

**COUNTY COUNCIL OF FREDERICK COUNTY MEETING
MINUTES
Tuesday, February 18, 2020**

Council Members M.C. Keegan-Ayer, President; Michael Blue, Vice-President, Steve McKay, Jessica Fitzwater, Kai Hagen, Phil Dacey and Jerry Donald were present for the meeting.

Also present were Ragen Cherney, Chief of Staff, County Council; Bryon Black, Assistant County Attorney; Sarah Ambrosio, Recording Secretary; and Nancy Luna, Executive Assistant, County Council.

Council President M.C. Keegan-Ayer called the meeting to order at 5:30 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 Jessica Fitzwater moved to approve the agenda, as presented. Council Member Jerry Donald seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

Public Comment was heard from:

- Kelly Russell
- Stephen Jones
- George Lane
- Kenneth Berman
- Lee Koontz
- Rick Ludwick

Business Items:

- **Budget Adjustments**
- J-20-200- Health Services Division
- J-20-205 - Senior Services Division
- J-20-210 - Sheriff's Office

Council Member Phil Dacey moved to approve budget adjustments J-20-200 and J-20-205, budget adjustment J-20-210 was pulled for follow up at a later date. Council Member Jerry Donald seconded the motion that passed 7-0.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

Resolution Adoption on Triennial Water and Sewer Plan (Adopted on 11/19/2019)

Tim Goodfellow, Principle Planner, Planning & Permitting Division, presented information to the Council on the Triennial Water and Sewer Plan.

Council Member Jessica Fitzwater moved to approve the Resolution Adoption on Triennial Water and Sewer Plan (Adopted on 11/19/2019) as presented. Council Member Steve McKay seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

Presentation of Annual MDOT Transportation Priorities

Information on the Annual MDOT Transportation Priorities was provided to the Council by Ron Burns, Planning and Permitting Division.

Council Member Steve McKay moved to approve the Annual MDOT Transportation Priorities as presented. Council Member Kai Hager seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

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At 6:27 pm, Council President M.C. Keegan-Ayer passed the gavel to Council Vice President Michael Blue. Council President M.C. Keegan-Ayer recused herself from the upcoming presentation and vote.

Proposed Listing on County Register of Historic Places, Daniel Sheffer Farm, CR 19-02

Information on the Proposed Listing on County Register of Historic Places, Daniel Sheffer Farm, CR 19-02 was provided to the Council by Amanda Whitmore, Principal Planner, Planning & Permitting Division.

Council Member Kai Hagen moved to approve the Proposed Listing on County Register of Historic Places, Daniel Sheffer Farm, CR 19-02 as presented. Council Member Jessica Fitzwater seconded the motion that passed 6-0-1. Council President M.C. Keegan-Ayer abstained from the vote.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer			X

Public Comment was heard from:

- None

At 6:42 pm Council Vice President Michael Blue passed the gavel back to Council President M.C. Keegan-Ayer.

Catoctin View Senior Apartments Affordable Housing PILOT

Information was presented to the Council on the Proposed Resolution for the Catoctin View Senior Apartments Affordable Housing PILOT by Milton Bailey, Director, Department of Housing and Community Development, Citizens Services Division; Angie Liddiard, Director of Economic Development, Housing Authority of the City of Frederick; and Anne Herbert-Rollins, Esq., Miles Stockbridge, Council to the Housing Authority of the City of Frederick.

Council Member Jessica Fitzwater moved to approve the Resolution for the Catoctin View Senior Apartments Affordable Housing PILOT as presented. Council Member Kai Hagen seconded the motion that passed 7-0.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

Public Comment was heard from:

- None

Disposition of Board of Education Property

Information was presented to the Council on the Disposition of Board of Education Property by Rick Harcum, Budget Office, Office of the County Executive.

