

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Tuesday, September 1, 2020**

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

Also present were Ragen Cherney, Chief of Staff, County Council; Bryon Black, County Attorney; Catherine Keller, 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 4:30 p.m. virtually via video conference.

**Opening Statement from Council President M.C. Keegan-Ayer**

Good Evening and welcome to the virtual meeting of the Frederick County Council. Today is Tuesday, September 1, 2020, and it is a legislative day for the County Council.

The Frederick County Council is continuing to conduct our meetings on-line during this time and it seems this may be the way we will be holding our meetings for the foreseeable future due to concerns about the spread of the COVID virus.

Our meetings are televised on Frederick County Government Channel 19, on Frederick County Government's website: [www.FrederickCountyMD.Gov/FCGTV](http://www.FrederickCountyMD.Gov/FCGTV), and while we are meeting virtually, we will continue to use our software program which allows the public to watch and participate in our meetings. Please go to [www.frederickcountymd.gov/councilmeetings](http://www.frederickcountymd.gov/councilmeetings) in order to watch us on that format.

You may still send us comments via email at: ([Councilmembers@frederickcountymd.gov](mailto:Councilmembers@frederickcountymd.gov)), or by calling our office line (301) 600-1135 and leaving a voicemail message. Or using our virtual format, you may call toll free 855-925-2801 and enter meeting code 8365 to listen to our meetings live and to give public comment. I will be giving instructions for how to give public comment before each portion of our meeting when public comment will be received. As always, all comments received will be reflected in the minutes.

As a reminder during these virtual meetings, I will periodically stop to allow the members to ask any questions in a round robin type fashion, calling the council members by name to make sure the public is aware of which member has the floor.

As a continued caution to our Council Members – Please be respectful of each other's time and wait to be recognized before you begin to speak. Remember the microphone issue and please limit your questions to one at a time. I will come back around as often as necessary until all questions are heard.

To begin our meeting, I will start with a roll call vote to determine a quorum. Just

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respond with “here”. Again, going in alphabetical order: CM Blue, Dacey, Donald, Fitzwater, Hagen, and McKay. A quorum having been established, we will begin our meeting.

The meeting began with a moment of silence followed by the Pledge of Allegiance.

**Action on the Agenda**

*Council Member Jerry Donald moved to approve the agenda. 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		

**Public Comment was heard from:**

- None

**Business Items:**

**Budget Adjustments**

- J-20-358 and Board of Education School Construction Fund Budget Amendment #20-15 – Accounting, Finance Division
- J-21-033 – Emergency Preparedness, Emergency Management Division
- J-21-034 – Emergency Communications, Emergency Management Division
- J-21-040 – Sheriff’s Office
- J-21-041 and J-21-042 – Housing and Community Development, Citizens Services Division

*Council Member Jerry Donald moved to approve Budget Adjustments J-20-358, J-21-033, J-21-034, J-21-040, J-21-041 and J-21-042 as presented. Council Member Kai Hagen seconded the motion that passed 7-0.*

Council Members	Aye	Nay	Absent/ Abstain/ Present

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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		

**Budget Journal (J-21-055) – Establish Warehouse Capital Improvement Program (CIP) Project**

*Council Member Jessica Fitzwater moved to approve Budget Journal (J-21-055) – Establish Warehouse Capital Improvement Program (CIP) Project 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		

**Confirmation of County Executive's Appointments to the Frederick County Boards and Commissions**

Joyce Grossnickle, Administrative Officer, briefed the Council on the Confirmation of County Executive’s Appointments to Boards and Commissions.

**Commission for Women**

*Council Member Jessica Fitzwater moved to approve Dr. Lois Jarman and Shauna Mulcahy to the Commission for Women to terms as presented by staff. Council Member Kai Hagen 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		

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At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

Commission on Disabilities

*Council Member Steve McKay moved to approve Marsha Flowers, Lisa Clark and David Drezner to the Commission on Disabilities to terms as presented by staff. Council Member Jerry Donald 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		

Fire and Rescue Advisory Board

*Council Member Jessica Fitzwater moved to approve Todd Johnson and Lt. George Lane to the Fire and Rescue Advisory Board to terms as presented by staff. Council Member Kai Hagen 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		

