### Testimony of Steve McKay in Opposition to the Bill to Adjust the School Construction Fee

\$5,700,000. That's what I've calculated as the cost of the Council's inaction on the School Construction Mitigation Fee. Had the Council kept this fee up to date by raising it each year based on the State's School Construction Inflation Index, this is the additional amount that would have been collected for all of the new homes permitted since that time. Instead, you failed to act while the cost of new schools continued to rise. Instead of this amount being paid by new development – per their agreement – this cost was passed on to the general taxpayer, just as if you'd raised all of our taxes.

You've had opportunities. County Executive Gardner has proposed fee increases but you listened to the development community instead of the rest of us, and you pushed the can down the road. Every year that can has gotten bigger. I continue to support the idea of getting the fee caught up – right now – and then raise/lower the fee each year based on the State index.

But that's not what's on the table before you right now. Instead, you've brought forward a "compromise" bill, developed over the last several months in a working group. I am certainly not opposed to compromise. However, in this case, I think you've compromised too much. Remember this – the existence of the fee is a compromise between not building or building and paying the full price for needed school capacity. That was a HUGE compromise in favor of the development community. So you'll have to understand that I look unfavorably on further compromise which shifts more of the burden to the general tax payer, and that's what this bill will likely do.

Here are my views on the three primary elements of the bill:

- 1) Fees will be adjusted every year for the next eight years, based on the State index (TBD). This is what should have been happening since 2014, and I totally agree.
- 2) An additional 2% above the change in the State index will be collected to help recoup the additional funding that should have been collected since 2014. This is an attempt to collect the \$5.7M that I noted earlier. Unfortunately, given average building rates, you won't make up the difference. In fact, you'll fall short by about \$1.5M and that's ignoring the fact that these funds will be collected over eight years, which means that money is worth less given inflation.

# I propose that you raise this add-on fee to 3%. This amount will actually recoup the \$5.7M, plus a little inflation.

3) This bill proposes a maximum annual fee increase of 6%. This is totally unacceptable. I accept that the average school construction cost change is 3-4%. When you add the 2% add-on fee in the bill, it all appears to make sense. However, school costs have recently jumped 28% in a year, reflecting the impact of Annapolis-driven and market-driven cost factors that the County has little control over. Setting an arbitrary 6% cap on the fee imposes a significant risk to the County and us tax payers. If costs rise more than

4%/year, then the burden for new school capacity will shift from the new developments to the general tax payer, and that is contrary to the purpose of this fee.

## I propose that the 6% ceiling be removed from this bill. The fees should adjust in accordance with the actual change in school construction cost.

I can already hear the development community stating that such fee increases will bankrupt their business and cost jobs. That's ridiculous. This approach to the fee is far less than what CE Gardner proposed (which I still support), and that fee increase would have only represented a worst case (failure at all three levels) of an additional \$6,000 on a single family home. New single family homes in the developments governed by this fee are selling in the \$500,000 range. That \$6,000 increase would NOT have harmed their marketability – the homes would still sell, and the jobs would still be there.

You will hear people say that not all school over-crowding is from new development. That's correct but it's also irrelevant for this bill. Always remember, this is an optional fee that developers sought out so that they could keep building into over-crowded school districts. This fee is only applicable for those developers that chose it. The broader problem of over-crowding is simply irrelevant to this discussion.

You will also hear people lament that school construction costs are too high. That may be true, but it is still the reality we must live with until it is changed. By all means, pursue measures to reduce school construction costs. In the meantime, however, adjust the fees in accordance to the costs we have today - NOT what we hope we'll have tomorrow.

Lastly, you may hear the argument that "these fees" artificially raise the cost of homes, which then lead to existing home values being "artificially" higher, resulting in higher property taxes. I've heard this argument – not often, but it's out there. I accept that this may be a factor, but it is only an indirect factor in the broader valuation of homes. There are clearly many factors that feed into the valuation of homes, and the comps for new homes is only one. Even if I accept the premise, however, what does the alternative hold? The alternative is to spread the cost of new school construction across the entire tax base. We would trade an uncertain, indirect effect on property taxes with a certain and direct tax increase to every homeowner. I have yet to meet anyone that supports county-wide tax increases to support schools required by new development.

