager, Canam Steel
- Leslie Powell, Esquire, Downtown Partnership
- Robert Myers
- Vickie Grinder, Main Street Manager, Town of Thurmont
- Phil Bowers
- Randy Cohen
- Michael O'Connor, Alderman, The City of Frederick
- Daryl Boffman
- Kris Miner
- Richard Griffin, Office of Economic Development, The City of Frederick
- Matt Edens
- Rocky Mackintosh
- Peter Samuels
- Pamela Hammerick, Main Street Board, Town of Thurmont
- Jane Weir
- Linda Morgan
- Donna Kuzemchek, Alderman Pro-Tem, The City of Frederick

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016**

- Kelly Russell, Alderman, The City of Frederick

The proposed bill will be scheduled for a decision on Tuesday, August 30, 2016.

**To Consider Bill No. 16-09 – Chapter 1-20 (Adequate Public Facilities) of the Frederick County Code – Council President Bud Otis (On behalf of the County Executive)**

A public hearing was held, as duly advertised, on proposed Bill No. 16-09 that would allow the existing school construction fees to stay in place for those developments approved to use the school construction fee option prior to the sunset date.

Mr. Steve Horn, Planning and Permitting Division, commented on the proposed bill.

Public comment was heard from:

- Pat Schempf
- Steve McKay
- Pam McKay
- Brent Simmons

The proposed bill will be scheduled for a decision on Tuesday, August 30, 2016.

**To Consider Bill No. 16-11 – Amendment to Subsection 1-19-3.110.7, Chapter 1-19, Frederick County Code - Zoning – Council Member Jerry Donald**

A public hearing was held, as duly advertised, on proposed Bill No. 16-11 that would amend the County Code regarding the notification provisions for comprehensive zoning or rezoning actions.

Council Member Donald commented on the proposed bill.

Public comment was heard from:

- Pat Schempf
- Steve McKay
- Pam McKay
- Brent Simmons

The proposed bill will be scheduled for a decision on Tuesday, August 30, 2016.

COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Monday August 15, 2016

**To Consider Bill No. 16-12 – Allowing “Medical Cannabis Grower” Pilot Program in the Agricultural Zoning District and Creation of Certain Conditions and Restrictions for Each Activity – Council Member M.C. Keegan-Ayer**

A public hearing was held, as duly advertised, on proposed Bill No. 16-12 that would allow medical cannabis to be grown as a pilot program in the Agricultural Zoning District.

Council Member Keegan-Ayer commented on the proposed bill.

Public comment was heard from:

- Francis Parsons
- Marsha Bowers
- Ginny Wolf
- Robert Powell
- Steve McKay
- Robert Ramsburg, President, Frederick County Farm Bureau
- Dave Severn, Esquire, Offit Kurman
- Joe Donegan
- Meryl Main
- Brent Simmons
- Larry Gude
- Kevin Klink
- Steve Cassis

The proposed bill will be scheduled for a decision on Tuesday, August 30, 2016.

**Public Comments**

- None

**Council Member Comments**

Comments were provided by the Council Members.

**Adjourn**

The meeting adjourned at 10:15 p.m.

---

Bud Otis, President