

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, February 13, 2018**

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

Also present were Ragen Cherney, Council Chief of Staff; Michael Chomel, County Attorney's Office; and Nancy Luna, Recording Secretary.

Council Member 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 Pledge of Allegiance.

The Council recognized the Linagno High School Lancers Football State Champions.

Action on the Agenda

Council Member Keegan-Ayer moved to approve the agenda with one exception, Item 8 Interagency Internal Audit Authority is being removed because the Director is unable to be at the meeting today. 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 - Shreve		X	
Presiding Officer - Otis	X		

Public Comments

- Dick Bittner
- Harry George
- Melanie Cox
- George Rudy

Impact Fee Report

L. Carson Bise, President, TischlerBise presented the Impact Fee Report to the Council.

Development Rights and Responsibilities Agreements

John Mathias, County Attorney addressed the Council with a recent court case that may have some bearing on the proposed bill.

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Interagency Internal Audit Authority

This item was removed from the agenda as the Director was unable to attend the meeting.

Third Reading Calendar:

Bill No. 17-17 – Revisions to the County Forest Resource Ordinance

Council Member Keegan-Ayer moved to approve Bill No. 17-17. Council Member Donald seconded the motion.

Council Members Jessica Fitzwater and Tony Chmelik, provided amendments, to Bill No. 17-17 as follows:

Amend § 1-21-6. APPLICABILITY AND GENERAL REQUIREMENTS.

On Exhibit 1, Page 2, Section 1-21-6(F), is amended as follows:

Except as provided in § 1-21-7, this chapter applies to property for which an application is being made for:

(A) A subdivision; [or]

(B)[a] A grading or sediment and erosion control permit for an area comprising 40,000 square feet or greater;

([B] C) A public utility development project not exempt under § 1-21-7 that clears 40,000 square feet or more of forest;

([C] D) A site plan development project with a net tract area 40,000 square feet or greater[.]; **OR**

([D] E) A site plan development project with a net tract area less than 40,000 square feet that generates a forest mitigation requirement of 250 square feet or greater.[; **OR**]

[(F) CONSTRUCTION OF A SINGLE-FAMILY HOUSE ON A SINGLE LOT OF RECORD AS OF DECEMBER 31, 1992, IF THE ACTIVITY RESULTS IN THE CLEARING OR GRADING OF 20,000 SQUARE FEET OR GREATER OF FOREST.]

Amend § 1-21-40. CONSERVATION AND FORESTATION PRIORITIES.

On Exhibit 1, Page 5, Section 1-21-40 (H)(3), is amended as follows:

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- (H) *Easement restrictions.* No FRO easements (long-term protection) shall be allowed:
- (1) Over septic areas or wells; [or]
 - (2) On lots less than 40,000 square feet. However, forest in these areas may be protected as "tree save area," as provided in § 1-21-44[.]; OR
 - (3) OVER [EXISTING PRESERVATION OR] UTILITY EASEMENTS.

Amend § 1-21-41. AFFORESTATION AND AFFORESTATION THRESHOLD.

On Exhibit 1, Page 5, Section 1-21-41 (D), is amended to remove all changes proposed in Bill 17-17 and retain the existing language as follows:

(D) *Afforestation requirements.* Afforestation on a tract or development project shall be in accordance with the following requirements:

(1) A tract or development project having less than 20% of the net tract area in forest cover shall be afforested to at least 20% of the net tract area for the following zoning categories:

- (a) Agriculture;
- (b) Resource conservation; and
- (c) R-1 residential.

(2) A tract or development project having less than 15% of the net tract area in forest cover shall be afforested to at least 15% of the net tract area for the following zoning categories:

- (a) Institutional uses in any zone;
- (b) R-3, R-5, R-8, R-12, R-16 residential zones and mobile home parks;
- (c) Mixed Use and Planned Development zones; and
- (d) Commercial and Industrial Use zones.

Amend § 1-21-42. REFORESTATION AND CONSERVATION THRESHOLD.

On Exhibit 1, Page 5-6, Section 1-21-42 is amended by removing all changes proposed to subsections (B), (C), and (D) in Bill 17-17:

I(B) CALCULATION OF REQUIREMENTS. THERE ARE TWO METHODS TO CALCULATE

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**REFORESTATION REQUIREMENTS. THE METHOD THAT RESULTS IN THE MOST
REFORESTATION SHALL BE USED.**

**(1) THE FIRST METHOD SHALL REQUIRE A 1:1 REPLACEMENT. FOR EVERY ONE
ACRE (OR PORTION THEREOF) OF FOREST REMOVED, ONE ACRE MUST BE PLANTED.**

**(2) THE SECOND METHOD, THE “STANDARD METHOD”, IS SET FORTH IN
SUBSECTION 1-21-42(D).]**

[(B)] (B) Definitions restated. **REFORESTATION under this section means the
planting of trees to replace forest that has been recently or is proposed to be removed by
development. **CONSERVATION THRESHOLD** means the percentage of the net tract area
at which the reforestation requirement changes from a ratio of one-quarter acre planted for
every 1 acre removed to a ratio of 2 acres planted for every 1 acre removed according to the
land use categories as listed below:**

<i>Category of Use</i>	<i>Threshold Percentage</i>
(1) Agricultural and Resource Conservation Zones, except for cluster developments therein which shall utilize R-1 values	50
(2) R-1 Residential zoned areas	25
(3) Institutional use areas in any zone	20
(4) R-3, R-5, R-8, R-12, R-16 and Mobile Home Park zoned areas	20
(5) Mixed Use and Planned Unit Development zoned areas	15
(6) Commercial and Industrial Use zoned areas	15

Required reforestation under the Standard Method shall be calculated according to the formulas provided in subsection **[(C)] (C)** of this section.