**The bottom line is this.** The developers sought this fee. The fee has always been based on the cost of new school construction. The fee has been allowed to lag behind rising construction costs and this represents an increasingly large tax burden to the rest of the County. You should have adopted County Executive Gardner's proposed fee increase but you didn't. I can accept the current fee approach, as long as you raise the add-on fee from 2% to 3% and you eliminate the 6% ceiling. Failing this approach, I would strongly advocate that the Council consider removing this fee option entirely, including from current developments covered under DRRAs. If this fee cannot be adjusted properly, and building continues into over-crowded school districts, then this will represent a danger to the health, safety, and welfare of our most precious assets – our children.

### Councilman Tony Chmelik's Claims of Millions Being Miss-Spent

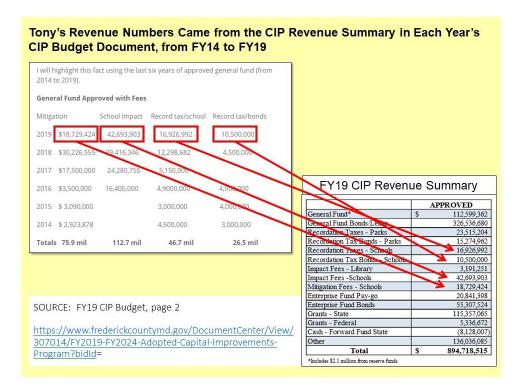
I would be remiss in this testimony without discussing what I'm sure you'll hear from Councilman Tony Chmelik. Tony has written a blog article about the hundreds of millions in school-related fees that have been collected, including supposedly \$76,000,000 from the School Construction Mitigation Fee. He has used these numbers to make an argument that the County has been miss-spending these funds, rather than using them for new schools. He recently testified before the Planning Commission, conveying this information and his accusation. **There's only one problem with Tony's analysis – it is completely wrong.** 

The graphic below outlines the problem with Tony's analysis, illustrating it using the funding table that Tony includes in his blog post, and has formed the basis for his faulty argument. The bottom line is this – Tony constructed a table showing what he purports to be the various fees, including the School Construction Mitigation Fee, collected each year. He then adds all of these, and claims that nearly \$262 million has been collected and miss-spent by the County. Here's his mistake. He used revenue projections from the Capital Improvement Program (CIP) budget. Each of these numbers are estimates of six years-worth of funding and Tony is using them as if they are single year funding numbers. Tony has grossly exaggerated the funds collected by the County in order to build his false argument about County miss-spending!

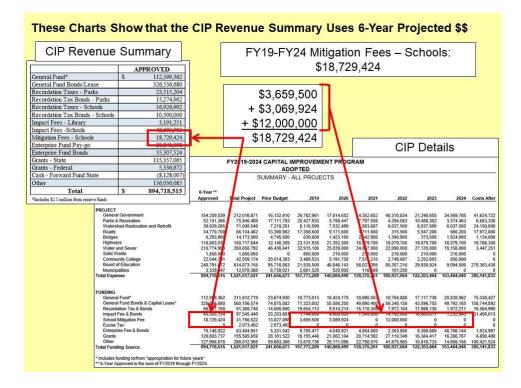
already been collected- problem with Tony's argu from the Capital Improve each year. Instead, they projected revenue estim	reasing the Scho - a total of \$261. ument is that he ement Program ( / represent 6-yea lates instead of 1	ool Construct 8 million – ar is grossly wr CIP) budget ar projected -year amour	tion Mitigation F nd that the Cour ong about the f These amount amounts. Each nts, resulting in	ee by claiming that nty has miss-sper unding. Each of th s don't represent year in Tony's tab massive double-c	at all of these funds have tthe funding. The hese numbers were taken the amount collected in ole, he's using 6-year ounting.
Tony is grossly exagg false argument!				d general fund (from	
	General Fund App	roved with Fees			
	Mitigation	School impact	Record tax/school	Record tax/bonds	
	2019 \$18,729,424	42,693,903	16,926,992	10,500,000	
	2018 \$30,226,555	29,416,346	12,298,682	4,500,000	
	2017 \$17,500,000	24,280,755	5,150,000		
	2016 \$3,500,000	16,400,000	4,9000,000	4,500,000	
	2015 \$ 3,090,000		3,000,000	4,000,000	
	2014 \$ 2,923,878		4,500,000	3,000,000	
	Totals 75.9 mil	112.7 mil	46.7 mil	26.5 mil	
SOURCE: https://tonyfor2.com/i	the-truth%3A-no	o-lies/f/3-bi	g-issues-facing	-frederick-how-to	

I anticipate that some of you may not believe me. So let's walk through the analysis, shall we?

