

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, May 2, 2017**

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, 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 the Boy Scouts from Troop 2017 leading 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 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

- Mary Ellen Rhoderick, League of Women Voters
- Tom Barse
- Doug Kaplan
- Dr. Joe Berman, League of Women Voters
- Sarah Matthews, League of Women Voters
- Patrick Schempp

Budget Adjustments – Rick Harcum, Budget Office, Office of the County Executive

Council Member Keegan-Ayer moved to approve the following budget journals as presented. Council Member Chmelik seconded the motion that passed 7-0.

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- #J-17-182 – Health Services Division
- #J-17-188 – Circuit Court
- #J-17-189 – Department of Housing and Community Development, Citizens Services Division
- #J-17-190 – Department of Housing and Community Development, Citizens Services Division
- #J-17-191 – Animal Control Division
- Board of Education Current Expense Fund Amendment #4-17

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 for March 28, 2017

Council Member Keegan-Ayer moved to approve the minutes for March 28, 2017, 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		

Urbana Rezoning R-16-01 - Post Decision Options and Procedures – Wendy Kearney, Office of the County Attorney

(Council President Otis passed the gavel to Council Member Keegan-Ayer.)

Council President Otis moved to postpone the signing of the resolution and reopen the record for the limited purpose of considering the March 23 and April 3, 2017, letters

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from the applicant and schedule a public hearing on May 23, 2017, limited to the scope of the comments and content of the applicant’s letters on the Urbana Rezoning. 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			
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis	X		
At-large - Shreve	X		
Presiding Officer – Keegan-Ayer	X		

(Council Member Keegan-Ayer passed the gavel back to Council Member Otis.)

Third Reading Calendar:

Amended Bill No. 17-04 – Farm Distilleries and Tasting Rooms, and Limited Farm Brewery, Distillery and Winery Tasting Rooms – Council President Bud Otis (on behalf of the County Executive)

Council Member Keegan-Ayer moved to adopt and enact Bill No. 17-04 as amended. Council Member Chmelik seconded the motion that passed 5-2 with Council Members Otis 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	

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

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Bill No. 17-06 – Amendment to Frederick County Code, Chapter 1-7.1: Ethics – Council President Bud Otis (on behalf of the County Executive)

Council Member Keegan-Ayer moved to adopt and enact Bill No. 17-06 as presented. Council Member Fitzwater 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, www.FrederickCountyMD.gov.)

Bill No. 17-07 – Solar Facilities and Floating Zone – Sponsor: Council Member M.C. Keegan-Ayer; Co-sponsor: Council Member Jessica Fitzwater

Council Member Keegan-Ayer moved to adopt and enact Bill No. 17-07 for discussion. Council Member Fitzwater seconded the motion.

Council Member Keegan-Ayer moved Amendment #1. It was seconded by Council Member Fitzwater:

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which Zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend §1-19-10.900. Institutional Floating Zoning District (I).

On Exhibit 1, Page 8, Subsection 1-19-900(F) is hereby amended as follows:

(F) Land use. Land uses permitted within the Institutional Zoning District are limited to the following:

- (1) Public Airports
- (2) College or university

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[(3) Solar array approved as a nongovernmental utility in conjunction with a college or university]

[(4)] **(3)** Private School

[(5)] **(4)** Public School

[(6)] **(5)** Accessory uses shall be limited to those deemed to be incidental accessory uses associated with an institutional use as provided within this chapter (see also § 1-19-10-900(H)(1)(a) and (b), and Article VIII, Division 2. Accessory Uses) or as approved by the Zoning Administrator.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #1 was 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 Keegan-Ayer moved Amendment #2. Council Member Fitzwater seconded it.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which Zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

NOW, THEREFORE, BE IT IN ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1; **AND**

BE IT FURTHER ENACTED, THAT THESE PROVISIONS DO NOT APPLY TO COMMERCIAL SOLAR FACILITIES THAT, AS OF THE DATE OF THE BILL'S ENACTMENT HAVE OBTAINED 1) A FINAL APPROVED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) FROM THE MARYLAND PUBLIC SERVICE COMMISSION; AND 2) A SIGNED FINAL SITE PLAN APPROVED BY THE FREDERICK COUNTY PLANNING

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COMMISSION; AND 3) A GRADING PERMIT ISSUED BY FREDERICK COUNTY.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

Council Member Chmelik requested to strike the following from Amendment #2:

“...AND 3) A GRADING PERMIT ISSUED BY FREDERICK COUNTY.”

Council Member Chmelik’s request to strike certain language from Amendment #2 was accepted by the maker and seconder of the motion.

