

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, September 20, 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 5:30 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 approve the agenda as presented. Council Member Chmelik seconded the motion that passed 6-1.

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

- Stephen Jones
- Robert Kline

Consent Agenda

The following items were considered on the consent agenda:

Budget Adjustments

- BT-16-284 – Transit Services Division
- J-17-052 – Department of Aging, Citizens Services Division
- J-17-054 – Frederick County Public Libraries
- J-17-057 – Fire and Rescue Services Division
- J-17-061 – Utilities and Solid Waste Management Division

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Council Member Keegan-Ayer moved to approve the consent agenda as amended with removal of Budget Adjustment #J-17-059. 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		X
Presiding Officer - Otis	X		

Budget Adjustment #J-17-059 – Sheriff’s Office

Council Member Delauter questioned the procedures that were followed regarding the allocation of funding for the Safe Streets Grant for the Sheriff’s Office. Mr. Rick Harcum, Budget Office and Sheriff Chuck Jenkins commented.

Council Member Keegan-Ayer moved to approve #J-17-059. 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		

Business Items:

Approval of Minutes

Council Member Keegan-Ayer moved to approve the closed session minutes for July 12, 2016, as presented. Council Member Donald 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		

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

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

Adult Public Guardianship Review Board

Council Member Keegan-Ayer moved to approve the appointment of Ms. Karen Lewns with a term to expire June 30, 2018. 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		

Commission on Disabilities

Council Member Keegan-Ayer moved to confirm the appointment of Ms. Nadine Autry with a term to expire June 30, 2019. 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		

Local Management Board

Council Member Keegan-Ayer moved to approve the appointment of Mr. Jethro (Jet) Reid as the Frederick County Public Schools representative with no term assigned. 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		

Solid Waste Advisory Committee

Council Member Keegan-Ayer moved to confirm the appointment of The Honorable John Kinnaird, Town of Thurmont Mayor (Maryland Municipal League – Frederick County Chapter Representative) with a term to expire June 30, 2019. 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		

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Transportation Services Advisory Council

Council Member Keegan-Ayer moved to confirm the appointments of Ms. Nadine Autry to a term ending June 30, 2017; Mr. Cornelius “Neil” Ray to a term ending June 30, 2018, and The Honorable Jeff Snoots, City of Brunswick Mayor (Maryland Municipal League Frederick County Chapter Representative) 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		

Budget Adjustment #J-17-051 – Acceptance of FFY15 SAFER Award – Tom Owens, Fire and Rescue Services Division

Chief Owens and Mr. Chip Jewell, Volunteer Fire and Rescue Services Division, commented on the budget adjustment request.

Council Member Keegan-Ayer moved to approve #J-17-051 as presented. 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		

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Budget Adjustments #J-17-035, #J-17-036, #J-17-037, #J-17-038, #J-17-039, and #J-17-040 – Lori Depies, Finance Division

Ms. Susan Keller and Ms. Erin White, Finance Division, commented along with Ms. Depies on the budget adjustments that would implement a Debt Service Fund.

Council Member Keegan-Ayer moved to approve Budget Adjustments #J-17-035, #J-17-036, #J-17-037, #J-17-038, #J-17-039, and #J-17-040 as presented with an effective date of July 1, 2016. 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		

Present and Review Proposed 2017 State Legislative Initiatives – Council Members

The Council presented the following proposed legislative initiatives for the 2017 Legislative Package.

Council Member Donald

Council Member Donald moved to propose a position statement to support Delegate Carol Krimm in setting up a foreclosure registry at the state level. Council Member Fitzwater seconded the motion that passed 6-1 with Council Member Delauter 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 Delauter

Council Member Delauter moved to approve including a position statement to have Maryland become a Right to Work jurisdiction. Council Member Chmelik 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	

Council Member Delauter moved to approve including a position statement to allow for school vouchers. 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	

Council Member Delauter moved to approve including a position statement for Education Savings Accounts. Council Member Chmelik 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 Delauter moved to approve including a position statement to investigate the options of shifting of school construction funding between local school projects. 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		

Council Member Delauter moved to approve including a position statement that would allow Maryland to be a “Shall Carry” firearms state. Council Member Chmelik 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	

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Council Member Delauter moved to approve including a bill that would provide for vehicle emission inspections to be performed at Maryland Certified Inspection Stations in Frederick County. Council Member Chmelik 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	

Council Member Donald

Council Member Donald moved to approve including a position statement to introduce legislation asking the State Board of Education to re-examine and justify all mandated positioning in Frederick County for certified teachers not teaching in classrooms. Council Member Chmelik seconded the motion that failed 3-4 with Council Members Keegan-Ayer, Delauter, Fitzwater, 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		

Council Member Shreve

Council Member Shreve moved to approve including a position statement that would require used cars sold in Maryland by a commercial entity to have conducted and a vehicle to have passed a vehicle emissions test prior to a car being sold or transferred. 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		

