



Gregory J. Swain, County Attorney

MEMORANDUM

To: Members, Anne Arundel County Council

From: Lori L. Blair Klasmeier, Deputy County Attorney /s/

Via: Gregory J. Swain, County Attorney /s/

Date: January 19, 2021

Subject: Bill No. 6-21 – Mil-Bur Special Community Benefit District – Approval of Loan and Assignment Agreement

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of the attached bill, which would approve a loan and assignment agreement for the Mil-Bur Special Community Benefit District.

Purpose.

The purpose of the Bill is to approve the levy of the special community benefit district assessment necessary to repay a loan in the amount of \$117,000 from Sandy Spring Bank (the “Bank”) to Mil-Bur Club, Inc. (the “Association”), the community association responsible for administering the Mil-Bur Special Community Benefit District under § 4-7-204(uu) of the County Code, to fund a bulkhead and pier construction project.

Background.

The purposes of the Mil-Bur Special Community Benefit District include “acquiring, maintaining, operating, and improving all community real and personal property and facilities, and defraying the administrative costs necessary to accomplish this purpose, including the repayment of any loan, interest thereon, and any necessary insurance costs”. To fund the reconstruction of a bulkhead and pier, the Association sought and has a commitment for a loan from the Bank in the amount of \$117,000, plus closing costs, for a term of 5 years (the “Loan”). Interest is at the rate of 4.38% per annum.

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

Security for the Loan is, essentially, a lien on the special community benefit district assessments collected within the Mil-Bur Special Community Benefit District. The Bank is requiring a “[a]pproval of the Anne Arundel County Council passing enabling legislation for the project, special assessment and the Mil-Bur Club Inc. budget line item.”

The County is not contracting with the Bank, is not obligated to repay the Loan with general County funds, and is not pledging the full faith and credit of the County for the repayment of the Loan. The County Council must approve all loans taken by the administering entities of special taxing districts that require the pledge of County-collected special tax revenues beyond the immediate fiscal year as collateral for the Loan.

County law requires annual budgeting and tax levies for special taxing districts, including special community benefit districts. The bill authorizes the County to levy the special community benefit district tax in an amount sufficient to repay the Loan in each fiscal year during the term of the Loan in which a payment is due on the Loan. It also requires the Association to budget annually for repayment of the Loan in those fiscal years. Even if the Association fails to submit a budget in any fiscal year during the term of the Loan, the Council will be obligated to assess to make the Loan payment during that fiscal year.

The County is requiring the Association to enter into an Agreement, a draft of which is attached, whereby the Association assigns its rights to receive the special community benefit district assessment collections designated for repayment of the Loan to the Bank. This Agreement obligates the Association to comply with all relevant provisions of the County Code related to special community benefit districts, including the submission and approval of annual budgets. The Agreement makes it clear that the County is not a creditor of the Association, is not a party to the Loan, does not pledge the full faith and credit of the County for the repayment of the Loan, and is otherwise under no contractual or moral obligation to remit any funds to the Bank other than those special community benefit district assessments collected by the County from owners of property within the Mil-Bur Special Community Benefit District that are budgeted, appropriated, and encumbered for repayment of the Loan.

SECTION 1 of the bill provides that the County will levy the special tax known as the waterways improvement assessment in an amount sufficient to repay the Loan in each fiscal year during the entire term of the Loan.

SECTION 2 provides that the County undertakes no obligations with regard to the Loan other than as set forth in Section 1, that the County is not a co-obligor or a guarantor of the Loan, and that the County does not pledge the full faith and credit of the County to repay the Loan.

SECTION 3 authorizes the County Executive to enter into such further agreements necessary to disburse the collected special community benefit district assessments directly to the Bank for repayment of the Loan.

SECTION 4 provides that the Bill takes effect 45 days after it becomes law.

The Office of Law is available to answer any additional questions regarding this bill.
Thank you.

cc: Honorable Steuart Pittman, County Executive
Kai Boggess-deBruin, Chief of Staff
Matthew Power, Chief Administrative Officer
Peter Baron, Legislative Liaison
Chris Trumbauer, Acting Budget Officer