The vote 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 Delauter’s Amendments

Council Member Delauter moved Amendment #1. Council Member Shreve seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which Zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend §1-19-10.700. Solar Facilities – Commercial Floating Zone District to remove language prohibiting locating within 2 miles of Route 15.

On Exhibit 1, Page 4, Subsection 1-19-700(B)(4) is hereby amended as follows:

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(4) The tract or tracts of land which is the subject of the floating zone application may not be encumbered by an Agricultural Preservation Easement, located within a Priority Preservation Area (PPA) or a Rural Legacy Area (RL) in the County Comprehensive Plan I, or be located within two (2) miles of the centerline of the right-of-way of U.S. Route 15, outside the Frederick City limits from the Pennsylvania border to the Virginia border, that Route having been designated as part of the Journey Through Hallowed Ground National Heritage Area. If the tract or tracts of land subject to the floating zone application are within two (2) miles of the centerline of U. S. Route 15, the application may be conditionally accepted and the applicant will have the burden to establish that the proposed project will not be visible from U.S. Route 15I.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #1 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 Amendment #3. Council Member Shreve seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which Zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend §1-19-10.700. Solar Facilities – Commercial Floating Zone District.

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On Exhibit 1, Page 4, Subsection 1-19-10.700(B)(3) is hereby amended as follows:

(3) [The tract or tracts of land which is the subject of the floating zone application shall have a minimum size of 10 acres and shall not exceed 750 acres] **APPROVAL OF TOTAL ACREAGE SHALL BE BASED ON THE INDIVIDUAL CHARACTERISTICS OF THE TRACT OR TRACTS OF LAND.**

* * * * *

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #3 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 Amendment #4. Council Member Shreve seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which Zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

The Bill page is hereby amended to include the following provision:

* * * * *

NOW, THEREFORE, BE IT ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1; **AND**

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BE IT FURTHER ENACTED, THAT THESE PROVISIONS DO NOT APPLY TO ANY APPLICATIONS FOR SOLAR FACILITIES PENDING BEFORE THE PLANNING COMMISSION PRIOR TO THE ENACTMENT OF THIS LEGISLATION.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #4 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 Shreve's Amendments

Council Member Shreve moved Amendment #1. Council Member Chmelik seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend § 1-19-8.401. SOLAR FACILITY COMMERCIAL IN THE LI OR GI DISTRICTS to remove language describing type of screening to be used.

On Exhibit 1, Page 3, Subsection 1-19-8.401(B) is hereby amended as follows:

(B) The appearance and visual impact of the solar facility shall be minimized [by the use of screening comprised of a combination of berms, evergreen plantings and fencing].

Discussion was held on the types of screening.

The maker and seconder were okay with removing the following:

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“...comprised of a combination of berms, evergreen plantings and fencing.”

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on the amended Amendment #1 was 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 Shreve moved Amendment #2. Council Member Chmelik seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend § 1-19-8.401. SOLAR FACILITY COMMERCIAL IN THE LI OR GI DISTRICTS to increase time periods relating to termination of approvals and removal of solar facilities.

On Exhibit 1, Page 3, Subsection 1-19-8.401(E) is hereby amended as follows:

(E) If for a period of [6 months] **1 YEAR**, the solar facility ceases to generate electricity or is disconnected from the electric grid, the approval will terminate. The property owner shall remove the solar facility within [90 days] **1 YEAR** after termination. The property owner shall ensure the solar facility removal and disposal by posting an acceptable monetary guarantee with the County on forms provided by the office of the Zoning Administrator. The guarantee shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal and disposal of the solar facility, plus a 15% contingency. If a guarantee for the cost of removal and disposal of the solar facility is required by and provided to a state entity, the Zoning Administrator may accept documentation of the posting of the guarantee with the state entity as satisfaction of this requirement.

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EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #2 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 Shreve moved Amendment #3. Council Member Chmelik seconded the motion.

No action was taken as the motion was ruled out of order.

Council Member Shreve moved Amendment #4. Council Member Chmelik seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend § 1-19-10.700. SOLAR FACILITY – COMMERCIAL FLOATING ZONE to remove language restricting location of solar facilities within 2 miles of U.S. Route 15.

On Exhibit 1, Page 4, Subsection 1-19-10.700(B)(4) is hereby amended as follows:

(B) Size and location.

