

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, April 4, 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 Wendy Kearney, County Attorney’s Office and Joyce Grossnickle, Office of the County Executive.

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 Pastor Morgan Kochenower, Frederick Seventh Day Adventist Church, giving the invocation that was 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 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

- Tom Barse

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

- #J-17-170 – Frederick County Public Libraries

Council Member Keegan-Ayer moved to approve budget journal #J-17-170, Frederick County Public Libraries. 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		

Business Items:

Approval of Minutes for February 28 and March 7, 2017

Council Member Keegan-Ayer moved to approve the minutes for February 28 and March 7, 2017. 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		

Citizens Care and Rehabilitation Center/Montevue Assisted Living Budget Preview – Lori Depies, Finance Division and Rick Harcum, Budget Office

A PowerPoint presentation was given by Ms. Depies and Mr. Harcum which provided the Council a budget preview for the Citizens Care and Rehabilitation Center and the Montevue Assisted Living.

This presentation was for the Council's information; no action was necessary.

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First Reading Calendar:

Introduction of Bill – Considering Zoning Map Amendments During Election Year – Council Member Bud Otis (On behalf of the County Executive)

Council Member Otis introduced a proposed bill, on behalf of the County Executive, regarding the consideration of zoning map amendments during an election year.

Mr. Roger Wilson, Director, Government Affairs and Public Policy, Office of the County Executive, provided information about the proposed bill.

It was noted a public hearing on the bill would be held on Tuesday, May 2, 2017, at 7:00 p.m.

Introduction of Bill – Dog Tethering Law – Council Member Jerry Donald

Council Member Donald introduced his bill that would amend the Frederick County Code § 1-5-26 (A)(1) to reduce from ten to four, the number of hours a dog may be fastened, chained, tied, or restrained to any stationary or inanimate object for the purpose of confinement.

It was noted a public hearing on the bill would be held on Tuesday, May 9, 2017, at 7:00 p.m.

Introduction of Bill – Continuation of the Payment in Lieu Option for Moderately Priced Dwelling Units and Adjustment to the Payment Amount – Council Member Jessica Fitzwater

Council Member Fitzwater introduced her bill that would amend Chapter 1-6A (Moderately Priced Dwelling Units) of the Frederick County Code to continue in effect the option to pay a per dwelling unit payment in lieu of building moderately priced dwelling units, to adjust the amount of the payment, and to provide for a triennial adjustment of the payment in lieu amount.

It was noted a public hearing on the bill would be held on Tuesday, May 9, 2017, at 7:00 p.m.

Third Reading Calendar:

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

Ms. Lori Depies, Director, Finance Division and Mr. Jim Cumbie, Esquire, Venable, LLP (County Bond Counsel) were present and provided background information on Bill No. 17-03 (the public hearing on the bill was held on Tuesday, March 21, 2017).

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Council Member Keegan-Ayer moved to approve and enact Bill No. 17-03 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		

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

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

Council Member Keegan-Ayer moved to approve Bill No. 17-04. Council Member Fitzwater seconded the motion.

(The public hearing on Bill No. 17-04 was held on Tuesday, March 21, 2017.)

Mr. Steve Horn, Planning and Permitting Division, provided amendments, on behalf of the County Executive, to Bill No. 17-04 as follows:

Amendment #1 – would allow for amplified outdoor music, under certain conditions, as part of the limited winery, brewery and distillery tasting rooms in the Agriculture and Resource Conservation Zoning Districts. The following is the proposed amendment wording:

Amend Section 1-19-8.431. Limited Farm Alcoholic Beverages Tasting Rooms in the Resource Conservation and Agricultural Districts.

On Exhibit 1, Page 2, Amend Subsection 1-19-8.431(E) as follows:

(E) [Amplified musical events shall be held indoors only. Only non-amplified musical events, as approved by the Zoning Administrator and in accord with 1.19-8.700 may be held outdoors.] MUSIC IS PERMITTED INDOORS OR IN ACCESSORY OUTDOOR SPACE, SUCH AS PATIOS OR DECKS. AMPLIFIED MUSIC OR SOUND SHALL BE CONTAINED TO THE ACCESSORY OUTDOOR SPACE. HOURS WHEN AMPLIFIED MUSIC IS ALLOWED SHALL BE DEFINED IN THE ZONING CERTIFICATE. THE ZONING CERTIFICATE MAY BE REVOKED

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IF THE ZONING ADMINISTRATOR FINDS: (1) AMPLIFIED MUSIC IS HEARD OR OBSERVED OUTSIDE THE HOURS DEFINED IN THE ZONING CERTIFICATE; OR (2) AMPLIFIED MUSIC VOLUMES ARE RECORDED IN VIOLATION OF THE NOISE ORDINANCE; OR (3) MUSICAL ACTIVITIES UNREASONABLY INTERFERE WITH NEIGHBORING PROPERTY OWNERS' PEACEFUL ENJOYMENT OF THEIR HOMES.

