

SPECIAL MEETING

July 22, 2013

The Special Meeting of the Annapolis City Council was held on July 22, 2013 in the Council Chamber. Mayor Cohen called the meeting to order at 7:12 p.m.

Pledge of Allegiance: Benjamin & Nathan Gardner, representing Troop #804 in Millersville, Maryland 21060

Present on Roll Call: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer, Arnett

Staff Present: City Attorney Hardwick, City Manager Mallinoff, Finance Director Miller, Planning and Zoning Director Arason, Small Minority Business Enterprise Coordinator Caudill, Assistant City Attorney Elson, Development and Special Projects Coordinator LeFurge, Chief Comprehensive Planning Nash

*Closed Session*

*Statement: Pursuant to the requirement of Maryland Annotated Code, State Government Article Section 10-508(a) (7), (8) this statement is included in these minutes:*

*A closed session of the City Council was held at 6:11 p.m., Monday, July 22, 2013 in the City Council Chamber.*

*Present: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer, Arnett*

*Staff Present: City Attorney Hardwick, Assistant City Attorney Elson, City Manager Mallinoff, City Clerk Watkins-Eldridge, Finance Director Miller, Senior Accountant Leaman*

*A roll call vote was taken by the members present, and the session was closed. The authority under which the session was closed was Maryland Annotated Code, State Government Article, Section 10-508(a) (7), (8). The purpose of the meeting was to consult with counsel to obtain legal advice on legal matters or potential litigation.*

*Discussion Topic:*

*Chesapeake Harbour ~ No Actions were taken in closed session.*

*Upon motion duly made, seconded and adopted, the session was adjourned at 6:53 p.m.*

- Alderman Arnett moved to amend the agenda to move the legislative action on O-30-13 on second reader to the top of the legislative actions. Seconded. CARRIED on voice vote.
- Alderman Budge moved to amend the agenda to move the appointments before the public hearings. Seconded. CARRIED on voice vote.

PETITIONS, REPORTS AND COMMUNICATIONS

Comments by the General Public

Heather Hurtt, 820 Chester Avenue, Annapolis, Maryland 21403 representing Connect Annapolis spoke in support of the Master Plan for the City Dock and the ordinance.

Chris Scheim, 15 Thompson Street, Annapolis, Maryland 21401 representing Murray Hill spoke in favor of the rezoning of 110 Compromise Street and the City Dock Master Plan.

- Mayor Cohen declared petitions, reports and communications closed.

The order of the agenda was amended to allow for business and miscellaneous item #1 Appointments.

## BUSINESS AND MISCELLANEOUS

### 1. Appointments

- Alderwoman Finlayson moved to approve the Mayor's appointment of the following individuals:

|                                     |                         |
|-------------------------------------|-------------------------|
| 7/22/13 Recreation Advisory Board   | Catherine Simmons-Jones |
| 7/22/13 Severn River Commission     | Jim Burdick             |
| 7/22/13 Annapolis Conservancy Board | Jon Chapman             |

Seconded. CARRIED on voice vote.

The order of the agenda was resumed.

## PUBLIC HEARING

**O-30-13 Issuance of General Obligation Refunding Revenue Bonds – AN ORDINANCE concerning the issuance of not to exceed Twenty-Five Million Dollars (\$25,000,000) aggregate principal amount of general obligation refunding revenue bonds (the “Refunding Bonds”) of the City of Annapolis (the “City”) for the purpose of refunding the City’s Special Obligation Bonds (Park Place Project), Series 2005A and 2005B (the “Series 2005 Bonds”), which Series 2005 Bonds financed (a) costs of the public portion of the Park Place garage, which public portion consists of 680 spaces for parking by the general public, and related infrastructure improvements, located at the intersection of West Street and Taylor Avenue, as part of a mixed-use project which includes (1) a full-service hotel, (2) two office buildings, (3) approximately 208 residential condominiums, (4) the site for a performance hall, and (5) a clock tower structure, (b) a reserve fund and capitalized interest for the Series 2005 Bonds, and (c) costs of issuance of the Series 2005 Bonds; providing that the Refunding Bonds shall be issued pursuant to the Tax Increment Financing Act (being Sections 12-201 through 12-213, inclusive, of the Economic Development Article of the Annotated Code of Maryland), the Special Tax District Act (being Section 44A of Article 23A of the Annotated Code of Maryland) and Section 24 of Article 31 of the Annotated Code of Maryland; providing that the Refunding Bonds shall be secured by a pledge of the security and revenues pledged to the payment of the Series 2005 Bonds (i.e., the Tax Increment Revenues, the Garage Net Operating Income and the Special Tax, all as defined in the Indenture (hereinafter defined)) and by a pledge of the full faith and credit of the City subordinate to the pledge of the Tax Increment Revenues, the Garage Net Operating Income and the Special Tax so that the Refunding Bonds shall be a general obligation of the City; authorizing the Mayor of the City (the “Mayor”) to take such actions as shall be necessary or desirable in connection with the issuance and sale of the Refunding Bonds, including (without limitation) approving a supplement to the Indenture of Trust dated as of January 1, 2005 between the City and Manufacturers and Traders Trust Company, as trustee (the “Indenture”), providing for the sale of the Refunding Bonds at public or private (negotiated) sale, establishing the interest rate or rates for the Refunding Bonds, and approving the price at which the Refunding Bonds are sold to the purchasers thereof; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on the Refunding Bonds; generally providing for and determining various matters relating to**