(3) The tract or tracts of land which is the subject of the floating zone application may not be encumbered by an Agricultural Preservation Easement [, located within a Priority Preservation Area (PPA) or a Rural Legacy Area (RL) in the County Comprehensive plan, or be located within two (2) miles of the centerline of the right of way of U.S. Route 15, outside the Frederick City limits from the Pennsylvania border to

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the Virginia border, that Route having been designated as part of the Journey Through Hallowed Ground National Heritage Area. If the tract or tracts of land subject to the floating zone application are within two (2) miles of the centerline of U.S. Route 15, the application may be conditionally accepted and the applicant will have the burden to establish that the proposed project will not be visible from U.S. Route 15].

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

Council Member Shreve amended his motion to include the PPA and RL. The seconder accepted the amendment. The vote on the amended motion failed 1-6 with Council Members Otis, Keegan-Ayer, Chmelik, Delauter, 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 Shreve moved Amendment #5. Council Member Chmelik seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend § 1-19-10.700. SOLAR FACILITY – COMMERCIAL FLOATING ZONE DISTRICT to remove certain approval criteria.

On Exhibit 1, Page 5, Subsection 1-19-10.700(C) is hereby amended as follows:

(C) Approval Criteria

[(1) Approval or disapproval of an application for a Solar Facility – Commercial Floating Zone shall be determined through evaluation of the impact of the proposed project upon the adjacent and nearby properties and whether the project will

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be compatible with, and have no adverse effects on, surrounding properties and viewscapes from public parks and roadways.]

[(2)](1) The applicant shall establish that the site is the optimal location for a commercial solar project due to its proximity to facilities to connect the project to the grid [, and that the natural features of the site and the location minimize the visual impact of the project on surrounding properties and those traveling on public roadways].

[(3) The applicant shall establish that the proposed project will be compatible with the existing and customary uses on adjoining and neighboring properties and in the Agriculture zone in terms of size, scale, style and intensity.

(4) The applicant shall establish that the project will not be located on prime farmland soils as identified in the USDA Soil Survey for Frederick County.

(5) The proposed project, including all areas of disturbance, shall not exceed the lesser of 10% of the tract's or tracts' tillable acreage or 75 acres in size.

(6) A 25 foot deep buffering and screening area shall be provided along common property lines between the Solar Facility and all adjoining residentially zoned property and along all adjacent roadways. The buffering and screening area may include a combination of berms, predominantly evergreen species at least 5 feet in height at the time of planting, or fencing to be determined by the County Council based on characteristics of both the solar facility location and the surrounding neighborhood. The County Council may increase the 25 foot buffering and screening area depth based on characteristics of both the solar facility location and the surrounding neighborhood.]

(2) The buffering and screening area may be located within the setback areas.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #5 failed 1-6 with Council Members Otis, Keegan-Ayer, Chmelik, Donald, Delauter, 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 Shreve moved Amendment #6. Council Member Chmelik seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend § 1-19-10.700. SOLAR FACILITY – COMMERCIAL FLOATING ZONE DISTRICT to increase time periods relating to termination of approvals and removal of solar facilities.

On Exhibit 1, Page 6, Subsection 1-19-10.700(C)(10) is hereby amended as follows:

(C) Approval Criteria

(10) If for a period of [6 months] **1 YEAR**, the solar facility ceases to generate electricity or is disconnected from the electric grid, the approval will terminate. The property owner shall remove the solar facility within [90 days] **1 YEAR** after termination. The property owner shall ensure the solar facility removal and disposal by posting an acceptable monetary guarantee with the County on forms provided by the office of the Zoning Administrator. The guarantee shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal and disposal of the solar facility, plus a 15% contingency. If a guarantee for the cost of removal and disposal of the solar facility is required by and provided to a state entity, the Zoning Administrator may accept documentation of the posting of the guarantee with the state entity as satisfaction of this requirement.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #6 failed 2-5 with Council Members Otis, Keegan-Ayer, Chmelik, 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 Shreve moved Amendment #7. Council Member Chmelik seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend § 1-19-10.700. SOLAR FACILITY – COMMERCIAL FLOATING ZONE DISTRICT to eliminate the restriction on subdividing property within the floating zone district.

On Exhibit 1, Page 7, Subsection 1-19-10.700(D)(3) is hereby amended as follows:

(D) Application and Approval

(3) Phase II approval shall follow the site development plan process. [If the tract or tracts of land are granted floating zone approval they may not be further subdivided.]

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #7 failed 1-6 with Council Members Otis, Keegan-Ayer, Chmelik, Delauter, 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 Shreve moved Amendment #8. Council Member Chmelik seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which

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zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

Amend § 1-19-10.700. SOLAR FACILITY – COMMERCIAL FLOATING ZONE DISTRICT to modify the items to be included in the vicinity map.