Historic Preservation Commission

*Council Member Kai Hagen moved to approve Mary Thompson, Hettie Ballweber and Blaine Hoffman, Esquire to the Historic Preservation Commission to terms as presented by staff. Council Member Steve McKay seconded the motion that passed 7-0.*

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		

Local Management Board

*Council Member Jessica Fitzwater moved to approve Bill Keefer, Debbie Marini, Barbara May and Ken Oldham to the Local Management Board to terms as presented by staff. Council Member Kai Hagen 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 Library Board

*Council Member Jessica Fitzwater moved to approve Shemica Sheppard to Public Library Board to terms as presented by staff. 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		

Sustainability Commission

*Council Member Kai Hagen moved to approve Mark Sankey to the Sustainability Commission to terms as presented by staff. 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		

**Public Hearing on NPDES MS4 Financial Assurance Plan**

Shannon Moore, Manager, and Don Dorsey, Project Manager IV, Office of Sustainability and Environmental Resources provided information to the Council on the NPDES MS4 Financial Assurance Plan.

Public Comment

- None

*Council Member Kai Hagen moved to approve the NPDES MS4 Financial Assurance Plan presented by staff. 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		

**Review on Ethics Law and Requirements**

Assistant County Attorney Andrew Ford provided information to the Council on the Ethics and Law Requirements.

The Council took a break from 7:00 p.m. to 7:10 p.m.

**Public Hearing:**

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**To Consider Amended Bill No. 20-12- Amend and Update Chapter 1-22 Article I, Development Impact Fee Procedures and Requirements, and Article II, Public School Development Impact Fee, of the Frederick County Code**

Council Member Jerry Donald provided information on the Amended Bill No. 20-12 - Amend and Update Chapter 1-22 Article I, Development Impact Fee Procedures and Requirements, and Article II, Public School Development Impact Fee, of the Frederick County Code.

Public Comment was heard from:

- None

**Third Reading Calendar**

At 7:25 p.m. Council President MC Keegan-Ayer passed the gavel to Council Vice President Michael Blue.

**Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots**

*Council President M.C. Keegan-Ayer moved to approve Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots as presented. Council Member Jerry Donald seconded the motion.*

*Council Member Phil Dacey withdrew Amendment 2 to Bill No. 20-13*

**AMENDMENT 2 to Bill No. 20-13**

**Introduced By:** Council Member Phil Dacey (At-Large)  
**Introduction Date:** August 18, 2020  
**Adopted/Rejected/Withdrawn:** \_\_\_\_\_

An ACT to: Amend §1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers.

On Exhibit 1, Page 1 & 2, it is hereby amended by deleting the text as follows:

**§ 1-22-7. EXEMPTIONS/WAIVERS.**

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(2) Impact fees collected under this chapter may be waived for farm lots if the following conditions are met at the time that the waiver is applied for:

(a) The farm lot must have been transferred directly from a full-time farmer or a trust or similar entity controlled (more than 50%) by the full-time farmer to the full-time farmer's parent, sibling, child or grandchild or to a trust or similar entity controlled (more than 50%) by the full-time farmer's parent, sibling, child or grandchild; and

~~[(b) The full-time farmer's parent, sibling, child or grandchild must show proof that he or she currently provides substantial support to the farm, whether by physical or administrative work, or by significant financial support. In this subsection, "substantial support", as it applies to physical or administrative support, must equate to an average of at least 20 hours per week for all weeks in the calendar year.]~~

*Council Member Steve McKay moved to approve Amendment 3 on Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots as presented. Council Member Kai Hagen seconded the motion that failed 3-4.*

**AMENDMENT 3 on Bill No. 20-13**

**Introduced By:** Council Member McKay (District 2)  
**Introduction Date:** August 18, 2020  
**Adopted/Rejected/Withdrawn:** \_\_\_\_\_

An ACT to amend Chapter 1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers

On Exhibit 1, Page 1, it is hereby amended as follows:

**FULL-TIME FARMER.** An individual who owns and operates a farm ~~[and who has derived the majority of his or her gross income from agricultural activity]~~ during each of the three (3) years prior to filing an application for the farm lot waiver. **DURING THIS PERIOD, THE INDIVIDUAL SHALL HAVE DERIVED A MAJORITY OF HIS OR HER GROSS INCOME FROM AGRICULTURAL ACTIVITY AND/OR HAVE APPLIED A MAJORITY OF THEIR TIME TOWARD THE AGRICULTURAL ACTIVITY.**



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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	

Council Member Steve McKay moved to approve Amendment 4 on Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots as presented. Council Member Phil Dacey seconded the motion that failed 2-5.