* * * *

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

Amendment #2 – would clarify that a tasting room be allowed to be located in something other than an “accessory structure” on the applicant’s property, and to further define the building space to be included in meeting the 1,500 square feet threshold as proposed in in the bill. The following is the proposed amendment wording:

Amend Section 1-19-11.100. Definitions as follows:

On Exhibit 1, Page 3, 1-19-11.100. Definitions is hereby amended to add and delete the following text:

* * * *

FARM ALCOHOLIC BEVERAGES TASTING ROOM, LIMITED. A farm brewery, farm distillery or farm winery may have one accessory structure for the purpose of tasting and retail sales of alcoholic beverages and spirits that are brewed, distilled or produced on the farm in accordance with this chapter. The [accessory] structure **WITHIN WHICH THE TASTING ROOM IS LOCATED** shall have no more than 1,500 square feet of customer service area devoted to tasting and retail sales of the farm alcoholic beverages. Calculation of the 1,500 square feet devoted to tasting and retail sales will be [calculated] based on the floor area devoted to customer service, excluding **REST ROOMS, FOOD PREPARATION AREA, AND storage.**

* * * *

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

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

Council Member Otis moved **Amendment #1**, as presented by Mr. Horn, for discussion. Council Member Fitzwater seconded the motion.

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Council Member Fitzwater wanted to strike from Amendment #1 the following as she felt it was subjective:

“..... OR (3) MUSICAL ACTIVITIES UNREASONABLY INTERFERE WITH NEIGHBORING PROPERTY OWNERS’ PEACEFUL ENJOYMENT OF THEIR HOMES. “

Council Member Fitzwater’s request to strike certain language from Amendment #1 was accepted by the maker and seconder of the motion.

The motion passed 4-3 with Council Members Keegan-Ayer, Donald, and Delauter 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 Otis moved **Amendment #2**, as presented by Mr. Horn, for approval. 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			
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.)

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Council Member Chmelik moved **Amendment #3** as follows:

Amend Chapter 1-19-8.431. Limited Farm Alcoholic Beverages Tasting Rooms in the Resource Conservation and Agricultural Districts.

The following provisions shall apply to limited farm alcoholic beverages tasting rooms in the Resource Conservation and Agricultural zoning districts.

Amend Subsection by adding § 1-19-8.431(F):

(F) MAY HAVE UP TO TWELVE (12) FARM-BASED ALCOHOL BEVERAGE PROMOTIONAL ACTIVITIES PER YEAR.

* * * *

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

Council Member Shreve seconded the motion. Council Member Chmelik decided to withdraw Amendment #3.

Council Member Chmelik moved **Amendment #4** as follows:

On Exhibit 1, Page 3, Amend Chapter § 1-19-11.100. Definitions as follows:

To add:

* * * *

FARM-BASED ALCOHOL BEVERAGE PROMOTIONAL ACTIVITY. A FARM-BASED ALCOHOL BEVERAGE PRODUCTION FACILITY, SUCH AS A FARM WINERY, FARM BREWERY, OR FARM DISTILLERY MAY HAVE PROMOTIONAL ACTIVITIES NOT SUBJECT TO § 1-19-8.700. FARM BASED ALCOHOL BEVERAGE PROMOTIONAL ACTIVITIES SHALL NOT INCLUDE MUD RUNS/RACES, RODEOS, MOTOR SPORT EVENTS, MONSTER TRUCK RALLIES, OR CONCERTS IN EXCESS OF 1,500 GUESTS.

* * * *

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE BILL.

[Brackets] indicate matter deleted from the bill.

Council Member Shreve seconded the motion. Council Member Chmelik decided to withdraw Amendment #4.

Since Bill No. 17-04 was amended, a public hearing would need to be scheduled on the amended bill.

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(Council Members took a break at 5:34 p.m. and reconvened at 7:00 p.m.)

Public Hearing:

Bill No. 17-05 - Limited Private Event Venues – Council Member Tony Chmelik

A public hearing was held, as duly advertised, on Bill No. 17-05 - Limited Private Event Venues. The bill would amend Chapter 1-19 of the County Code to allow Limited Private Event Venues to be established in the Agricultural Zone as an Accessory Use with special exception and concept plan approval, and to include standards governing that use.

Public comments were received from:

- Harry Lerch
- Brenda Broadbent (also read a statement from Doug Kaplan who was unable to attend the public hearing)
- Monika Lucey (finished reading Doug Kaplan's statement)
- Lisa Bell
- Sue Bohrer
- Shannon Bohrer
- Annette Santos
- Rose Woodsmall
- Richard Broadbent
- Catherine Carrico
- Tom Mullineaux, Chair, Frederick County Agriculture Business Council
- Martha Hartlaub
- Clem Meyer
- Lori Kimble Hayes
- Patrick Schempp
- Robert Ramsburg, President, Frederick County Farm Bureau
- Earl Bell
- Deborah Schray
- Mike Hillman
- Nick Carrera
- Kai Hagen
- Debbie Newcomer
- Bert Newcomer
- Ken Keyes
- Dan Lucas

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- Steve McKay
- Matthew Toms
- Margie Simpson

It was noted Bill No. 17-05 would be scheduled for adoption by the Council on Tuesday, April 18, 2017.

Public Comments

- None

Council Member Comments

Comments were provided by the Council Members Donald, Shreve, Fitzwater, Keegan-Ayer, and Otis.

Adjourn

The meeting was adjourned at 8:37 p.m.

Bud Otis, President
County Council