

From: John Long <JLong@somervillema.gov>

To: Charles Sillari <charles.sillari@gmail.com>; Peter Forcellese <forcellese@verizon.net>; Rose Durham <rbd7476@gmail.com>

Subject: FW: Union United suggested changes on community benefits ordinance

Date: Wed, Jun 28, 2017 4:51 pm

Attachments: 2017_0628 City_UU CBO proposal comparison for LM.pdf (508K),
2017_0601 Community Benefits Ordinance - SLC REVISIONS.pdf (488K)

An item submitted to tonight's Legislative Matters Committee meeting.

From: Union United [<mailto:unionunited2014@gmail.com>]

Sent: Wednesday, June 28, 2017 2:05 PM

To: Board of Aldermen; John Long

Subject: Union United suggested changes on community benefits ordinance

To the members of the Board of Aldermen,

Here is an updated version of Union United's proposals regarding the Community Benefits Ordinance. We shared a copy with Mayor Curtatone and we will bring paper copies to tonight's meeting. This chart is supposed to reflect the changes that have already been made and the things we still think are top priorities.

The chart does not include the most recent recommendations from the Sugar Law Center, which we are also attaching and which we shared at the last Legislative Matters Committee meeting on June 1. We also support those recommendations.

We want to make sure that the process of forming a neighborhood council described in the ordinance does not conflict with the current process of forming a neighborhood council underway in Union Square. And we also want to make sure that the neighborhood councils have the ability to negotiate strong and binding community benefits agreements (CBAs) with major developers.

Please let us know if you have any questions.

Sincerely,

Union United coalition steering committee

DRAFT

CITY OF SOMERVILLE

ORDINANCE NO. 2017-__

IN THE BOARD OF ALDERMEN: _____

COMMUNITY BENEFITS ORDINANCE

Be it ordained by the Board of Aldermen, in session assembled, that Article __, Section __ of the Code of Ordinances of the City of Somerville, is hereby amended by insertion of the following:

I. COMMUNITY BENEFITS PROCESS

A. High Impact Development Projects

This Community Benefits Ordinance will apply to High Impact Development Projects, as defined below.

“High-Impact Development Project” means any development project that meets one or both of the following requirements:

- 1) because of the nature of the development and/or the Host Community, is reasonably expected to produce disproportionately high and adverse human health or environmental impacts, including social, esthetic, economic, physical, chemical, or biological impacts, in the Host Community.
- 2) requires direct or indirect transfer to the developer of city-owned land parcels or other forms of public subsidies to the developer, including but not limited to tax abatements, tax increment financing, or grants.

Determination of whether a project is a High Impact Development Project shall be made by the Board of Aldermen expressed in a resolution, after a public hearing duly noticed and conducted. The developer and residents of the impacted neighborhood shall be entitled to speak at the public hearing.

B. Community Benefits Engagement Process

Upon the designation of a project as a “High Impact Development Project” by the Board of Alderman, a written notice generated by the City Clerk’s office, shall be forwarded to and inform the Neighborhood Council of the proposed project. The following standards and requirements shall apply:

1. Within 30 days of the notice, the developer shall engage the Neighborhood Council in good faith for purposes of entering into a legally enforceable Community Benefits Agreement between the developer and the Neighborhood Council. The Community Benefits Agreement shall provide for Community Benefits as negotiated by the parties, and shall address each of the following:
 - (i) fostering the creation of new jobs and local hiring programs in Somerville;
 - (ii) maintaining and promoting local businesses with a focus on minimizing displacement due to the development;
 - (iii) creating multi-functional community spaces, including public green and open space;
 - (iv) providing open technologies, connectivity, and policies to support a shared innovation platform;
 - (v) ensuring that commercial development keeps pace with residential development to ensure fiscal stability
 - (vi) improving quality of life by bolstering social capital and community resilience;
 - (vii) preventing displacement of low-income people resulting from speculation and development.

Although the Community Benefits Agreement shall address each of the above issues, that does not mean that the parties are required to reach an agreement providing any particular benefit, only that each of the above subjects must be recognized in the written agreement using language agreed upon by the parties.