Council Member Michael Blue moved to approve the Disposition of Board of Education Property as presented. Council Member Jerry Donald seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

First Reading Calendar:

Providing Additional Support for Agricultural Preservation by Increasing the Recordation Tax Rate and Reallocating Recordation Tax Revenues

Council Members Michael Blue, Jerry Donald, Kai Hagen and Steve McKay on behalf of Administration, briefed the Council on a proposed bill which will Provide Additional Support for Agricultural Preservation by Increasing the Recordation Tax Rate and Reallocating Recordation Tax Revenues.

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Third Reading Calendar:

Bill No. 20-01 Add Binding Arbitration to Collective Bargaining with Fire Service Employees

Council Member Jessica Fitzwater moved to approve Bill No. 20-01 Add Binding Arbitration to Collective Bargaining with Fire Service Employees. Council Member Steve McKay seconded the motion.

Council Member Kai Hagen presented Amendment #1 as follows:

AMENDMENT 1 to Bill NO. 20-01 ____

Introduced By: Council Member Kai Hagen (At-Large)

Introduction Date: February 18, 2020

Adopted/Rejected/Withdrawn: Vote 6-1

An ACT to: Revise the Frederick County Code to comply with Charter section 705(b) as approved by the voters of Frederick County on November 6, 2018, by adding binding arbitration to collective bargaining for Fire Service Employees.

On Exhibit _1_, Page _7 , Amend Number 9 as follows:

9) If the impasse is not resolved prior to the conclusion of the hearing the arbitrator shall prepare a written [report] **AWARD THAT CHOOSES BETWEEN AND SUSTAINS IN ITS ENTIRETY EITHER THE FINAL OFFER OF THE COUNTY OR THAT OF THE EXCLUSIVE REPRESENTATIVE AND THAT BRIEFLY STATES AN EXPLANATION AS TO WHY THE SELECTED FINAL OFFER WAS CHOSEN AND WHY THE REJECTED OFFER WAS NOT.** [which shall include the arbitrator's separate decision as to each disputed subject area of bargaining as to whether he or she adopts the County or the exclusive representative's final offer as to each subject area of bargaining.]

Council Member Kai Hagen moved to approve Amendment #1, Council Member Steve McKay seconded the motion that failed 1-6.

Council Members	Aye	Nay	Absent/Abstain/Present
District 1 – Donald		X	
District 2 – McKay		X	
District 4 – Fitzwater		X	
District 5 – Blue		X	
At-large – Dacey		X	
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer		X	

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Council Member Kai Hagen presented Amendment # 2 as follows:

AMENDMENT 2 to Bill NO. 20-01

Introduced By: Council Member Kai Hagen (At-Large)

Introduction Date: February 18, 2020

Adopted/Rejected/Withdrawn: Vote 6-1

An ACT to: Revise the Frederick County Code to comply with Charter section 705(b) as approved by the voters of Frederick County on November 6, 2018, by adding binding arbitration to collective bargaining for Fire Service Employees.

On Exhibit _1_, Page _10 , Amend Letter D and E as follows:

(D) Council Action. The County Council is [not] bound by the arbitrator's decision made under this section and [may] **MUST** act upon the submitted budget to implement the arbitrator's decision under this section [in accordance with applicable law. The County Council retains the right to approve or disapprove, in whole or in part, any additional funding required as the result of the arbitrator's decision].

(E) Continuing Negotiations.

(1) The parties are strongly encouraged to reach an agreement on all issues whenever possible.

~~[(2) On or before March 10, the County Council may indicate its intention to appropriate funds for or otherwise implement the agreement of the parties or the arbitrator's decision, whichever is applicable, or its intention not to do so, and state its reasons for any intent to reject any part of the agreement or arbitrator's decision.~~

~~If the Council indicates its intention to reject any part, it shall designate a representative to meet with the parties and present the Council's views in their further negotiations. The parties shall thereafter meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. The results of the negotiations shall be submitted to the Council on or before March 15.~~

~~(3) This section may not be construed to interfere with any efforts the parties may undertake to reach a negotiated agreement concerning any disputes at any time.]~~

Council Member Kai Hagen moved to approve Amendment #2, Council Member Steve McKay seconded the motion that failed 1-6.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald		X	

