

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, April 17, 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.

Public Comments

- None

Action on the Agenda

Council Vice President Keegan-Ayer moved to approve the agenda with one change, Bill No. 18-09 Location of Private Amenities and Public Facilities in Planned Development Districts is pulled from this agenda. 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 | | |

Business Items

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

Council Vice President Keegan-Ayer moved to approve the budget adjustments as presented. Council Member Chmelik seconded the motion that passed 6-0-1 with Council Member Shreve abstained.

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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 - Shreve | | | X |
| Presiding Officer - Otis | X | | |

Business Items:

Approval of Minutes from March 27, 2018 and April 3, 2018

Council Vice President Keegan-Ayer moved to approve the minutes of March 27, 2018 and April 3, 2018 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 – Shreve | X | | |
| Presiding Officer - Otis | X | | |

Constant Yield Tax Rate (Vote to Move to Public Hearing)

Lori Depies, Director, Finance Division and Diane Fox, Director, Treasury Division presented the upcoming years Constant Yield Tax Rate to the Council.

Council Vice President Keegan-Ayer moved that the Council take the Constant Yield Tax Rate and the proposed FY2019 Tax Rate to public hearing on May 1, 2018. Council Member Fitzwater seconded the motion that 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 | |

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

Reconsideration of Bill No. 18-03 Elderly Individuals and Retired Military Tax Credit

Council President Otis moved to reconsider Bill No. 18-03 Elderly Individuals and Retired Military Tax Credit. 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 – Shreve | X | | |
| Presiding Officer - Otis | X | | |

Lori Depies, Director, Finance Division and Diane Fox, Director, Treasury Division explained the amendment that was put forward from the Administration.

On Exhibit 1, Page 1, Amend Section 1-8-67, ELDERLY INDIVIDUALS AND UNIFORMED SERVICE MEMBERS PROPERTY TAX CREDIT.

Section 1-8-67 is hereby amended as follows:

(A) [Pursuant to]UNDER the authority [granted by the]IN Md. Code Ann., Tax Property Article § 9-258 the County [may grant, by law,] GRANTS a property tax credit against the county property tax imposed on the dwelling of an eligible individual.

[(A)](B)(1) In this section the following words have the meanings indicated.

(2)(a) “Dwelling” [has the meaning stated in Md. Code Ann., Tax Property Article § 9-105] MEANS:

(i) A HOUSE THAT IS:

A. USED AS THE PRINCIPAL RESIDENCE OF THE HOMEOWNER; AND

B. ACTUALLY OCCUPIED OR EXPECTED TO BE ACTUALLY OCCUPIED BY THE HOMEOWNER FOR MORE THAN 6 MONTHS OF A 12-MONTH PERIOD BEGINNING WITH THE DATE OF FINALITY FOR THE TAXABLE YEAR FOR WHICH THE PROPERTY TAX CREDIT UNDER THIS SECTION IS SOUGHT; AND

(ii) THE LOT OR CURTILAGE ON WHICH THE HOUSE IS

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ERECTED.

(b) "DWELLING" INCLUDES:

(i) A CONDOMINIUM UNIT THAT IS OCCUPIED BY AN INDIVIDUAL WHO HAS A LEGAL INTEREST IN THE CONDOMINIUM;

(ii) AN APARTMENT IN A COOPERATIVE APARTMENT CORPORATION THAT IS OCCUPIED BY AN INDIVIDUAL WHO HAS A LEGAL INTEREST IN THE APARTMENT; AND

(iii) A PART OF REAL PROPERTY USED OTHER THAN PRIMARILY FOR RESIDENTIAL PURPOSES, IF THE REAL PROPERTY IS USED AS A PRINCIPAL RESIDENCE BY AN INDIVIDUAL WHO HAS A LEGAL INTEREST IN THE REAL PROPERTY.

(3) "Eligible individual" means:

[(i)](a) an individual who is at least 65 years old and has lived in the same dwelling for at least the preceding 40 years; or

[(ii)](b) an individual who is at least 65 years old and is a retired member of the uniformed services of the United States as defined in 10 U.S.C. § 101, the military reserves, or the National Guard.