2. Upon a request to the Board of Aldermen for the approval of land transfers or other forms of public subsidies relating to the project, the developer shall submit a copy of any executed Community Benefits Agreement. Violation of this requirement without a showing of good cause by the developer shall result in denial of the request.

C. City as Third Party Beneficiary.

A Community Benefits Agreement under this Section shall include a provision that the City is an intended Third Party Beneficiary and as such the City may, in its discretion, enforce the Community Benefits Agreement. Any Development Agreement shall not preclude, prevent, or otherwise limit the Neighborhood Council or its successors from having standing to enforce a Community Benefits Agreement. This subsection shall not be interpreted to change, alter, or diminish the legal and equitable duties, rights, and remedies of the parties to the Community Benefits Agreement.

D. Community Benefits Contribution

Without in any way limiting the developer's obligations under any community benefits agreement, development agreement, or any related land disposition or public subsidy agreement, the developer shall contribute funds in the amount of \$____ per gross square foot of the development's footprint and that of above and below ground flooring (the "Community Benefits Contribution") in order to ensure that revitalization and redevelopment can address additional community needs. The fee per square foot of the Community Benefits Contribution shall be adjusted annually by the change in CPI beginning on the CPI Adjustment Date until the date on which the Building Inspector issues the first building permit for such building.

II. COMMUNITY BENEFITS COMMITTEE

A. Definitions

"Applicant" shall mean a community based organization, association, group or other entity applying to the city-Committee to provide or undertake a program of community benefits subject to a grant agreement or contract. For purposes of this chapter, the city may join with one or more applicants in submitting a funding request hereunder; provided, however, that the city may not join with a for profit entity in submitting a funding request. [A neighborhood council may not be an applicant hereunder.]

"Community Based Organization" shall mean a non-profit entity registered pursuant to 26 U.S.C 501(c)(3) organized to undertake, administer, provide or perform one or more community benefits.

"Community Benefits" shall mean the provision of programs or services that directly benefit Somerville residents including but not limited to human services, the arts, cultural enrichment, sustainability measures, public health, preventing and mitigating commercial and residential displacement, housing, educational programs focused on science, technology, engineering, and other areas of community enrichment.

“Community Benefits Committee” or “Committee” shall mean the Committee established by this chapter and appointed by the Mayor subject to Board of Aldermen approval to identify community benefits needs of the residents of Somerville based on the priorities established by the Neighborhood Council(s) or Neighborhood Advisory Committee(s) and to solicit and evaluate applications for the provision of said services by qualified applicants in order to make recommendations to the Mayor for submission to the Board of Aldermen for the allocation of Community Benefits Stabilization Funds for the award of grant agreements or contracts for the provision of said services.

“Community Benefits Stabilization Funds” or “Funds” shall mean any funds collected as Community Benefits Contribution payments and all other funds created for the specific purpose of funding community benefits and other related programs. Such Fund shall be created by the Board of Aldermen pursuant to G.L. c. 40, sec. 5 and any expenditures therefrom shall be appropriated in accordance therewith. The Fund shall hold monies offered to and received by the City in connection with any agreements entered into with the City by which funds are given to and held by the City to be expended for community benefits and other related purposes. Funds allocated to mitigate development impacts in a specific neighborhood shall be deposited into a neighborhood-specific community benefits stabilization fund sub-account.

“Funding Priorities” shall mean funding goals approved by the Board of Aldermen and determined by periodic needs assessments to be conducted by the Committee ~~and approved by the Board of Aldermen~~ for the expenditure of community benefits funds in Somerville.

“Funding Request” shall mean a proposal by an Applicant to enter into a grant agreement or contract to provide or undertake a program of community benefits consistent with or in furtherance of the Funding Priorities. A funding request shall not seek community benefits funds for an Applicant’s capital or infrastructure projects or general operational expenses except as otherwise provided herein.