On Exhibit 1, Page 7, Subsection 1-19-10.700(E)(1)(b) is hereby amended as follows:

(E) Application.

(1) The application submitted must include 15 copies of each of the following:

(a) A map of the applicant’s entire holding at a convenient scale.

(b) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to adjacent [surrounding] property and streets. The map will show all streets and highways [within 2,000 feet of the applicant’s property].

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #8 failed 1-6 with Council Members Otis, Keegan-Ayer, Chmelik, Delauter, 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 Shreve moved Amendment #9. Council Member Chmelik seconded the motion.

An ACT to: Delete existing Code provisions related to solar collection systems and adopt new provisions defining three categories of solar energy systems, identifying in which zoning districts the solar energy systems may be located as a permitted use, establishing a Commercial Solar Facility Floating Zone and certain other criteria.

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Amend § 1-19-11.100. DEFINITIONS to amend the definitions to remove references to the amount of electricity use by the principal use.

On Exhibit 1, Page 9, § 1-19-11.100 is hereby amended as follows:

SOLAR FACILITY, ACCESSORY. A photovoltaic solar energy system mounted on a building or on the ground which generates electricity [in an amount that does not exceed two hundred percent of the electric consumption of the principal use.]

SOLAR FACILITY, COMMERCIAL. A photovoltaic solar energy system that generates electricity [in an amount that exceeds two hundred percent of the consumption of the uses on the parcel upon] which it is constructed and the excess electricity is fed into the electric grid.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

The vote on Amendment #9 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	

It was noted a public hearing would be held on amended Bill No. 17-07 on Tuesday, May 9, 2017, at 7:00 p.m.

Business Item:

FY 2018 Budget Amendments

Mr. Paul Dial, Chief Administrative Officer and Mr. Rick Harcum, Budget Office, were present to provide response to questions from the Council.

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Council Member Chmelik's Amendments

Council Member Chmelik moved Amendment #1. Council Member Shreve seconded the motion.

On Page 25, Subsection Courts, Line 38, Amend:

Legal Assistant Transcriber to replace existing part time contractual position to improve the current business practice and meet County Human Resources requirements.	[\$65,526]
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Additionally:

To provide for a correlating reduction in that Departmental budget of \$65,526.

EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #1 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 Chmelik moved Amendment #2. Council Member Delauter seconded the motion.

On Page 26, Subsection Courts, Line 42, Amend:

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Resource Specialist for the newly created Veteran’s Court. This program started Oct 2016 and currently has 5 participants and 3 pending applications. This position will be supervised by the current Drug Treatment Court Manager. The 1.00 FTE is to be funded 50/50 with county funds/state grant funds.	[\$27,864]
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Additionally:

To provide for a correlating reduction in that Departmental budget of \$27,864.

EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #2 failed 1-6 with Council Members Otis, Keegan-Ayer, Delauter, Donald, 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 Chmelik moved Amendment #3. Council Member Delauter seconded the motion.

On Page 26, Subsection County Workforce, Line 45, Amend:

2% Cost of Living Adjustment (COLA)	[\$3,146,050 \$1,573,025]
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Additionally:

To provide for a correlating reduction in the salaries and benefits budgets of \$1,573,025.

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EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #3 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 Chmelik moved Amendment #4. Council Member Delauter seconded the motion.

On Page 26, Subsection Office of Economic Development, Line 47, Amend:

Business Development Technology Specialist position. This industry specific position will grow businesses in science, healthcare, & technology industries. They will work with businesses who are preparing to graduate from our incubators.	[\$93,602]
--	-------------------------

Additionally:

To provide for a correlating reduction in that Departmental budget of \$93,602.

EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #4 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 Chmelik moved Amendment #5. Council Member Delauter seconded the motion.

On Page 26, Subsection Office of Economic Development, Line 48, Amend:

Business Development Specialist-Attraction position. This position will sell Frederick County as the place to locate new businesses and educate prospective businesses on the benefits of doing business in Frederick.	[\$115,602]
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Additionally:

To provide for a correlating reduction in that Departmental budget of \$115,602.

EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #5 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 Amendment #6. Council Member Delauter seconded the motion.

On Page 26, Subsection Planning and Permitting, Line 50, Amend:

Senior Planner to meet three objectives: 1) function as Principal Planner to meet workload demands for processing applications timely, 2) manage the routing/review of development review projects, 3) provide a career path for experienced Principal Planners.	[\$96,654]
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Additionally:

To provide for a correlating reduction in that Departmental budget of \$96,654.

EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #6 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 Chmelik moved Amendment #7. Council Member Delauter seconded the motion.

On Page 26, Subsection Planning and Permitting, Line 52, Amend:

Zoning Inspector increased from hourly, on-benefited status to full-time to improve timely responses to zoning and nuisance complaints.	[\$19,657]
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Additionally:

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To provide for a correlating reduction in that Departmental budget of \$19,657.

EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #7 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 Chmelik moved Amendment #8. Council Member Delauter seconded the motion.

On Page 26, Subsection Planning and Permitting, Amend:

Three vehicles and supplies to support Permit Inspectors hired in FY17 to handle increased workload.	[\$99,711]
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Additionally:

To provide for a correlating reduction in that Departmental capital budget of \$99,711.

EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #8 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 Chmelik moved Amendment #9. Council Member Delauter seconded the motion.

On Page 27, Subsection Parks and Recreation, Line 62, Amend:

Recurring annual funding for on-going replacement of existing Parks equipment. Funding is necessary each year for routine life-cycle replacement of mowers and snow removal equipment.	[\$200,000 \$100,000]
--	--

Additionally:

To provide for a correlating reduction in that Departmental budget of \$100,000.

EXPLANATION:

[Brackets] indicate matter deleted from the budget.

~~Strikethrough~~ denotes reduced appropriation.

BOLD denotes revised appropriation.

The vote on Amendment #9 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 Amendment #10. Council Member Delauter seconded the motion.

On Page 27, Subsection Department of Aging, Line 64, Amend:

Mid-year creation of new Division of Aging (Seniors First pages 6-7, 13, 20-21). Staffing actions may allow for existing FTE's to be converted. Funding here is to create or upgrade positions for the Div. Director, Active Senior Services Dir. Aging Services Dir. and an Administrative Specialist to support the fiscal, data and clerical work.	[\$202,870]
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Additionally:

To provide for a correlating reduction in that Departmental budget of \$202,870.

The vote on Amendment #10 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 Council took a break at 6:55 p.m. and reconvened at 7:08 p.m.)

Second Reading Calendar:

To Consider Bill No. 17-08 - Considering Zoning Map Amendments During Election Year – Council President Bud Otis (On behalf of the County Executive)

A public hearing was held, as duly advertised, on Bill No. 17-08.

Mr. Roger Wilson, Office of the County Executive and Mr. John Mathias, Office of the County Attorney, commented on the bill that would prohibit the County from accepting and considering any zoning map amendments or floating zone reclassifications during specified times in the year when the County Council and County Executive elections occur.

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Public comment was heard from:

- Rolan Clark
- Val Dale
- Patrick Schempp
- Kai Hagen
- Stan Mordensky

It was noted the proposed bill would be scheduled for adoption on Tuesday, May 16, 2017.

Public Hearing

FY 2018 Constant Yield Tax Rate – Diane Fox, Finance Division

A public hearing was held, as duly advertised, on the FY 2018 Constant Yield Tax Rate.

Ms. Fox indicated the Constant Yield Tax Rate (CYTR) is calculated by the State Department of Assessments and Taxation (SDAT) for each taxing authority in Maryland. It represents the real property tax rate for the coming tax year that will generate the same amount of revenue that was generated during the current tax year. As assessments increase, the CYTR decreases. A tax rate at or below the existing tax rate is considered a tax increase if it is higher than the CYTR. Since the County Executive's FY 2018 proposed budget includes revenue estimates based on the FY 2017 tax rate, the County Council's public was held even though the proposed tax rate is the same as the current tax rate.

It was noted for FY 2018 the County Executive has proposed a real property tax rate of \$1.06, unchanged from FY 2017. The FY 2018 proposed tax equity rates, as calculated by the Budget Office, are \$0.9399 in Frederick City and \$0.9391 in Myersville. SDAT has calculated the FY 2018 CYTR as \$1.0359; for Frederick City - \$0.9247; and for Myersville - \$0.9168.

Public comment was heard from:

- Rolan Clark
- Edward Burrell
- Josh Cramer
- Tyler Oyler
- Myrna Whitworth
- Robert Lawrence
- Valerie Dale
- Stan Mordensky

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It was noted the adoption of the FY 2018 Tax Levy Resolution would be scheduled for Tuesday, May 16, 2017.

Public Comments

- Robert Lawrence

Council Member Comments

Comments were provided by the Council Members.

Adjourn

Meeting adjourned at 8:15 p.m.

Bud Otis, President
County Council