[(B)](C) (1) The property tax credit allowed under this section [shall]IS:

[(1)](a) [be equal to] 20% of the County property tax imposed on the property; and

[(2)](b) [be] granted for a period of UP TO 5 TAXABLE years OR AS LONG AS THE ELIGIBLE INDIVIDUAL CONTINUES TO SATISFY ALL THE REQUIREMENTS.

(2) THE PROPERTY TAX CREDIT AUTHORIZED BY THIS SECTION SHALL APPLY ONLY IN TAXABLE YEARS BEGINNING ON OR AFTER JULY 1, 2019.

(D) A PROPERTY TAX CREDIT UNDER THIS SECTION MAY NOT BE PROVIDED IN ANY TAXABLE YEAR IN WHICH A PROPERTY TAX CREDIT UNDER SECTION 1-8-66 IS ALLOWED.

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(E) THIS PROPERTY TAX CREDIT SHALL BE CALCULATED ONLY ON THE LESSER OF

(1) \$400,000 OR

(2) THE ASSESSED VALUE OF THE DWELLING REDUCED BY THE AMOUNT OF ANY ASSESSMENT ON WHICH A PROPERTY TAX CREDIT IS GRANTED UNDER MD CODE ANN., TAX PROPERTY ARTICLE, SECTION 9-105.

(F) (1) TO BE ELIGIBLE FOR THIS PROPERTY TAX CREDIT, A PROPERTY OWNER MUST SUBMIT AN APPLICATION TO THE DIRECTOR OF TREASURY ON OR BEFORE APRIL 1 IN ADVANCE OF EACH TAXABLE YEAR THAT THIS PROPERTY TAX CREDIT IS SOUGHT.

(2) AN APPLICATION MUST

**(a) BE ON THE FORM THAT THE DIRECTOR REQUIRES; AND
(b) DEMONSTRATE THAT THE TAXPAYER SATISFIES ALL REQUIREMENTS FOR THIS CREDIT.**

(G) THE DIRECTOR OF FINANCE MAY ADOPT GUIDELINES, REGULATIONS, OR PROCEDURES TO ADMINISTER THIS SECTION.

(H) (1) THIS PROPERTY TAX CREDIT APPLIES ONLY TO COUNTY PROPERTY TAX AND DOES NOT APPLY TO ANY OTHER TAX, INCLUDING ANY SPECIAL TAXING DISTRICT TAX, FIRE AND RESCUE DISTRICT TAX, ELECTRIC LIGHTING DISTRICT TAX OR ANY TAX IMPOSED BY THE STATE, A MUNICIPALITY OR ANY OTHER GOVERNMENTAL ENTITY.

(2) THE AMOUNT OF THIS PROPERTY TAX CREDIT MAY NOT EXCEED THE AMOUNT DUE FOR NET FREDERICK COUNTY REAL PROPERTY TAX.

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EFFECTIVE DATE: THIS BILL SHALL TAKE EFFECT 60 DAYS AFTER ENACTMENT.

Council Vice President Keegan-Ayer moved to approve Amendment #1 to Bill No. 18-03 with Option 2 and striking provisions I and J which refer to the recapture provision and the fraudulent provision. 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 – Shreve | X | | |
| Presiding Officer - Otis | X | | |

First Reading Calendar:

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

Council President Otis, on behalf of the County Executive, introduced a draft bill to restate the law's purpose and intended construction; define certain terms, limit a former regulated lobbyist's ability to work for the County on certain matters for one year after the lobbyist's registration ends; expand the scope of the law's "use of prestige of office" provision; modify the deadline for a candidate to file a financial disclosure statement before the candidacy is deemed withdrawn; provide for nondisclosure of home addresses on financial disclosure statements; modify the financial disclosure requirements for employment with or interests in entities doing business with the County, indebtedness to entities doing business with or regulated by one's department or agency, and earned income received by a spouse who is a regulated lobbyist; increase late fees for failure to file a financial disclosure statement or a lobbyist registration or report by the filing deadline; and make certain housekeeping changes to . The public hearing will be held on May 15, 2018 at 7:00 p.m.

