

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, June 16, 2015**

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

Also present were Ragen Cherney, Council Chief of Staff; Michael Chomel, County Attorney's Office; Joyce Grossnickle, Administrative Officer 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 recitation of the Pledge of Allegiance.

Council Member Keegan-Ayer moved to approve the agenda as written. 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		

CONSENT AGENDA

The following items were considered on the consent agenda:

- #BT-15-229 - Agricultural Preservation, Community Development Division
- #BT-15-242 - Child Advocacy Center, Citizens Services Division
- #BT-15-244 - Public Works Division
- #BT-15-248 - Fleet Services, Public Works Division
- #BT-15-249 - Housing and Community Development, Citizens Services Division
- #BT-15-257 - Planning and Development Review, Community Development Division
- #BT-15-260 - Fire and Rescue Services Division
- #BT-15-261 - Community Development Division

Council Member Keegan-Ayer moved to approve the consent agenda as presented. Council Member Fitzwater seconded the motion that passed 6-0-1 with Council Member Shreve abstained.

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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		

BUSINESS ITEMS

Approval of Minutes

Council Member Keegan-Ayer made a motion to approve the May 5, May 19, May 21 and June 2, 2015, minutes. 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		

For Public Comment Only:

**FFY 2015 Edward J. Byrne Memorial Justice Assistance Grant Program
Application and Interlocal Agreement between The City of Frederick and
Frederick County - Marty Gallagher, Sheriff's Office**

This item was before the Council in order for the public to have an opportunity to provide comments. There were no public comments.

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Confirmation of Appointments to the Local Emergency Planning Commission (LEPC) – Joyce Grossnickle, Administrative Officer

Ms. Grossnickle presented County Executive Gardner’s appointments she recently made to the LEPC. Ms. Grossnickle requested the Council’s confirmation of the appointments as presented.

Council Member Keegan-Ayer moved to confirm the appointments to the Frederick County LEPC of those listed in the May 12, 2015, letter from County Executive Gardner to Chairman Clay Champ of the State Emergency Response Commission. Council Member Fitzwater 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		

Frederick County Ethics Commission – Doug Browning, Chief Administrative Officer

Mr. Browning presented County Executive Gardner’s appointments she recently made to the Frederick County Ethics Commission. Mr. Browning requested the Council’s confirmation of the appointments.

Council Member Keegan-Ayer moved to affirm the confirmation of the following appointments to the Frederick County Ethics Commission: Mr. Anthony M. Ventre, Esquire and Mr. Timothy J. Tosten, MPA for three-year terms effective July 1, 2015, and to expire June 30, 2018; Mr. Stephen K. Hess to fill an unexpired term to expire June 30, 2017, and Mr. Christopher D. Glass, Sr. to fill an unexpired term to expire June 30, 2016. Council Member Fitzwater seconded the motion that passed 6-0-1 with Council Member Shreve abstained.

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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		

Frederick County Parks and Recreation Commission

Ms. Grossnickle presented County Executive Gardner’s reappointment and appointment to the Frederick County Parks and Recreation Commission. Ms. Grossnickle requested the Council’s confirmation of the reappointment and appointment.

Council Member Keegan-Ayer moved to approve the reappointment of Ms. Mary Ann Brodie-Ennis to serve a four-year term to begin July 1, 2015, and expire June 30, 2019; and the appointment of Mr. Austin (Dave) Twigg IV to serve a four-year term to begin July 1, 2015, and expire June 30, 2019. 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		

Designation of County Sheriff’s Office as the Primary Law Enforcement Unit for Secondhand Precious Metal Dealers, Pawnbrokers, and Automated Purchasing Machines Countywide – Captain Ted Nee, Sheriff’s Office

Council Member Keegan-Ayer moved to approve and adopt the resolution designating the Frederick County Sheriff’s Office as the primary law enforcement unit in Frederick County under Titles 12, 17, and 20, of the Business Regulation Article of the Annotated Code of Maryland. Council Member Fitzwater seconded the motion that passed 7-0.

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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 approved/adopted resolution can be obtained from the county’s website, www.FrederickCountyMD.gov.)

First Reading Calendar:

Introduction of Bill to Repeal of Ordinance No. 12-03-598 (Frederick County Official English Ordinance) – Council Members Jessica Fitzwater and M.C. Keegan-Ayer

Council Member Fitzwater stated for the record: Bill No. 15-08 an act to repeal Ordinance No. 12-03-598, for the purpose of promoting a competitive business climate for Frederick County’s existing 6,200 businesses which employ 79,000 workers; attracting new life science businesses and jobs that will move Frederick County closer to becoming the state’s bio-tech hub; ensuring that non-English language speakers are not deterred from reporting crimes, seeking medical care or other human services; and generally relating to Frederick County’s encouragement of multi-;linguistic acceptance, tolerance and multi-cultural diversity in an increasingly global economy.

Questions and comments ensued.

Council Member Otis advised the public that Bill No. 15-08 would be scheduled for a public hearing on Tuesday, July 21, 2015 at 7:00 p.m.

Public Hearings

Solid Waste Management Plan (SWMP) Update and Amendment – Phil Harris, Utilities and Solid Waste Management Division (DUSWM)

A public hearing was held, as duly advertised, on the proposed updates to the SWMP.

Mr. Harris, Mr. Kevin Demosky, Ms. Lori Finafrock and Ms. Cindy Johnson, DUSWM, presented the updates which relate to special events recycling which are required by MDE as a result of recent legislation.