**the issuance, sale and delivery of the Refunding Bonds; and providing that this Ordinance supplements and amends Ordinance No. O-14-01, adopted on May 14, 2001.**

The Finance Committee and the Financial Advisory Commission reported favorably on O-30-13.

Finance Director Miller gave a brief presentation and answered questions from Council. Senior Accountant Leaman was also present.

Senior Vice President, Joseph Mason, One James Center, Suite 1100, 901 East Cary Street, Richmond, Virginia 23219 representing Davenport & Company, LLC and Robert Doorey, 100 Light Street, Baltimore, Maryland 21202 representing Miles & Stockbridge, P.C. were present and answered questions from Council.

City Manager Mallinoff was also present and answered questions from Council.

No one from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

#### LEGISLATIVE ACTIONS

##### ORDINANCES and RESOLUTIONS – 2<sup>ND</sup> READER

The order of the agenda was amended to allow for O-30-13 on second reader.

- O-30-13 Issuance of General Obligation Refunding Revenue Bonds– AN ORDINANCE concerning the issuance of not to exceed Twenty-Five Million Dollars (\$25,000,000) aggregate principal amount of general obligation refunding revenue bonds (the “Refunding Bonds”) of the City of Annapolis (the “City”) for the purpose of refunding the City’s Special Obligation Bonds (Park Place Project), Series 2005A and 2005B (the “Series 2005 Bonds”), which Series 2005 Bonds financed (a) costs of the public portion of the Park Place garage, which public portion consists of 680 spaces for parking by the general public, and related infrastructure improvements, located at the intersection of West Street and Taylor Avenue, as part of a mixed-use project which includes (1) a full-service hotel, (2) two office buildings, (3) approximately 208 residential condominiums, (4) the site for a performance hall, and (5) a clock tower structure, (b) a reserve fund and capitalized interest for the Series 2005 Bonds, and (c) costs of issuance of the Series 2005 Bonds; providing that the Refunding Bonds shall be issued pursuant to the Tax Increment Financing Act (being Sections 12-201 through 12-213, inclusive, of the Economic Development Article of the Annotated Code of Maryland), the Special Tax District Act (being Section 44A of Article 23A of the Annotated Code of Maryland) and Section 24 of Article 31 of the Annotated Code of Maryland; providing that the Refunding Bonds shall be secured by a pledge of the security and revenues pledged to the payment of the Series 2005 Bonds (i.e., the Tax Increment Revenues, the Garage Net Operating Income and the Special Tax, all as defined in the Indenture (hereinafter defined)) and by a pledge of the full faith and credit of the City subordinate to the pledge of the Tax Increment Revenues, the Garage Net Operating Income and the Special Tax so that the Refunding Bonds shall be a general obligation of the City; authorizing the Mayor of the City (the “Mayor”) to take such actions**

**as shall be necessary or desirable in connection with the issuance and sale of the Refunding Bonds, including (without limitation) approving a supplement to the Indenture of Trust dated as of January 1, 2005 between the City and Manufacturers and Traders Trust Company, as trustee (the “Indenture”), providing for the sale of the Refunding Bonds at public or private (negotiated) sale, establishing the interest rate or rates for the Refunding Bonds, and approving the price at which the Refunding Bonds are sold to the purchasers thereof; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on the Refunding Bonds; generally providing for and determining various matters relating to the issuance, sale and delivery of the Refunding Bonds; and providing that this Ordinance supplements and amends Ordinance No. O-14-01, adopted on May 14, 2001.**

- Alderman Arnett moved to adopt O-30-13 on second reading. Seconded.

Finance Director Miller gave a brief presentation and answered questions from Council. Senior Accountant Leaman was also present.

