

## Prince George's County Council Agenda Item Summary

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**Meeting Date:** 11/18/2008  
**Reference No.:** CR-023-2008  
**Draft No.:** 4  
**Proposer(s):** Knotts  
**Sponsor(s):** Knotts, Campos  
**Item Title:** A Resolution concerning the Issuance of Special Obligation Bonds in aggregate principal amount of \$35,000,000 for the financing of certain infrastructure improvements relating to the National Harbor Development District and the National Harbor Special Taxing District

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**Drafter:** Legal Counsel  
**Resource Personnel:** Betty Horton-Hodge, Legislative Aide

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### LEGISLATIVE HISTORY:

<b>Date Presented:</b>		<b>Executive Action:</b>	11/24/2008 S
<b>Committee Referral:</b>	4/1/2008 - PSFM 10/21/2008 - C.O.W.	<b>Effective Date:</b>	11/24/2008

**Committee Action:** 4/1/2008 - HELD  
10/21/2008 - FAV(A)  
11/17/2008 - FAV(A)

**Date Introduced:** 4/1/2008  
**Public Hearing:** 11/18/2008 - 10:00 AM

**Council Action (1)** 11/18/2008 - ADOPTED  
**Council Votes:** MB:A, WC:A, SHD:A, TD:A, CE:N, AH:A, TK:A, EO:N, IT:A  
**Pass/Fail:** P  
**Remarks:**

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### AFFECTED CODE SECTIONS:

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### COMMITTEE REPORTS:

#### COMMITTEE OF THE WHOLE

**Date 11/17/2008**

Committee Vote: Favorable as amended, 6-0, (In favor: Councilmembers Dean, Bland, Dernoga, Harrison, Knotts and Turner.)

CR-23-2008 (DR-3) provides for the issuance of special obligation bonds in the aggregate principal amount of \$35,000,000 in order to finance or reimburse all or part of the construction of infrastructure improvements in the "Peterson National Harbor District", as reflected in Exhibit A of the proposed resolution. The \$35,000,000 in special obligation bond support for infrastructure improvements will be used to upgrade the quality of planned public and private infrastructure improvements. This legislation authorizes the levy of a special hotel rental tax of five percent (5%) on all gross amounts of money paid to the owners or operators of hotels located in the District. The proposed 5% special hotel rental tax for the District mirrors the 5% special hotel rental tax that was imposed on the Gaylord Hotel and Convention Center. The proposed 5% special hotel rental tax for the District is pledged to satisfying the

debt service for the proposed \$35,000,000 in special obligation bonds.

Committee of the Whole made the following amendments were made to the legislation:

- Clarification that CR-89-2006 requirements are waived as it applies to this resolution
- Incorporating Exhibit B into the resolution which provides for a contribution to the Prince George's Community College by the Developer
- Adding language to clarify that marketing and maintenance costs related to the infrastructure improvements and/or National Harbor may not be funded by the Bonds
- Incorporating Exhibit C into the resolution which amends the TPC Local and Minority Business Utilization and Local Resident Participation Agreement as Amendment No. 3 and provides for additional opportunities for local minority business enterprises in the development of National Harbor

During the committee worksession on April 1, 2008, CB-5-2008 was changed to CR-23-2008 at the request of the Legal Counsel. A number of amendments were approved during the worksession which created a Draft II of CR-23-2008. The resolution was held in committee.

HELD IN COMMITTEE MARCH 25, 2008.

On March 3, 2008, CB-5-2008 was held in Committee for additional information regarding the request for an additional \$35,000,000 in special obligation bonds in support of infrastructure improvements at National Harbor. The following questions were sent to the developed (National Harbor – Milt Peterson):

1. Are provisions that state that the developer will buy the bonds at 8% appropriate? What would market rate be for bonds of this nature? Is there a viable market at 8% or less?
2. Use of bond proceeds and projected excess special hotel rental tax revenues.
  - a. Can any of the \$35,000,000 in proposed bonds or expected excess special hotel rental tax revenues be used to fund projects that directly or indirectly support the "Peterson National Harbor District" that are outside of the geographic boundaries of the "Peterson National Harbor District"?
  - b. To what extent do existing governing statutes address such uses outside of the designated development district?
  - c. Is there a body of case law or other precedents that speak to this question? If so, please provide a summary of case law, precedents, or other considerations.
  - d. Please explain the rationale underlining the proposed 75% (County) and 25% (developer) split of estimated excess special hotel rental tax revenues. How were the proposed percentages denied?
3. Provide the following:
  - a. A list of proposed improvements to private infrastructure.
  - b. A list of proposed improvements to public (County) infrastructure.
  - c. A map that delineates between which infrastructure is public and which is private. Is there a development agreement between the County and Developer that turns over control of any infrastructure paid for with special tax district funds to the Developer?
  - d. An explanation for use of funds for Uplands Access Road. State law expects some nexus between special tax and the use of the proceeds.
4. How is the 5% tax rate determined? Is there any nexus to the amount of taxes needed to pay for the bonds?

5. Given the threshold comparability argument, what is the rationale for maintaining the special hotel rental tax for the hotels in the "Peterson National Harbor District" after the proposed \$35,000,000 in bonds have been retired.
6. Give specific examples of how the revenues might be used by the County and the developer.
7. What is the impact of the current legal arrangement for National Harbor on free speech rights?
8. What is the Peterson Companies' policy on individuals seeking to exercise free speech on seemingly public ways paid for with special tax district funds, but placed under the control of the Peterson Companies?

The adoption of CR-23-2008 will not have an adverse fiscal impact on the County. All bond debt service and other bond related expenses will be covered by the 5% special hotel rental tax.

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**BACKGROUND INFORMATION/FISCAL IMPACT:**

(Includes reason for proposal, as well as any unique statutory requirements)

This resolution authorizes the issuance of special obligation bonds in an aggregate principal amount of \$35,000,000 in one or more issues or series to be secured by certain County hotel occupancy taxes and by special taxes and determining certain terms and provisions in connection with the issuance, delivery and payment of such bonds

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**CODE INDEX TOPICS:**

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**INCLUSION FILES:**

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