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Council Member Keegan-Ayer moved to approve and adopt the resolution to update the SWMP as presented. Council Member Chmelik 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		

Council Member Fitzwater requested to be updated on how the amendment would be implemented.

Second Reading Calendar:

To Consider Bill No. 15-06 - Updates to Chapter 1-6A of the Frederick County Code - Moderately Priced Dwelling Units – Council Member Jessica Fitzwater

A public hearing was held, as duly advertised on Bill No. 15-06, to amend the County Code to allow certain requirements of federal, state or local government affordable rental housing programs to replace and fulfill the county requirements for MPDUs.

Council Member Fitzwater presented Bill No. 15-06. Ms. Jenny Short, Citizens Services Division, commented on the bill.

Public comment was heard from:

- Craig Tyler
- Denise Jacoby, Frederick County Building Industry Association
- Stan Mordensky

Council Member Otis noted it would be scheduled for a Third Reading Calendar at a future meeting.

(The Council took a break at 5:35 p.m. and reconvened at 5:53 p.m.)

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Third Reading Calendar:

To Consider Bill No. 15-03 Concerning an Update to the Frederick County Building Code – Chapter 1-6 – Council President Bud Otis (On behalf of the County Executive)

Council Member Keegan-Ayer moved to approve the update to the Frederick County Building Code, Chapter 1-6 and enact Bill No. 15-03. 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		

To Consider Bill No. 15-04 Concerning an Update to the Frederick County Electric Code – Chapter 1-7 – Council President Bud Otis (On behalf of the County Executive)

Council Member Keegan-Ayer moved to approve the update to the Frederick County Electric Code, Chapter 1-7 and enact Bill No. 15-04. Council Member Chmelik 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		

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To Consider Bill No. 15-05 Concerning an Update to the Frederick County Plumbing Code – Chapter 1-14 – Council President Bud Otis (On behalf of the County Executive)

Council Member Keegan-Ayer moved to lay on the table the update to the Frederick County Plumbing Code, Chapter 1-14 until June 30, 2015. Council Member Chmelik 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		

BUSINESS ITEMS

Potential Retention of Legislative Consultant (Lobbyist) – Council Member Kirby Delauter

Council Member Delauter inquired about the possibility of hiring a consultant to assist the Council in advocating for funding for Frederick County during the 2016 legislative session.

Council Member Otis noted he would schedule a joint meeting with the Frederick County Legislative Delegation to discuss representation in Annapolis and the need for a lobbyist.

Discussion of Future Action by the Council in connection with the Frederick Area Committee for Transportation (FACT) Correspondence regarding the Monrovia Town Center (MTC) (Public Hearing Held on Tuesday, June 9, 2015) – Council President Bud Otis

A lengthy discussion ensued on the FACT letter and whether it played a determinate role in the prior Board of County Commissioners' approval of the MTC project.

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Council Member Chmelik moved to close the record on the FACT correspondence regarding the MTC project. 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		

Council Member Chmelik moved to postpone the decision on the matter of the significance of the FACT letter on the MTC project. Council Member Fitzwater seconded the motion that passed 5-2 with Council Members 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		

Public Comments

- Patrick Schempp
- Charlie Norris
- Stan Mordensky
- Teddy Kroll
- Steve McKay
- Matt Seubert
- Brent Simmons

Council Comments

Comments were provided by Council Members Donald and Fitzwater.

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Closed 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.

Topic: Interview County Executive Appointee under Charter Sections 410 and 412(a).

Maryland Annotated Code General Provisions Article §3-305(b) (7) To consult with counsel to obtain legal advice on a legal matter.

Topic: To discuss the meaning and impact of a recent court decision.

Council Member Keegan-Ayer moved to go into Closed Session. Council Member Donald seconded the motion that passed 6-0-1 with 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		

After the vote was taken to go into closed session, it was noted the second closed session item pertaining to (7) To consult with counsel to obtain legal advice on a legal matter (discuss the meaning and impact of a recent court decision) no longer needed to be discussed during the closed session.

Adjourn

The meeting adjourned at 7:30 p.m.

Bud Otis, President
County Council

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF TUESDAY, JUNE 16, 2015**

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; and (7) To consult with counsel to obtain legal advice on a legal matter.

Motion:

Upon a motion by Council Member Keegan-Ayer, seconded by Council Member Donald, the Council voted 6-0-1 with Council Member Shreve abstained, 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; and (7) To consult with counsel to obtain legal advice on a legal matter.

Time and Location:

7:35 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To interview County Executive Appointee under Charter Sections 410 and 412(a).

Bud Otis, President
County Council

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON TUESDAY, JUNE 30, 2015,
FOLLOWING THE CLOSED MEETING OF TUESDAY, JUNE 16, 2015**

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; and (7) To consult with counsel to obtain legal advice on a legal matter.

Motion:

Upon a motion by Council Member Keegan-Ayer, seconded by Council Member Donald, the Council voted 6-0-1 with Council Member Shreve abstained, 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; and (7) To consult with counsel to obtain legal advice on a legal matter.

Time and Location:

7:35 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

J. Mathias, D. Browning, R. Cherney, and M. Chomel, S. Horn, and the applicant for the Frederick County Planning Commission

Topic to be Discussed:

To interview County Executive Appointee under Charter Sections 410 and 412(a).

Action Taken:

The Council confirmed the County Executive's appointee.

Bud Otis, President
County Council