

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Tuesday, August 18, 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; John Mathias, 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 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		

**CONSENT AGENDA**

The following items were considered on the consent agenda:

- #BT-15-285 - Frederick County Public Libraries
- #BT-15-286 - Emergency Management Division
- #BT-15-287 and #BT-16-026 - Aging, Citizens Services Division
- #BT-15-288 - Housing and Community Development, Citizens Services Division
- #BTs -15-290, 15-291, 15-292, 15-293, and 16-032 - Aging, Citizens Services Division
- #BT-15-294 - Housing and Community Development, Citizens Services Division
- #BT-15-295 - Housing and Community Development, Citizens Services Division
- #BT-15-302 - Accounting, Finance Division
- #BT-16-021 - Aging, Citizens Services Division
- #BT-16-023 - Housing and Community Development, Citizens Services Division
- #BT-16-024 - Housing and Community Development, Citizens Services Division
- #BT-16-027 - Transit Services Division
- #BT-16-029 - Circuit Court
- #BT-16-030 - Frederick County Developmental Center, Health Services Division

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

Council Member Shreve commented on #BT-15-288, #BT-15-295 and #BT-16-027.

**BUSINESS ITEMS**

**Approval of Minutes**

*Council Member Keegan-Ayer moved to approve the July 7 and July 21, 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		

**Affirm the Confirmation of the County Executive's Appointees – Joyce Grossnickle, Administrative Officer**

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

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Electrical Board

*Council Member Keegan-Ayer moved to confirm the reappointment of Mr. Paul (P.J.) Donaghue for a five-year term to expire June 30, 2020. 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		

Fire and Rescue Advisory Board

*Council Member Keegan-Ayer moved to confirm the reappointments of Mr. David Remsburg and Ms. Susan Nicol for three-year terms to expire June 30, 2018; and the appointments of Ms. Susan Reeder Jessee and Captain Chad Cave to fill unexpired terms to expire June 30, 2018. Council Member Fitzwater 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		

Historic Preservation Commission

*Council Member Keegan-Ayer moved to confirm the reappointments of Mr. Steve Pippin, Ms. Joan Porter, and Ms. Barbara Wyatt for three-year terms to expire June 30, 2018; and Ms. Kristie Baynard for an unexpired term to expire June 30, 2018. Council Member Chmelik 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		

Interagency Internal Audit Authority

*Council Member Keegan-Ayer moved to confirm the reappointment of Mr. Bob Kimball to serve a four-year term to expire June 30, 2019. 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		

Monocacy Scenic River Citizens Advisory Board

*Council Member Keegan-Ayer moved to confirm the reappointment of Mr. Bob Whiting for a four-year term to expire August 18, 2019; and the appointment of Mr. Jack Lynch for a four-year term to expire August 18, 2019. 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		

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Appointments to the Frederick County Board of Appeals (BOA)

Following the County Council's closed session held earlier, the following appointments were announced:

*Mr. Mike Bowersox was reappointed to the BOA for a three-year term to expire June 30, 2018, by a vote of 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		

*Col. Earl Bell, USAF, Retired, was appointed to the BOA for a three-year term to expire June 30, 2018, by a vote of 5-2 with Council Members Keegan-Ayer and Donald 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		

**2016 Legislative Initiatives - Roger Wilson, Office of the County Executive**

Mr. Wilson presented the County Executive's 2016 proposed legislative calendar. He noted that County Executive Gardner's goal was to submit a single Frederick County legislative package for the upcoming Maryland General Assembly session that represented the county's priorities and would reflect the outcome of a public outreach process.

No action was taken.

**COUNTY COUNCIL OF FREDERICK COUNTY  
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**First Reading Calendar:**

**Introduction of Bill to Amend Chapter 1-18 of the Frederick County Code (Waters, Sewers and Sewage Disposal) - Council President Bud Otis (On Behalf of County Executive Jan Gardner)**

*Council Member Chmelik moved to reject the bill to amend Chapter 1-18 of the Frederick County Code (Waters, Sewers and Sewage Disposal). Council Member Shreve seconded the motion.*

Mr. Doug Browning, Chief Administrative Officer, Office of the County Executive; Mr. Kevin Demosky, Utilities and Solid Waste Management Division; and Ms. Kathy Mitchell, Office of the County Attorney, briefed the Council on what the infraction would entail and noted it was modeled after the Frederick County Plumbing Code.

Mr. Mathias commented on the civil violation process.

*The motion 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	

Council President Otis advised the public that Bill No. 15-10 would be scheduled for a public hearing on Tuesday, September 15, 2015, at 7:00 p.m.

It was noted that a workshop would be scheduled at a later date.

**Third Reading Calendar:**

**To Consider Bill No. 15-08 – An Act to Repeal Ordinance No. 12-03-598 (Frederick County English Ordinance) – Council Member Jessica Fitzwater (Council Member M.C. Keegan-Ayer – Co-Sponsor)**

*Council Member Chmelik moved to reject Bill No. 15-08: An Act to Repeal Ordinance No. 12-03-598 (Frederick County English Ordinance). Council Member Shreve seconded the motion.*

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*A lengthy discussion ensued.*

*The motion 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	

*Council Member Fitzwater moved to adopt and enact into law Bill No. 15-08 as presented. Council Member Keegan-Ayer seconded the motion that passed 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 <http://www.frederickcountymd.gov/>)

**To Consider Bill No. 15-07 - To Amend Frederick County Code Chapter 1-2: Administration, Article II: Purchases – Council President Bud Otis (On behalf of Council President Bud Otis and County Executive Jan Gardner)**

*Council Member Chmelik moved to not adopt Bill No. 15-07: To Amend Frederick County Code Chapter 1-2: Administration, Article II: Purchases. Council Member Shreve seconded the motion that failed 3-4 with Council Members Otis, Keegan-Ayer, Donald, and Fitzwater opposed.*

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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 Keegan-Ayer moved to adopt and enact into law Bill No. 15-07 as presented. Council Member Fitzwater seconded the motion.

