

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, March 21, 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; Joyce Grossnickle, Office of the County Executive, and Patti Morrow, 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.

Action on the Agenda

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

Recognition of the 36th Annual Academic Tournament Winners – Brunswick High School – Council Member Jerry Donald

The Council recognized the 36th Annual Academic Tournament Winners from Brunswick High School.

Public Comments

- Noel Manalo, Esquire, Miles and Stockbridge

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

- J-17-162 – Utilities and Solid Waste Management Division
- J-17-166 – Planning and Permitting Division
- J-17-167 – Family Partnership, Citizens Services Division

Council Member Keegan-Ayer moved to approve the budget adjustments 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		

Business Items:

Approval of Minutes for February 21, 2017

Council Member Keegan-Ayer moved to approve the minutes for February 21, 2017, 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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Confirmation of County Executive Gardner’s Appointments and Reappointment to Boards and Commissions – Joyce Grossnickle, Office of the County Executive

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

Mental Health Management Agency of Frederick County, Inc. Board

Council Member Keegan-Ayer moved to confirm the appointment of Ms. Bonnie Smith to fill an unexpired term to expire June 30, 2017, and for a full three-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		

Roads Board

Council Member Keegan-Ayer moved to confirm the reappointment of Mr. Stephen Burd for a new five-year term to expire June 30, 2022. 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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Sustainability Commission

Council Member Keegan-Ayer moved to confirm the appointment of Ron Hardman, Ph.D. to fill an unexpired term to expire June 30, 2017, and for a full three-year term to expire June 30, 2020. 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		

FY 2018 Operating and Capital Grant Resolution – Nancy Norris, Transit Services Division

Council Member Keegan–Ayer moved to adopt Resolution No. 17-06 to authorize approval to submit the FY 2018 grant application and Annual Transportation Plan to the Maryland Department of Transportation/Maryland Transit Administration. 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		

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

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First Reading Calendar:

Introduction of Bill regarding Amendment to Frederick County Code, Chapter 1-7.1: Ethics – Council Member Bud Otis (On behalf of the County Executive)

Council Member Otis introduced a proposed bill that would amend the County Code by establishing an independent nominating process for members to the Ethics Commission.

It was noted a public hearing would be held on Tuesday, April 18, 2017, at 7:00 p.m.

Introduction of Bill regarding Solar Facilities and Floating Zone – Sponsor: Council Member M.C. Keegan-Ayer; Co-sponsor: Council Member Jessica Fitzwater

Council Member Keegan-Ayer introduced a proposed bill to adopt new provisions in the County Code to define three categories of solar energy systems, identifying in which Zoning district the solar energy systems may be located as a permitted use, establish a Commercial Solar Facility Floating Zone and other criteria.

It was noted a public hearing would be held on Tuesday, April 18, 2017, at 7:00 p.m.

(Bill No. 17-01 – Solar Collection Systems was withdrawn by Council Member Keegan-Ayer.)

Third Reading Calendar:

Bill No. 17-02 – Re-allocation of Recordation Tax Revenues – Council Member Bud Otis (On behalf of the County Executive)

Council Member Keegan-Ayer moved to approve and enact Bill No. 17-02 as presented. Council Member Donald seconded the motion.

Mr. Rick Harcum, Budget Office, noted the intent of the proposed bill was to return to allocation percentages previously set to fund the agricultural preservation and parks acquisition and development programs.

Ms. Anne Bradley, Planning and Permitting Division, commented on the Critical Farms Program.

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

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Council Member Otis offered an amendment to Bill No. 17-02 as follows. Council Member Chmelik seconded the motion.

ARTICLE III. A: RECORDATION TAX

§ 1-8-51. RECORDATION TAX RATE AND ALLOCATION OF PROCEEDS.

(D) Allocation of restricted proceeds from the recordation tax. The County hereby restricts [~~31.667%~~] 41.667% of the proceeds from the recordation tax. The use of the funds from the [~~31.667%~~] 41.667% restricted portion of the proceeds from the recordation tax is limited as follows.