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District 2 – McKay		X	
District 4 – Fitzwater		X	
District 5 – Blue		X	
At-large – Dacey		X	
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer		X	

Council Member Kai Hagen presented Amendment # 3 as follows:

AMENDMENT 3 to Bill NO. 20-01

Introduced By: Council Member Kai Hagen (At-Large)

Introduction Date: February 18, 2020

Adopted/Rejected/Withdrawn: Vote 6-1

An ACT to: Revise the Frederick County Code to comply with Charter section 705(b) as approved by the voters of Frederick County on November 6, 2018, by adding binding arbitration to collective bargaining for Fire Service Employees.

On Exhibit _1_, Page _2_ , Amend Management Rights as follows:

The county's obligations under this article **AND ANY MEMORANDUM OF UNDERSTANDING MADE UNDER** it do not impair or affect its exclusive rights and responsibilities to:

- (1) Determine the overall budget and mission of the County and any agency of County government;
- (2) Maintain and improve the efficiency and effectiveness of operations;
- (3) Determine the services to be rendered and the operations to be performed;
- (4) Determine the overall organizational structure, methods, processes, means, job classifications, and personnel by which operations are conducted, and the location of facilities;
- (5) Direct, supervise, and discipline employees ~~[in accordance with County policies]~~;
- (6) Hire, select, and establish the standards governing promotion of employees, and classify positions;
- (7) Relieve employees from duties because of lack of work or funds, or when the County determines continued work would be inefficient or nonproductive;
- (8) Take actions to carry out the mission of government in emergency situations;
- (9) Transfer, assign, and schedule employees ~~[to meet daily operational needs]~~;

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(10) Determine the size, grades, and composition of the work force;

(11) Set [system performance] standards **OF PRODUCTIVITY AND TECHNOLOGY**;

(12) Establish employee performance standards and evaluate employees, **BUT EVALUATION PROCEDURES ARE SUBJECT TO BARGAINING**;

(13) Make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards;

(14) Introduce new or improved technology, research, development, and services;

(15) Control and regulate the [purchase of], use of [, disposal of,] machinery, equipment, [supplies, tools,] and other property and facilities [and, capital assets] used in the delivery of fire and rescue services in Frederick County **EXCEPT AS REQUIRED BY §1-2-126(D)**;

(16) Maintain internal security standards;

(17) Create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service, **BUT THE EMPLOYER MUST NOT CONTRACT WORK WHICH WILL DISPLACE EMPLOYEES UNLESS IT GIVES WRITTEN NOTICE TO THE CERTIFIED REPRESENTATIVE 90 DAYS BEFORE SIGNING THE CONTRACT OR OTHER NOTICE AGREED BY THE PARTIES**;

(18) Suspend, discharge, or otherwise discipline employees **FOR CAUSE, EXCEPT THAT ANY SUCH ACTION MAY BE SUBJECT TO A GRIEVANCE PROCEDURE INCLUDED IN A COLLECTIVE BARGAINING AGREEMENT**;
and

(19) Issue and enforce rules, policies, and regulations necessary to carry out these and all other managerial functions which are not inconsistent with this Article, Federal or State law, or the terms of a memorandum of understanding.

Council Member Kai Hagen moved to approve Amendment #3, Council Member Steve McKay seconded the motion that failed 1-6.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald		X	
District 2 – McKay		X	
District 4 – Fitzwater		X	
District 5 – Blue		X	
At-large – Dacey		X	
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer		X	

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Council Member Jessica Fitzwater moved to approve Bill No. 20-01 Add Binding Arbitration to Collective Bargaining with Fire Service Employees. Council Member Steve McKay seconded the motion which passed 6-1.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen		X	
Presiding Officer – Keegan-Ayer	X		

Public Comment was heard from:

- Vladamir Tolsky

Council Member Comments:

Council Member comments were provided.

Adjourn

The meeting adjourned at 7:50 p.m.

M.C. Keegan-Ayer, President
County Council