Council Member Chmelik moved to amend Bill No. 15-07 as follows:

On Page 1, Exhibit 1, Add Section 1-2-41 (C):

**A COUNTY COUNCIL MEMBER OR QUALIFIED RELATIVE MAY BID ON A COUNTY CONTRACT PROVIDED:**

- (1) THE COUNCIL MEMBER OR QUALIFIED RELATIVE OF A COUNCIL MEMBER DISCLOSES IN ADVANCE THEIR INTENTION TO BID ON A PROJECT TO THE DEPARTMENT OF PROCUREMENT AND CONTACTS WHICH WILL BE MAINTAINED ON THE INTERNET (COUNTY WEBSITE); AND**
- (2) IF A COUNTY COUNCIL MEMBER OR QUALIFIED RELATIVE OF A COUNTY COUNCIL MEMBER RECEIVES A BID AWARD, THE DEPARTMENT OF PROCUREMENT AND CONTRACTING SHALL DISCLOSE THIS ON THE INTERNET (COUNTY WEBSITE).**

Council Member Shreve seconded the motion to amend that 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	



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Council Member Chmelik moved to amend Bill No. 15-07 as follows:

On Exhibit 1 after §1-2-41 LIMITATION ON AWARD OF CONTRACTS add:

**(C) THE MEASURE SHALL TAKE EFFECT AFTER DECEMBER 1, 2018**

Council Member Shreve seconded the motion to amend that 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 original motion to adopt and enact Bill No. 15-07, as presented, passed 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 <http://www.frederickcountymd.gov/>)

(Council Members Chmelik and Shreve left the meeting.)

**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.

**COUNTY COUNCIL OF FREDERICK COUNTY  
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Topic: To discuss with the County Attorney and staff the legal status of currently pending litigation against the county (including the County Council).

*Council Member Keegan-Ayer moved to go into closed session. Council Member Fitzwater seconded the motion that passed 5-0 with Council Members Chmelik and Shreve absent.*

<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		

(The Council took a break from 7:00 p.m. – 7:10 p.m.)

**Public Hearing**

**Second Reading Calendar: To Consider Bill No. 15-09 – To Establish a Business and Industrial Business Tax Credit - Council President Bud Otis (On behalf of the County Executive)**

A public hearing was held, as duly advertised, on Bill No. 15-09.

Ms. Helen Prophter, Business and Economic Development, Office of the County Executive and Mr. Richard McCain, Office of the County Attorney, presented the request to establish the tax credit.

Public comment was heard from:

- David Kaye
- Tom Lynch, Esquire
- Bruce Dean, Esquire
- Jim Racheff
- Karl Morris, Matan Company
- Jim Caruso, Flying Dog Brewery

Council President Otis noted a workshop would be held on Tuesday, August 25 at 4:30 p.m. to further discuss the tax credit.

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**Public Comments**

- Mary Posey

**Council Comments**

Comments were provided by Council Members Chmelik, Delauter, Donald, Fitzwater and Shreve.

**Adjourn**

The meeting adjourned at 8:20 p.m.

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Bud Otis, President  
County Council

**COUNTY COUNCIL OF FREDERICK COUNTY  
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**FORM OF STATEMENT FOR  
CLOSING THE MEETING OF TUESDAY, AUGUST 18, 2015**

**STATUTORY AUTHORITY TO CLOSE 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.

**Motion:**

Upon a motion by Council Member Keegan-Ayer, seconded by Council Member Fitzwater, the Council voted 5-0 to go into closed session in accordance with 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.

Council Members Chmelik and Shreve were absent for the motion to go into closed session but were present for the closed session.

**Time and Location:**

8:30 p.m. – Third Floor Meeting Room, Winchester Hall

**Topic to be Discussed:**

To discuss with the County Attorney and staff the legal status of currently pending litigation against the county (including the County Council).

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Bud Otis, President  
County Council

**COUNTY COUNCIL OF FREDERICK COUNTY  
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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING  
ON TUESDAY, AUGUST 25, 2015,  
FOLLOWING THE CLOSED MEETING OF TUESDAY, AUGUST 18, 2015**

**STATUTORY AUTHORITY TO CLOSE 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.

**Motion:**

Upon a motion by Council Member Keegan-Ayer, seconded by Council Member Fitzwater, the Council voted 5-0 to go into closed session in accordance with 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.

Council Members Chmelik and Shreve were absent for the motion to go into closed session but were present for the closed session.

**Time and Location:**

8:30 p.m. – Third Floor Meeting Room, Winchester Hall

**Others in Attendance:**

J. Mathias, D. Browning, and R. Cherney.

**Topic to be Discussed:**

To discuss with the County Attorney and staff the legal status of currently pending litigation against the county (including the County Council).

**Action Taken:**

No action was taken.

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Bud Otis, President  
County Council