Third Reading Calendar:

Bill No. 18-02 – Education Course for County Council Members – Council Member Billy Shreve

A public hearing was held on 03/06/2018, as duly advertised, on Bill No. 18-02.

Council Member Shreve moved to approve Bill No. 18-02 Education Course for County Council Members. Council Member Delauter seconded the motion.

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Council Vice President Keegan-Ayer moved Amendment #1 to Bill No. 18-02. Council Member Fitzwater seconded the motion.

On the Bill introduction page, Amend as follows:

An ACT to: [require] ENCOURAGE County Council Members to complete the education course within ~~[thirty (30) days]~~ **SIX (6) MONTHS** of taking office, as defined in the Annotated Code of Maryland, Land Use Article, § 1-206, Planning Commission and Board of Appeals Members.

On the Bill title page, Amend as follows:

The County Council of Frederick County, Maryland, finds it necessary and appropriate to **[require] ENCOURAGE** that all Council Members complete the education course within ~~[thirty (30) days]~~ **SIX (6) MONTHS** of taking office, as defined in the Annotated Code of Maryland, Land Use Article, § 1-206 .

On Exhibit 1, Page 1, Amend Chapter § 1-19-1.131 as follows:

§ 1-19-1.131. EDUCATION FOR COUNTY COUNCIL MEMBERS.

(A) Within ~~[thirty (30) days]~~ **SIX (6) MONTHS** of taking office, all County Council Members **[shall] ARE ENCOURAGED TO** complete the education course as defined in the Annotated Code of Maryland, Land Use Article, § 1-206 for members of the Planning Commission and Board of Appeals

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After discussion on Amendment #1, Council Vice President Keegan-Ayer withdrew Amendment #1 with Council Member Fitzwater in support.

Council Vice President Keegan-Ayer restated the motion approve Bill No. 18-02 Education Course for County Council Members as it was introduced. Council Member Delauter seconded the motion which failed 1-6 with Council Members Donald, Keegan-Ayer, Fitzwater, Delauter and Otis 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 | |

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Bill No. 18-04 – Zoning Violation Reporting – Council Member Billy Shreve

A public hearing was held on 03/06/2018, as duly advertised, on Bill No. 18-04.

Council Member Shreve moved to approve Bill No. 18-04 Zoning Violation Reporting. Council Member Chmelik seconded the motion which failed 3-4 with Council Members Donald, Keegan-Ayer, Fitzwater and Otis 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 | |

Amended Bill No. 18-05 – Public Safety Facilities Exemption – Council Member Billy Shreve

A public hearing was held on 04/10/2018, as duly advertised, on Amended Bill No. 18-05.

Council Member Shreve moved to approve Amended Bill No. 18-05 Public Safety Facilities Exemption as presented. Council Member Delauter seconded the motion which failed 3-4 with Council Members Donald, Keegan-Ayer, Fitzwater and Otis 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 | |

Amended Bill No. 18-06 – Temporary Limited Wood Waste Recycling in the GC Zone – Council Member Tony Chmelik

A public hearing was held on 04/03/2018, as duly advertised, on Amended Bill No. 18-06.

Council Member Chmelik moved to approve Amended Bill No. 18-06 Temporary Limited Wood Waste Recycling in the GC Zone as presented. Council Member Delauter seconded the motion

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which failed 2-5 with Council Members Donald, Keegan-Ayer, Fitzwater, Delauter and Otis 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 | |

Bill No. 18-09 – Location of Private Amenities and Public Facilities in Planned Development Districts – Council Vice President M.C. Keegan-Ayer This item has been moved to 04/24/2018.

To Consider Bill No. 18-10 – Satellite Simulcast Betting Facility – Council Member Tony Chmelik

A public hearing was held on 04/03/2018, as duly advertised, on Bill 18-10.