- (1) [~~10%~~] 12.5% **15%** of the proceeds from the recordation tax shall be used for:
 - (a) The County's matching contribution toward the purchases of agricultural land preservation easements under the Maryland Agricultural Land Preservation Fund Program as set forth in AG §§ 2-501 et seq.;
 - (b) The purchase of development rights and to guarantee loans that are collateralized by development rights for agricultural lands under the Frederick County Agricultural Land Preservation Program pursuant to AG § 2-512(e)(2);
 - (c) The purchase of options to purchase development rights easements pursuant to § 1-13-34(H) of the Critical Farms Program and to purchase development rights easements pursuant to § 1-13-34(I) of the Critical Farms Program;
 - (d) The purchase of development rights, easements, or fee estates under the Rural Legacy Program;
 - (e) Other agricultural land preservation programs approved by the County; or
 - (f) Some combination of the above programs.
- (2) [~~5%~~] 12.5% **10%** of the proceeds from the recordation tax shall be used for the County's acquisition and development of recreational and open space land.

BOLD CAPITALS indicate matter added to the bill.
[Brackets] indicate matter deleted from the bill.

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Mr. Paul Dial, Chief Administrative Officer and Mr. Jeremy Kortright, Parks and Recreation Division, commented on park acquisition.

Ms. Lori Depies, Finance Division, commented on the implications to the County’s bond rating.

The amendment failed 2-5 with Council Members 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			
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.)

The motion to approve and enact Bill No. 17-02 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.)

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Public Hearing:

Agricultural Preservation Easement Applications - Anne Bradley, Planning and Permitting Division

A public hearing was held, as duly advertised, on the request to approve the top 19-ranked applications to the FY 2017 Installment Purchase Program (IPP).

Council Member Otis swore in all who were testifying.

Ms. Bradley presented the applications. She noted the Agricultural Preservation Advisory Board recommended sending the top 19-ranked applications to public hearing and the Frederick County Planning Commission found them to be consistent with the Frederick County Comprehensive Plan.

Public comment was heard from:

- Noel Manalo, Esquire, Miles and Stockbridge

Council Member Keegan-Ayer moved to approve the agricultural preservation easement applications as presented. 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 Members took a break at 5:45 p.m. and reconvened at 7:00 p.m.)

Second Reading Calendar:

To Consider Bill No. 17-03 regarding General Obligation Bond Authorization – Council Member Bud Otis (On behalf of the County Executive)

Ms. Lori Depies, Finance Division and Mr. Jim Cumbie, Esquire, Venable, LLP (County Bond Counsel), commented on the proposed bill regarding authorization for Frederick County to borrow an amount not to exceed \$100,000,000 for the purpose of financing the costs of certain public facilities.

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There was no public comment.

It was noted the proposed bill would be scheduled for adoption on Tuesday, April 4, 2017.

To Consider Bill No. 17-04 regarding Farm Distilleries and Tasting Rooms, and Limited Farm Brewery, Distillery and Winery Tasting Rooms – Council Member Bud Otis (On behalf of the County Executive)

Mr. Steve Horn, Planning and Permitting Division and Ms. Katie Albaugh, Office of Economic Development, commented on the proposed bill. Mr. Horn noted the recommendations from the Frederick County Planning Commission.

Public comment was heard from:

- Tom Mullineaux, Chair, Frederick County Agriculture Business Council
- Tom Barse
- Eric Aellen
- Robert Ramsburg, President, Frederick County Farm Bureau
- Howard Wilson
- Robert Thompson

It was noted the proposed bill would be scheduled for adoption on Tuesday, April 18, 2017

Public Comments

- None

Council Member Comments

Comments were provided by the Council Members. Mr. Steve Horn, Planning and Permitting Division, responded to Council Member Delauter's questions regarding Bussard Brothers Landscape Supply in Monrovia.

Adjourn

Meeting adjourned at 8:30 p.m.

Bud Otis, President
County Council