In the following graphic, I clearly show where Tony's numbers come from. Tony's numbers are from the Revenue Summary for each fiscal year's CIP budget. In the example below, I show how Tony's numbers correspond to the FY19 CIP budget.

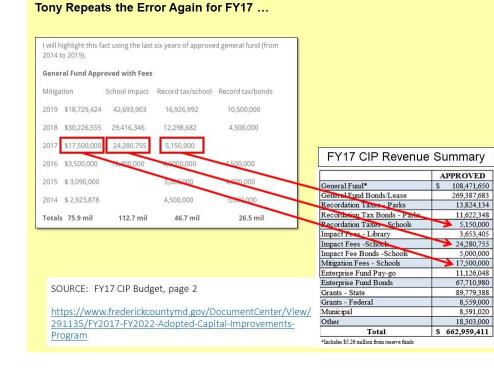


Next, the following graphic verifies that these are indeed six-year funding estimates, again, using the FY19 CIP to illustrate the point.



To complete the analysis, the following graphics illustrate how Tony made the same error for each fiscal year CIP budget going back to FY14.

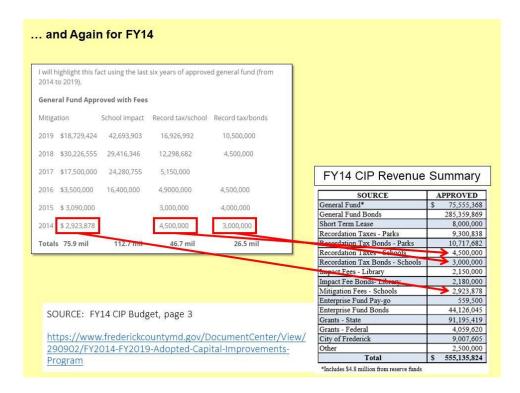
2014 to 2019).	act using the last	t six years of approve	d general fund (from		
General Fund App	roved with Fees	E			
Mitigation	School impact	Record tax/school	Record tax/bonds		
2019 \$18,729,424	42,693,903	16,926,992	10,500,000		
\$30,226,555	29,416,346	12,298,682	4,500,000		
2017 \$17,500,000	24,280,755	5,150,000			
2016 \$3,500,000	16,400,000	19000,000	4,500,000	FY18 CIP Revenue	Summary
2015 \$ 3,090,000		3,000,000	4.000.000		APPROVED
2013 \$ 3,090,000		3,000,000	4,000,000	General Fund*	\$ 107,238,05
2014 \$ 2.923.878		4,500.000	3,000,000	General Func Bonds/Lease	363,002,67
		1,500,000	5,000,000	Recordation Taxes	14,629,20
	440 7 1	46.7 mil	26.5 mil	Recordation Tax Bonds - Parks Recordation Faxes - Schools	11,123,97
Totals 75.9 mil	112.7 mil				
Totals 75.9 mil	112.7 mil				12,298,68
Totals 75.9 mil	112.7 mil			Recordation Tax Bonds Schools	4,000,00
Totals 75.9 mil	112.7 mil			Recordation Tax Bonds Schools Impact Fees - Sibrary	4,000,00 3,693,95
Totals 75.9 mil	112.7 mil			Recordation Tax Bonds Schools Impact Fees - Sibrary Impact Fees - Schools	4,000,00 3,693,95 29,416,34
Totals 75.9 mil	112.7 mil			Recordenion Tax Bontos Schools Impact Fees - Library Impact Fees - Schools Impact Fee Bonds - Schools	4,000,00 3,693,95 29,416,34 5,000,00
Totals 75.9 mil	112.7 mil			Reconstion Tax Bonds Schools Impact Fees - Schools Impact Fee Schools Impact Fee Bonds - Schools Mitigation Fees - Schools	4,000,00 3,693,95 29,416,34 5,000,00 30,226,55
				Recordation Tax Bonds Schools Impact Fees Schools Impact Fees -Schools Impact Fee Bonds -Schools Mitigation Fees - Schools Enterprise Fund Pay-go	4,000,00 3,693,95 29,416,34 5,000,00 30,226,55 7,929,04
SOURCE: F				Recordation Tax Bonds Schools Impact Fees - Schools Impact Fees - Schools Impact Fee Bonds - Schools Mitigation Fees - Schools Enterprise Fund Pay-go Enterprise Fund Bonds	4,000,00 3,693,95 29,416,34 5,000,00 30,226,55 7,929,04 48,723,88
SOURCE: FY	18 CIP Budg	get, page 2		Recordation Tax Bonds Schools Impact Fees - Schools Impact Fees - Schools Impact Fee Bonds - Schools Mitigation Fees - Schools Enterprise Fund Pay-go Enterprise Fund Bonds Grants - State Grants - State	4,000,00 3,693,95 29,416,34 5,000,00 30,226,55 7,929,04 48,723,88 102,209,73
SOURCE: FY	18 CIP Budg	get, page 2	ocumentCenter/Vie	Recordstion Tax Bonds Schools Impact Fees - Schools Impact Fees - Schools Impact Fee Bonds - Schools Mitigation Fees - Schools Enterprise Fund Pay-go Enterprise Fund Bonds Grants - State Grants - Federal	4,000,00 3,693,95 29,416,34 5,000,00 30,226,55 7,929,04 48,723,88 102,209,73 6,933,20
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I will highlight this 1 2014 to 2019).	act using the las	t six years of approve	d general fund (from		
General Fund App	roved with Fees	5			
Vitigation	School impact	Record tax/school	Record tax/bonds		
2019 \$18,729,424	42,693,903	16,926,992	10,500,000		
2018 \$30,226,555	29,416,346	12,298,682	4,500,000		
2017 \$17,500,000	24,280,755	5,150,000		*	