Senior Vice President, Joseph Mason, One James Center, Suite 1100, 901 East Cary Street, Richmond, Virginia 23219 representing Davenport & Company, LLC and Robert Doorey, 100 Light Street, Baltimore, Maryland 21202 representing Miles & Stockbridge, P.C. were present and answered questions from Council.

The Finance Committee and the Financial Advisory Commission reported favorably on O-30-13.

The main motion CARRIED on voice vote.

- Alderwoman Finlayson moved to adopt O-30-13 on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Arnett, Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer

NAYS:

CARRIED: 9/0

The order of the agenda was resumed.

**O-47-11 Fence Permits - For the purpose of amending the Code of the City of Annapolis with respect to the issuance of fence permits.**

Planning and Zoning Director Arason was present and answered questions from Council.

- Alderwoman Hoyle moved to postpone O-47-11 on second reading until the Special Meeting on September 23, 2013. Seconded. CARRIED on voice vote.

**O-16-13 Authorizing Local Businesses to be Eligible for a Capital Facilities Payment Plan – For the purpose of authorizing local businesses to be eligible for a capital facilities payment plan.**

- Alderwoman Hoyle moved to adopt O-16-13 on second reading. Seconded.

Small & Minority Business Enterprise Coordinator Caudill gave a brief presentation and answered questions from Council.

The Economic Matters and Finance Committees reported favorably with amendments on O-16-13.

- Alderwoman Finlayson moved to amend O-16-13 as follows:

Amendment #1

Page 4, Lines 8-10

Strike: “OR IS A QUALIFYING LOCAL BUSINESS BASED UPON REGULATIONS PROMULGATED BY THE SMALL MINORITY BUSINESS ENTERPRISE COORDINATOR”

Amendment #2

Page 4, Line 16:

Insert:

“SECTION J. A QUALIFYING LOCAL BUSINESS THAT MEETS ALL OF THE CRITERIA IN SECTION K. SHALL, AT THE REQUEST OF THE BUSINESS OWNER, BE ELIGIBLE TO PAY THE CAPITAL FACILITY CHARGE AS FOLLOWS: FORTY PERCENT PRIOR TO THE ISSUANCE OF ANY PERMIT; TWENTY PERCENT PRIOR TO THE FIRST ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE; TWENTY PERCENT PRIOR TO THE SECOND ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE; FINAL TWENTY PERCENT PRIOR TO THE THIRD ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE.”

SECTION K. A LOCAL BUSINESS MEANS:

1. THE PRINCIPAL OFFICE OR BUSINESS IS PHYSICALLY LOCATED WITHIN THE ANNAPOLIS CITY LIMITS WITH NO OTHER NATIONAL HEADQUARTERS OUTSIDE THE CITY OF ANNAPOLIS;
2. THERE ARE FIVE OR FEWER BRANCHES OR OUTLETS OF THE BUSINESS IN TOTAL;
3. THE BUSINESS IS PRIVATELY-, EMPLOYEE-, COMMUNITY-, OR COOPERATIVELY-OWNED (NOT PUBLICLY TRADED);
4. THE BUSINESS PAYS FOR ALL OF ITS OWN MARKETING, RENT, AND OTHER BUSINESS EXPENSES WITHOUT ASSISTANCE FROM, OR PAYMENT TO, A CORPORATE HEADQUARTERS;
5. THE DECISION-MAKING AUTHORITY IS VESTED IN THE LOCAL OWNER AND NOT SUBJECT TO CONDITIONS DICTATED OR REQUIRED REMOTELY;
6. ANY ADDITIONAL CRITERIA AS PROMULGATED BY REGULATIONS FROM THE SMALL MINORITY BUSINESS ENTERPRISE COORDINATOR.

SECTION L: WHEN A BUSINESS OWNER REQUESTS A CAPITAL FACILITY CHARGE PAYMENT PLAN, SUCH OWNER MUST HAVE AN APPROVED AGREEMENT SIGNED BY THE BUSINESS OWNER AND PROPERTY OWNER STATING THAT A NOTICE OF LIEN IS TO BE EXECUTED ON THE PROPERTY. THE LIEN WILL REMAIN IN EFFECT UNTIL THE DEFERRED FEES HAVE BEEN PAID IN FULL.

SECTION K: CAPITAL FACILITY CHARGES THAT ARE DEFERRED SHALL ACCRUE INTEREST AFTER THE FIRST 12 MONTHS. ANY FEES DEFERRED SHALL BE PAID AT THE INTEREST RATE IN EFFECT AT THE TIME OF PAYMENT.