[(C)] (C) [STANDARD METHOD] Calculations.

(1) For all existing forest cover cleared on the net tract area above the applicable conservation threshold established by subsection **[(A)] (A)** of this section, the area of forest removed shall be reforested at a ratio of one quarter acre planted for every acre removed.

(2) For all existing forest cover cleared on the net tract area below the applicable conservation threshold, the area of forest removed shall be reforested at a ratio of 2 acres planted for each acre removed.

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(3) For each acre of forest retained on the net tract area above the applicable conservation threshold, credit shall be given against the total number of acres required to be reforested under subsection [(C)] (C)(1) of this section.

[(D)](D) Accuracy Standards. All calculations of reforestation requirements shall be calculated to the nearest one-hundredth acre and shall be in accordance with the worksheet provided in the Technical Manual and approved by the Department. However, forest field measurements may be measured to the nearest one-tenth acre.

*Council Member Fitzwater moved **Amendment #1**, as presented, for discussion. Council Member Chmelik seconded the motion. After discussion, the Council voted on Amendment #1 which 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 - Shreve		X	
Presiding Officer - Otis	X		

Council President Otis passed the gavel to Council Vice President Keegan-Ayer

Bill No. 17-20 – Alterations to the County Forest Resource Ordinance

Council Member Otis moved to withdraw Bill No. 17-20. Council Member Fitzwater seconded the motion, which passed 5-1-1, with Council Member Delauter opposed and Council Member Shreve abstained.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 4 - Fitzwater	X		
District 5 - Delauter		X	
At-large - Otis	X		
At-large - Shreve			X
Presiding Officer – Keegan-Ayer	X		

Council Vice President Keegan-Ayer passed the gavel to Council President Otis

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Motion to Go Into Closed Session:

A motion was made by Council Member Keegan-Ayer to go into closed session at 6:25 p.m. 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.

The motion was seconded by Council Member Fitzwater which 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 – Shreve		X	
Presiding Officer – Otis	X		

(The Council went into closed session at 6:30 p.m. and reconvened in open session at 7:05 p.m.)

Public Hearing:

**To Consider Bill No. 17-18 – Development Rights and Responsibilities Agreements –
Council President Bud Otis (on behalf of the County Executive)**

A public hearing was held, as duly advertised, on Bill No. 17-18.

Council President Bud Otis introduced the bill.

Public comment was heard from:

- Rolan Clark
- Noel Manalo
- Ray Barnes
- Joy Schaefer
- Denise Jacoby
- Steve McKay
- Kai Hagen
- Paul Rose
- Pam McKay
- Patrick Schempp

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Public Comments:

- Rolan Clark
- Patrick Schempp
- Steve McKay

Council Member Comments

Comments were provided by the Council Members.

Adjourn

The meeting adjourned at 8:00 p.m.

Bud Otis, President
County Council

**COUNTY COUNCIL OF FREDERICK COUNTY
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TUESDAY, FEBRUARY 13, 2018**

**FORM OF STATEMENT FOR
CLOSING THE MEETING OF TUESDAY, FEBRUARY 13, 2018**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government 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.

Motion:

A motion was made by Council Member Keegan-Ayer to go into closed session 6:25 p.m. 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. The motion was seconded by Council Member Fitzwater and passed 6-1 with Council Member Shreve opposed.

Time and Location:

6:30 p.m. – County Council Conference Room, First Floor, Winchester Hall

Topic for Discussion:

To discuss the potential confirmation of a person appointed by the County Executive.

Bud Otis, President
County Council

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON TUESDAY, FEBRUARY 13, 2018,
FOLLOWING THE CLOSED MEETING OF TUESDAY, FEBRUARY 13, 2018**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government 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.

Motion:

A motion was made by Council Member Keegan-Ayer to go into closed session at 6:25 p.m. 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. The motion was seconded by Council Member Fitzwater and passed 6-1 with Council Member Shreve opposed.

Time and Location:

6:30 p.m. – County Council Conference Room, First Floor, Winchester Hall

Others in Attendance:

Ragen Cherney, Council Chief of Staff; Michael Chomel, Senior Assistant County Attorney; and Nancy Luna, Recording Secretary.

Topic Discussed:

To discuss the potential confirmation of a person appointed by the County Executive.

Action Taken:

Request for additional information and continuance.

Bud Otis, President
County Council