

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, September 1, 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; 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 presented. 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		

CONSENT AGENDA

The following items were considered on the consent agenda:

- #BT-15-303 - Finance Division
- #BT-16-036 - Family Partnership, Citizens Services Division
- #BT-16-039 - Housing and Community Development, Citizens Services Division
- #BT-16-040 - Housing and Community Development, Citizens Services Division
- #BT-16-041 - Fleet Services, Public Works Division
- #BT-16-042 - Fleet Services, Public Works Division
- #BT-16-043 - Fleet Services, Public Works Division

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Council Member Keegan-Ayer moved to approve the consent agenda as presented. Council Member Chmelik 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		

Mr. Chuck Nipe and Mr. Pat Hannah, Public Works Division, provided comments on #BT-16-041.

BUSINESS ITEMS

Approval of Minutes

Council Member Keegan-Ayer moved to approve the August 18 and August 25, 2015, minutes, as corrected. 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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Discussion of Action by the Council in Connection with the Frederick Area Committee for Transportation (FACT) Correspondence Regarding the Monrovia Town Center (Continued from 6/16/15; Public Hearing held on 6/9/15) – Council President Bud Otis

Council Member Keegan-Ayer moved to send the entire matter back to the Frederick County Planning Commission (FcPc) to begin again, because at this time it is not possible to reconcile the affidavits and statements made and submitted to the Council with respect to this letter and its alleged influence on the previous Board of County Commissioners decision with the actions, statements and behavior surrounding the letter; its inception; its creation; its phraseology; its timing and its introduction and handling once it was introduced so therefore, I ask to send it back to the FcPc to begin again and report back in a timely fashion, 6 months or less; and I ask that any developer fees incurred to cover staff time be waived if at all possible. Council Member Fitzwater seconded the motion.

A lengthy discussion ensued.

Mr. Steve Horn, Planning and Permitting Division, commented on the time frame for the FcPc to hear the case.

Council Member Chmelik moved to lay the motion on the table and schedule a workshop to further discuss the actual purpose and intent of the court's order. Council Member Shreve seconded the motion 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 passed 4-3 with Council Members Chmelik, Delauter and Shreve 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 Shreve left the meeting at 6:45 p.m.)

Recognition of Frederick County Knucklers

The Council Members recognized the Frederick County Knucklers for their achievements.

(The Council took a break from 6:50 p.m. – 7:05 p.m.)

Third Reading Calendar:

To Consider Bill No. 15-09 - To Establish a Commercial and Industrial Business Tax Credit (Public Hearing held on 8/18/15) - Council President Bud Otis (on behalf of County Executive Jan Gardner)

Ms. Helen Propheter, Office of Economic Development; Mr. Richard McCain, Office of the County Attorney; and Mr. Doug Browning, Chief Administrative Officer, Office of the County Executive, commented on the proposed bill and answered questions from the Council.

Council Member Fitzwater moved to amend the bill with the following language:

Section 1-8-444

(B) The County Executive, *In accordance with the Office of Economic Development or any successive department or division,* shall establish...

Council Member Keegan-Ayer seconded the motion that failed 1-6 with Council Members Otis, Keegan-Ayer, Chmelik, Delauter, Donald, and Shreve 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. 15-09 as presented. Council Member Donald 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		

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

Public Hearing

Proposed Sale of County Surplus Real Property - 520 North Market Street – Lori Depies, Finance Division and Margaret Nusbaum, Office of the County Executive

A public hearing was held, as duly advertised, on the proposed sale of 520 North Market Street.

Ms. Nusbaum and Ms. Depies presented the request to concur with the County Executive's finding of surplus property at 520 North Market Street, a former school building.

Ms. Jenny Short, Citizens Services Division, commented on the applicable tax programs. Ms. Mary Ellen Mitchell, Interfaith Housing Alliance, commented on the outreach that was done on the property.

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Public comment was heard from:

- Craig Tyler
- Mark Long, Board of Directors, Interfaith Housing Alliance
- Kara Norman, Downtown Frederick Partnership

Council Member Keegan-Ayer moved to concur with the County Executive’s finding of surplus property known as 520 North Market Street, a former school building. 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		

Council Member Keegan-Ayer moved to approve the sale of the surplus property to a contractual purchaser, a joint venture consisting of the Interfaith Housing Alliance, Inc. and PIRHL, LLC, or their designee for the purchase price of \$1,600,000. Council Member Donald seconded the motion that passed 4-1-2 with Council Member Delauter opposed and Council Members Chmelik and 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 Keegan-Ayer moved to execute the proposed resolution regarding the sale of surplus real property. Council Member Fitzwater seconded the motion that passed 4-1-2 with Council Member Delauter opposed and Council Members Chmelik and 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		

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

Potential Legislation – Waterbody Buffer – Council Member Jerry Donald

Council Member Donald requested the Council move forward to consider a modification of the current Waterbody Buffer Ordinance.

The Council voted to move the issue forward by a vote of 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 Schemppf
- Matt Seubert
- Stephens Dempsey
- Amy Reyes
- Ted Cady
- Michelle Rosenfeld, Esquire
- Gil House
- Mary Brandenburg
- Steve McKay

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Council Comments

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

Council President Otis announced a workshop would be held on Thursday, September 3 at 3:30 p.m. regarding the Frederick County Historic Preservation Ordinance

Adjourn

The meeting adjourned at 8:45 p.m.

Bud Otis, President
County Council