Amendment #3

Page 4, Line 18:

After “passage,” insert: AND SHALL BE DEEMED ABROGATED AND OF NO FURTHER EFFECT EFFECTIVE JUNE 30, 2018, AND STRICKEN FROM THE CODE OF THE CITY OF ANNAPOLIS Seconded. CARRIED on voice vote.

- Alderman Littmann moved to amend O-16-13 as follows:

In amendment # 2, Section K (4) after “HEADQUARTERS;” insert “that owns one or more shares in the applicants business. Seconded. CARRIED on voice vote.

- Alderman Littmann moved to amend O-16-13 as follows:

In amendment # 2, Section K (5) after “REMOTELY;” insert “and” Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Arnett moved to adopt O-16-13 amended on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Arnett, Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer

NAYS:

CARRIED: 9/0

**O-18-13 The Conveyance of Certain Portions of 908 and 914 Bay Ridge Avenue – For the purpose of conveying by deed the right, title, and interest of the City of Annapolis in a certain part of the land at 914 Bay Ridge Avenue to Ana Cortes; accepting the conveyance by deed of Ana Cortes’ right, title, and interest in a certain part of the land at 908 Bay Ridge Avenue; and all matters relating to these conveyances.**

- Alderwoman Finlayson moved to adopt O-18-13 on second reading. Seconded.

Assistant City Attorney Elson gave a brief presentation and answered questions from Council.

The Economic Matters Committee reported favorably on O-18-13.

The main motion CARRIED on voice vote.

- Alderman Paone moved to adopt O-18-13 on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Arnett, Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer

NAYS:

CARRIED: 9/0

**R-26-13 Special Event Applications – III – For the purpose of authorizing City Council approval of selected special events per R-14-12, implementing a moratorium on administrative approvals for events at City Dock; designating specific dates for the sale of merchandise in the Historic District in conjunction with only the approved special events; waiving fees for the Eastport Yacht Club Lights Parade and the Grand Illumination; and the reimbursement of full fees to the City for the cost associated with the other approved events.**

- Alderman Arnett moved to adopt R-26-13 on second reading. Seconded.

Development and Special Projects Coordinator LeFurge gave a brief presentation and answered questions from Council.

The Economic Matters and Finance Committee reported favorably on R-26-13.

- Alderman Arnett moved to amend R-26-13 as follows:

Amendment #1

Page 2, Line 4

Insert: DRUM CORPS ASSOCIATES (KICKOFF AT THE DOCK: AUGUST 29)

Amendment #2

Page 2, Line 21

After "week," insert: DRUM CORPS ASSOCIATES. Seconded. CARRIED on voice vote.

The main motion amended A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Arnett, Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer

NAYS:

CARRIED: 9/0

**R-31-13 Designation of Annapolis as a Sustainable Community – For the purpose of supporting the designation of Annapolis as a Sustainable Community, pursuant to the attached Sustainable Community map and Sustainable Community Plan (the "Plan,") as further described in the Sustainable Community Application (the "Application"), for approval either directly by the Department of Housing and Community Development (the "Department") of the State of Maryland or through the Smart Growth Sub-Cabinet of the State of Maryland.**

- Alderman Arnett moved to adopt R-31-13 on second reading. Seconded.

Chief Comprehensive Planning Nash gave a brief presentation and answered questions from Council.

The Housing and Human Welfare and Environmental Matters Committee reported favorably on R-31-13.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Arnett, Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer

NAYS:

CARRIED: 9/0

#### ORDINANCES – 1<sup>st</sup> READER

**O-27-13 Sediment and Erosion Control – For the purpose of adopting the State of Maryland's required erosion and sediment control ordinance that meets the intent of the State's sediment control laws and regulations.**

- Alderman Pfeiffer moved to adopt O-27-13 on first reader. Seconded. CARRIED on voice vote

Referred to the Economic and Environmental Matters Committee.

**O-32-13 Plumbing Permit Fees – Capital Facilities – For the purpose of authorizing applicants for a special exception or other development proposal, subject to the following group of plumbing permit fees (a connection charge, a capital facility charge, a capital facility assessment charge, and an installation charge), to be eligible for the fees levied at the time of such application rather than the fees at the time the permit may be issued; and making such provisions retroactive to July 1, 2011.**

- Alderman Arnett moved to adopt O-32-13 on first reader. Seconded. CARRIED on voice vote

Referred to the Economic Matters and Finance Committees.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 8:47 p.m.

Regina C. Watkins-Eldridge, MMC  
City Clerk