\$3,500,000	16,400,000	4,9000,000	4,500,000	FY16 CIP Revenu	e Summary
			000.000		APPROVED
2015 \$ 3,090,000		3,899,000	4,000,000	General Fund*	\$ 121,467,10
014 6 2 0 2 2 0 2 0		4 500 000	2.0000	General Fund Bonds/Lease	277,762,12
2014 \$ 2,923,878		4,500,000	3,000,900	Recordation Toxes - Parks	
	112 7 mil				12,373,00
	112.7 mil	4,500,000 46.7 mil	3,000,990 26.5 mil	Recordation Toxes - Parks	12,373,00 11,622,34
	112.7 mil			Recordation Taxes - Parks Recordation Tax Bonos - Parks	12,373,00 11,622,34 4,900,00
	112.7 mil			Recordation Tax Bords - Parks Recordation Tax Bords - Parks Recordation Taxes - Schools Recordation Tax Douds - Schools Impact Fees - Entropy	12,373,00 11,622,34 4,900,00 4,500,00 3,689,46
	112.7 mil			Recordation Taxes - Parks Recordation Tax Borns - Parks Recordation Taxes - Schools Recordation Tax Powle - Schools Impact Fees - Dross Impact Fees - Schools	12,373,00 11,622,34 4,900,00 4,500,00 3,689,46 16,400,00
	112.7 mil			Recordation Tax Botto- Darks Recordation Tax Botto- Darks Recordation Tax Botto- Darks Recordation Tax Donde - Schools Impact Fees - Dorose Mitigation Fees - Schools	12,373,00 11,622,34 4,900,00 4,500,00 3,689,46 16,400,00 3,500,00
	112.7 mil			Recordation Tax Boths - Parks Recordation Tax Boths - Daths Recordation Tax Boths - Schools Recordation Tax Bonds - Schools Impact Fees - Datway Impact Fees - Schools Mitigation Fees - Schools Excise Tax	12,373,00 11,622,34 4,900,00 4,500,00 3,689,46 16,400,00 3,500,00 240,00
	112.7 mil			Recordation Tax Bortis - Parks Recordation Tax Bortis - Darks Recordation Tax Bortis - Darks Recordation Tax Donds - Schools Impact Fees - Darwey Impact Fees - Schools Mitigation Fees - Schools Excise Tax Enterprise Fund Pay-go	12,373,00 11,622,34 4,900,00 4,500,00 3,689,46 16,400,00 3,500,00 240,00 545,00
		46.7 mil		Recordation Tax Botto- Parks Recordation Tax Botto- Parks Recordation Tax Botto- Schools Recordation Tax Donde - Schools Impact Fees - Schools Mitigation Fees - Schools Excise Tax Enterprise Fund Pay-go Enterprise Fund Pay-go Enterprise Fund Bonds	12,373,00 11,622,34 4,900,00 3,689,46 16,400,00 3,500,00 240,00 545,00 50,287,59
Totals 75.9 mil		46.7 mil		Recordation Tax Bortis - Parks Recordation Tax Bortis - Darks Recordation Tax Bortis - Darks Recordation Tax Donds - Schools Impact Fees - Darwey Impact Fees - Schools Mitigation Fees - Schools Excise Tax Enterprise Fund Pay-go	12,373,00 11,622,34 4,900,00 4,500,00 3,689,46
fotals 75.9 mil	Y16 CIP Budį	46.7 mil get, page 2	26.5 mil	Recordation Tax Boths - Parks Recordation Tax Boths - Data Recordation Tax Boths - Data Recordation Tax Boths - Schools Impact Fees - Librosy Impact Fees - Schools Mitigation Fees - Schools Excise Tax Enterprise Fund Pay-go Enterprise Fund Bonds Grants - State Grants - Federal	12,373,00 11,622,34 4,900,00 3,689,46 16,400,00 3,500,00 240,00 545,00 50,287,59
Totals 75.9 mil SOURCE: F https://www	Y16 CIP Budy w.frederickco	46.7 mil get, page 2 ountymd.gov/D	26.5 mil	Recordation Tax Botto- Darks Recordation Tax Botto- Darks Recordation Tax Botto- Darks Recordation Tax Donde - Schools Impact Fees - Darks Impact Fees - Schools Matigation Fees - Schools Excise Tax Enterprise Fund Pay-go Enterprise Fund Bonds Grants - State Grants - State	12,373,00 11,622,34 4,900,00 4,500,00 3,689,46 16,400,00 3,689,46 16,400,00 3,689,46 16,400,00 3,689,46 9,800,00 11,622,30 11,620,00 3,689,46 11,600,00 3,689,46 11,600,00 3,600,000,00 3,600,000,000,000,000,000,000,000,000,00
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#### ... and Again for FY15 ...

