

CITY OF ANNAPOLIS FINANCIAL ADVISORY COMMISSION
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May 23, 2011

Mayor and City Council of the City of Annapolis
160 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: Report and Recommendations Regarding:
Memorandum of Agreement Dated May 13, 2011
Between City of Annapolis and International
Association of Firefighters, Local 1926

Dear Mayor Cohen and Members of the City Council:

I am writing to you on behalf of the City of Annapolis Financial Advisory Commission. Pursuant to our charge to “review collective bargaining agreements prior to execution” as set forth in Section 2.48.110 of the City Code, the Commission has reviewed the Memorandum of Agreement Dated May 13, 2011 Between City of Annapolis and International Association of Firefighters, Local 1926 (“MOA”).

Personnel costs, including those associated with terms and conditions of employment that are negotiated as part of collective bargaining agreements, account for approximately 80% of the City’s budget. Any meaningful control of the City’s finances necessarily requires obtaining control over personnel costs. Consistent with its responsibility to consider the MOA in light of the financial condition of the City, the Commission has concluded that many provisions of the MOA may have adverse impacts on the City’s ability to effectively manage and control its finances. For the reasons that follow the Commission recommends that the City Council not ratify this MOA.

The Commission makes the following observations with respect to specific provisions of the MOA:

1. Paragraph A. provides that the “Pension” provisions of the MOA will be a three-year agreement, while the remainder of the MOA will be in effect for one year. Paragraph C.(C) establishes Pension Plan contributions for this three-year period. The Commission strongly believes that the “Pension” provisions of the MOA should last for the same one-year period as

the remainder of the MOA. The Commission's discussion of this issue revealed serious potential structural problems with the funding and solvency of the Pension Plan. The proposed funding levels will not achieve the goal of solvency for the City or the Pension Plan over the next six years. The minimal funding proposed by the MOA merely pushes the problem of achieving 100% funding of the pension plan further down the road. The Commission believes that during the next year the City should thoroughly analyze and evaluate structural and design problems with the Pension Plan before longer term funding commitments are made by the City or the union.

2. Paragraph B.(A) is ambiguous when read in the context of Paragraph B.(B). The Commission believes that this ambiguity would be rectified by revising the beginning of Paragraph B.(A) to read: "Except for the step and longevity increases referred to in subparagraph (B), the...."

3. Paragraph C.(D) establishes a process by which the City may refuse to make its contractually obligated contribution to the Pension Plan. Under this process the City Council is required to hold a public hearing and then "determine whether some or all of the contribution will be made." This provision suffers from two flaws. First, it requires the Council to determine that at least "some" contribution will be made, even if the City's fiscal condition would warrant that no contribution be made. Second, a public hearing before the Council is mandated. This requirement takes an important decision regarding the fiscal condition of the City from the managerial arena and sends it into the political arena. The City Council still could have a public hearing on the issue if the Council deems that appropriate, but a public hearing should not be mandated. A more appropriate phrasing of the last sentence of Paragraph C.(D) would be: "If the Finance Director gives notice [that the City is unable to make the required pension contribution], the City Council shall determine whether any or all of the contribution will be made."

4. Paragraph G. contractually prohibits the City from laying off any members of the union. In the Commission's view, this is a horrible precedent, contractually bargains away a significant management right and unreasonably ties the City's hands in the event of another financial catastrophe. If the City's financial condition deteriorates to the point that layoffs are necessary, this provision will require the City to look to everywhere but IAFF members to bear a share of the challenge of meeting the fiscal crisis. Once this precedent is set, (i) other unions reasonably can be expected to bargain for similar protection for their members, and (ii) it will be difficult to remove such protections from future agreements. In the event of a future serious fiscal crisis the City needs the most flexibility possible to meet that challenge.

5. Paragraph H. contractually creates eight new positions in the Fire Department to ensure opportunities for promotion of existing employees. Each of these new positions carries with it short-term and long-term fiscal consequences for the City in terms of increased salaries, benefits, retirement contributions and retirement benefits at enhanced levels. The Fire Chief has the management authority to provide for the proper staffing and rank structure within the Department, subject to funding in the City's annual budget. This provision is ill-advised because it establishes a dangerous precedent for abdicating management prerogatives regarding staffing

levels and control of overhead and personnel costs by allowing staffing to become part of the collective bargaining process.

For the foregoing reasons, the Financial Advisory Commission strongly recommends that the City Council not ratify the MOA.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Sussman', written in a cursive style.

Frederick C. Sussman, Chair

cc: Commission Members (By e-mail)
Michael Mallinoff, City Manager (By e-mail)
Bruce Miller, Finance Director (By e-mail)
Shirley S. Tripodi, Assistant Finance Director (By e-mail)
Hilary Raftovich, Boards and Commissions Coordinator (By e-Mail)
Jessica Cowles, Legislative and Policy Analyst (By e-mail)