Council Member Chmelik moved to approve Bill No. 18-10 Satellite Simulcast Betting Facility as presented. Council Member Delauter seconded the motion.

Council Member Chmelik moved Amendment #1 to Bill No. 18-10 as follows. Council Member Fitzwater seconded the motion.

On Exhibit 1, Page 1, Amend Chapter § 1-19-5.310 as follows:

§ 1-19-5.310. USE TABLE.

(A) Permitted uses and required development review.

P Principal permitted use subject to design regulations

PS Principal permitted use subject to site development plan approval. See §§ 1-19-2.160, and 1-19-3.300 through 1-19-3.300.4

E Principal permitted use as a special exception with site development plan approval. See §§ 1-19-8.320 and following

T Permitted as temporary use as a special exception. See § 1-19-8.300

X Permitted as temporary use only. See § 1-19-8.700

SW Solid Waste Floating Zone

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A blank indicates that the use is not permitted under any situation

| Uses | <i>Zoning Districts</i> | | | | | | | | | | | | | |
|---|-------------------------|---|----|----|----|----|-----|-----|----|----|-----------|-----|------------------|-----------|
| | RC | A | R1 | R3 | R5 | R8 | R12 | R16 | VC | MX | GC | ORI | LI | GI |
| <i>Commercial Business and Personal Services</i> | | | | | | | | | | | | | | |
| <u>Satellite Simulcast</u> <u>Betting Facility</u> | | | | | | | | | | | PS | | [P] PS | PS |

The amendment 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 – Shreve | X | | |
| Presiding Officer - Otis | X | | |

**To Consider Bill No. 18-11 – Veterans Advisory Council – Council President Bud Otis,
Council Vice President Keegan-Ayer and Council Member Tony Chmelik**

A public hearing was held on 04/03/2018, as duly advertised, on Bill 18-11.

Council Vice President Keegan-Ayer moved to approve Bill No. 18-11 Veterans Advisory Council as presented. Council Member Chmelik seconded the motion.

Council Vice President Keegan-Ayer moved Amendment #1 to Bill No. 18-11 as follows. Council Member Fitzwater seconded the motion.

On Exhibit 1, Page 1, Amend Chapter §1-2-201.1(A) as follows:

(A) Subject to confirmation by the County Council, the County Executive shall appoint up to seven (7) members to the VAC, all of whom shall be registered voters and residents of Frederick County, not less than four (4) of whom shall have been separated from

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military service by honorable discharge or under honorable conditions. [Preference extended to recently discharged combat Veterans and/or female Veterans.]

* * * *

The amendment 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 – Shreve | X | | |
| Presiding Officer - Otis | X | | |

To Consider Bill No. 18-12 – Interagency Internal Audit Authority – Council President Bud Otis

A public hearing was held 04/03/2018, as duly advertised, on Bill 18-12.

Council Member Chmelik moved to approve Bill No. 18-12 Interagency Internal Audit Authority as presented. Council Member Fitzwater seconded the motion which passed 6-1 with Council Member 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 – 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 went into recess at 6:00 p.m. and reconvened at 7:00 p.m.)

Public Hearing:

FY 2019 County Budget

Rick Harcum, Director, Budget Division presented the proposed budget to the Council.

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Public comment was heard from:

- Ed Burrell
- Jodie Osteich
- Jeff Dunn
- Eric Cicmanbe
- Nick Caruso
- Christine Bowie
- C.J. Tyree
- Mark Long
- Melanie Cox
- George Laugelli
- Eileen Benecke
- Sherry Wise
- Veronica Henry
- Avram Fechter
- Angie Liddiard
- Mark Lancaster
- Joe Berman
- Annette Breiling
- Tiffany Green
- Joe Parsley

Public Comments:

- Melanie Cox

Council Member Comments

Comments were provided by the Council Members.

Adjourn

The meeting adjourned at 8:35 p.m.

Bud Otis, President
County Council