Genera	al Fund App	roved with Fees				
Mitigati	ion	School impact	Record tax/school	Record tax/bonds		
2019	\$18,729,424	42,693,903	16,926,992	10,500,000		
2018	\$30,226,555	29,416,346	12,298,682	4,500,000		
2017	\$17,500,000	24,280,755	5,150,000			Cummor
2016	\$3,500,000	16,400,000	4,9000,000	4,500,000	FY15 CIP Revenue	Summar
-	2				SOURCE	APPROVE
2015	\$ 3,090,000		3,000,000	4,000,000	General Fund*	\$ 107,071,3
					General Fund Bonds/Lease	303,384,9
2014	\$ 2,923,878		4,500,000	3,000,000	Recordation Taxes - Parks	8,740,8
Tetele	75.9 mil	112.7 mil	46.7 mil	26,5 mil	Recordation Tax Bonds Parks	11,170,0
Totals	75.9 mil	112.7 mil	40.7 min	20.5 mil	Recordation Taxes - Schools	3,000,0
					Recordation Tax Bonds - Schools	4,500,0
					Impact Fees Library	2,150,0
					Impact Fee Bonds- Library	2,180,0
					Mitigation Fees - Schools	3,090,0
					Enterprise Fund Pay-go	804,3
			No. of the second se		Enterprise Fund Bonds	56,374,9
SOURCE: FY15 CIP Budget, page 2			Grants - State	75,906,7		
					Grants - Federal	4,170,8
	ns·//www	v frederickco	ountymd gov/P	ocumentCenter/View/	City of Frederick	11,020,0
htti	p	with concritence	sancyma.gov/b		Other	4,553,0
	0001 /EVO	01E EV2024	Adapted C	ital-Improvements-	Oulci	10000



By all means, have your debate on whether or not to support this bill, support my proposed amendments, or support another option for addressing the School Construction Mitigation Fee. When you debate, however, I hope that you'll do it based on sound data and not hollow accusations built off of faulty and misleading analysis.