**AMENDMENT 4 on Bill No. 20-13**

**Introduced By:** Council Member McKay (District 2)  
**Introduction Date:** August 18, 2020  
**Adopted/Rejected/Withdrawn:** \_\_\_\_\_

An ACT to amend Chapter 1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers

On Exhibit 1, Page 1, it is hereby amended as follows:

**FARM HOMESITE. A NEW RESIDENTIAL DWELLING SITE LOCATED ON A FARM FOR THE PERSONAL USE AND PRIMARY DWELLING OF A FULL-TIME FARMER.**

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 Steve McKay withdrew Amendment 5 to Bill No. 20-13*

**AMENDMENT 5 on Bill No. 20-13**

**Introduced By:** Council Member McKay (District 2)  
**Introduction Date:** August 18, 2020  
**Adopted/Rejected/Withdrawn:** \_\_\_\_\_

An ACT to amend Chapter 1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers

On Exhibit 1, Pages 1-2, are hereby amended as follows:

(2) Impact fees collected under this chapter may be waived for farm lots **AND FARM HOMESITES** if the following conditions are met at the time that the waiver is applied for:

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(3) If the full-time farmer's parent, sibling, child or grandchild sells or otherwise transfers the farm lot, **OR IF THE FULL-TIME FARMER SELLS OR OTHERWISE TRANSFERS THE FARM HOMESITE TO SOMEONE OTHER THAN THE FULL-TIME FARMER'S PARENT, SIBLING, CHILD OR GRANDCHILD**, (except by reason of his or her death) within 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied, then the **FULL-TIME FARMER OR THE full-time farmer's parent, sibling**, child or grandchild shall be obligated to repay the total amount of the waived impact fees to the county.

(4) If the full-time farmer's parent, sibling, child or grandchild sells or otherwise transfers the farm lot, **OR IF THE FULL-TIME FARMER SELLS OR OTHERWISE TRANSFERS THE FARM HOMESITE**, more than 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied, then the obligation to repay the waived impact fees to the county shall not apply.

(5) The obligation to repay the waived impact fees to the county shall be memorialized by a recorded lien on the farm lot **OR FARM HOMESITE**, which shall, by its terms, expire 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied.

*Council Member Phil Dacey moved to approve Amendment 6 on Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots as presented. Council Member Steve McKay seconded the motion that failed 3-4.*

**AMENDMENT 6 to Bill No. 20-13**

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**Introduced By:** Council Member Phil Dacey (At-Large)  
**Introduction Date:** September 1, 2020  
**Adopted/Rejected/Withdrawn:** \_\_\_\_\_

An ACT to: Amend §1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers.

On Exhibit 1, Page 1 & 2, it is hereby amended by deleting the text as follows:

**§ 1-22-7. EXEMPTIONS/WAIVERS.**

(2) Impact fees collected under this chapter may be waived for farm lots if the following conditions are met at the time that the waiver is applied for:

(a) The farm lot must have been transferred directly from a full-time farmer or a trust or similar entity controlled (more than 50%) by the full-time farmer to the full-time farmer's parent, sibling, child or grandchild or to a trust or similar entity controlled (more than 50%) by the full-time farmer's parent, sibling, child or grandchild; and

(b) The full-time farmer's ~~parent~~, sibling, child or grandchild must show proof that he or she currently provides substantial support to the farm, whether by physical or administrative work, or by significant financial support. In this subsection, "substantial support", as it applies to physical or administrative support, must equate to an average of at least 20 hours per week for all weeks in the calendar year.

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	

*Council President M.C. Keegan-Ayer moved to approve Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots as presented. Council Member*

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*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		

At 8:25 p.m. Council Vice President Michael Blue passed the gavel to Council President MC Keegan-Ayer.

**Public Comment was heard from:**

- None

**Council Member Comments:**

Council Member comments were provided.

**Adjourn**

The meeting adjourned at 8:55 p.m.

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M.C. Keegan-Ayer, President  
County Council