Council Member Keegan-Ayer

Council Member Keegan-Ayer moved to approve the inclusion of a position statement regarding biological agency lab tracking. 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		

Council Member Fitzwater

Council Member Fitzwater moved to approve the inclusion of a position statement to introduce and support legislation to provide drug awareness and youth diversion for at-risk youth offenders. Council Member Chmelik seconded the motion that passed 6-1 with Council Member Chmelik 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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Third Reading Calendar:

**Bill No. 16-14 – Frederick County Code, Chapter 1-2, Administration, Article IV:
Fire and Rescue Services – Council President Bud Otis (On Behalf of the County
Executive)**

Chief Tom Owens, Fire and Rescue Services Division, and Mr. Chip Jewell, Volunteer Fire and Rescue Services Division, commented on the bill and highlighted the changes.

Council Member Keegan-Ayer moved to adopt and enact Bill No. 16-14 as presented. 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		

(A copy of the adopted/enacted bill can be obtained from the county’s website, www.FrederickCountyMD.gov.)

(The Council took a break at 7:00 p.m. and reconvened at 7:10 p.m.)

Public Hearing:

**FY 2017/2018 Maryland Agricultural Land Preservation Foundation (MALPF)
Easement Acquisition Program – Anne Bradley, Planning and Permitting Division**

A public hearing was held, as duly advertised, on the applications to be submitted to the state for further review and to be considered for the MALPF easement acquisition program.

Ms. Bradley presented the 20 applications which consisted of a total of 2,975 acres.

Public comment was heard from:

- Tony Checcia
- Ross Nils
- Karen Zimmerman

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Council Member Keegan-Ayer moved to approve the 20 applications as presented and to forward the applications to the state for consideration in the MALPF Easement Acquisition Program. 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		

Second Reading Calendar:

To Consider Amended Bill No. 16-12 – To Allow “Medical Cannabis Grower” as a temporary special exception use in the Agricultural Zoning District; defining “Medical Cannabis Grower” and setting special exception criteria and setback requirements – Council Member M.C. Keegan-Ayer

A public hearing was held, as duly advertised, on proposed amended Bill No. 16-12.

Council Member Keegan-Ayer commented on the changes that were made to the bill.

Public comment was heard from:

- Audrey Wolfe
- Jason Mecler
- Laura Millard
- Chad Tyler
- Daryl Wolfe
- Shakil Siddiqui
- Brent Simmons
- Brad Considine
- Ginny Wolf
- Jim Hagy
- Chad Wilke
- Marcia Bowers
- Andrew Mayne
- Robert Ramsburg, President, Frederick County Farm Bureau
- Sam Roop

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The decision on the proposed bill would be scheduled for a future Council meeting agenda.

To Consider Bill No. 16-15 – Nuisance - Noise Levels and Enforcement and Bill No. 16-16 – Enforcement of County Laws and Regulations – Council President Bud Otis (On Behalf of the County Executive)

A public hearing was held, as duly advertised, on proposed Bill No. 16-15 and Bill No. 16-16.

Ms. Wendy Kearney, Office of the County Attorney, and Sheriff Chuck Jenkins presented the proposed bills.

The council members discussed the noise decibel levels of various activities.

Public comment was heard from:

- Shannon Bohrer
- Rose M. Woodsmall
- Pete Horsley
- Richard Riley
- Mark Wilkinson
- Beau Embry
- Louis Stiffler
- Kirk Roy
- Noel Hazelwood
- Steve Salisbury
- Ken Kylar
- Sam Jones
- Andrew Toms
- Jeffrey Thomas

The decision on the proposed bill would be scheduled for a future Council meeting agenda.

To Consider Bill No. 16-17 – Establishing a Clean Energy Program for Commercial Properties – Council President Bud Otis (On Behalf of the County Executive)

A public hearing was held, as duly advertised, on proposed Bill No. 16-17.

Ms. Shannon Moore, Planning and Permitting Division; Ms. Diane Fox, Finance Division, and Ms. Helen Prophetter, Office of the Economic Development, commented on the Property Assessed Clean Energy (PACE) program.

Ms. Moore noted that staff was asked to consider the following amendment to

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Section 1-8-453 Scope and Eligibility

(B) Eligibility

(2) Obtain an energy audit approved under program guidelines demonstrating the energy savings projected to be obtained from the improvements over the life of the loan equal or exceed the principal and aggregate interest to be paid over the term of the loan;

Public comment was heard from:

- Randy Cohen
- Gerard Neely, Program Manager, Maryland PACE program
- Wyatt Shiflett, Maryland Clean Energy Center

Council directed staff to prepare the written amendment.

Public Comments

- Bert Harper
- Alicia Burman
- John Quebec
- Ted Cady
- Carol Ames

Council Member Comments

Comments were provided by the Council Members.

Adjourn

The meeting adjourned at 10:00 p.m.

Bud Otis, President
County Council