“Funding Recommendation” shall mean the recommendations of the Community Benefits Committee for appropriations of specific amounts from the Community Benefits Stabilization fund or applicable Neighborhood-Specific Fund to implement a Funding Request(s). Funding recommendation(s) shall be submitted to the Mayor.

“Interim Neighborhood Council” shall mean an open, inclusive, transparent and duly democratic temporary organization with all the characteristics, principles, duties, and obligations of a Neighborhood Council, as defined herein, which has been duly recognized by the Board of Aldermen. This designation

shall terminate upon for a period not to exceed the earlier to occur of (a) the formation of a Neighborhood Council; or (b) six months from the date of formal recognition.

“Neighborhood Advisory Committee” shall mean the advisory committee(s) appointed by the Mayor and approved by the Board of Aldermen in the absence of a recognized Neighborhood Council or Interim Neighborhood Council to identify community benefits needs and priorities for a specific neighborhood or neighborhoods or citywide. The Neighborhood Advisory Committee shall represent to the extent possible the diversity of the neighborhood and make special efforts to seek out and listen to a broad range of people and groups in the neighborhood. The Neighborhood Advisory Committee shall terminate upon the earlier to occur of (a) the formation of a Neighborhood Council or Interim Neighborhood Council; or (b) six months after its initial meeting.

“Neighborhood Council” shall mean an open, inclusive, transparent and duly democratic organization or non-profit organization recognized by the Board of Aldermen as representing a particular Somerville neighborhood. In order to be granted official recognition by the Board of Aldermen, a neighborhood council shall:

- (a) Be organized with a corporate purpose to maintain and improve the health, safety and welfare of all Somerville residents and to implement the goals of the city’s comprehensive plan and the neighborhood plan adopted for the neighborhood represented, with special attention given to the members of the community for whom quality of life and permanence in the community may be harder to attain, including environmental justice populations and residents facing mobility, age and/or other personal and family challenges;
- (b) Clearly define the neighborhood area represented;
- (c) Undertake review of and deliberation on planning, zoning, development, community benefits and other material matters of neighborhood oversight and operations, and clearly and openly communicate the results of such efforts to the community, city government and others;
- (d) Make special efforts to seek out and listen to a broad array of community opinions with regard to policy and practices that may affect the neighborhood and its residents;
- (e) Observe all laws, regulations, and commonly held ethical standards, including recusal of any member who may have a direct or indirect conflict of interest, whether personal, financial, or organizational. Failure to observe such laws, regulations, and standards may result in revocation of official recognition of the Neighborhood Council by the Board of Aldermen, after notice and a public

hearing.

At such time as a Neighborhood Council or Interim Neighborhood Council seeks official recognition, it shall submit to the Mayor copies of any organizational documents, a membership list showing the community affiliations of its members, a map delineating the neighborhood to be represented by the council, and such other materials evidencing the council's commitment to the principles set forth above. Upon receipt of such filings from the Mayor, the Board of Aldermen shall hold a public hearing to consider the council's request for official recognition. The Board of Aldermen shall grant formal recognition to only one neighborhood council for each neighborhood. Upon formal recognition by the Board of Aldermen, the council shall receive a stipend to defray its administrative and operating expenses. The amount of such stipend shall be fixed by the Board of Aldermen but all councils shall receive the same amount. The council shall annually resubmit its credentials to the Board of Aldermen for renewal of its recognized status. Concurrently with each such renewal, the Board of Aldermen shall grant the annual stipend to such council. Each recognized Interim Council shall receive a one time stipend equal to an amount equal to one-half the annual stipend.

"Neighborhood Council Funding Priorities" shall mean funding goals recommended by the Neighborhood Council, or Neighborhood Advisory Committee if no Neighborhood Council has been recognized by the Board of Aldermen for that neighborhood, for the expenditure of community benefits funds in Somerville.

"Neighborhood-Specific Fund" a sub-account of the Community Benefits Stabilization Fund containing monies allocated as mitigation for development in a specific neighborhood.

B. Community Benefits Committee: Organization

1. There is hereby established a Community Benefits Committee ("Committee"), consisting of nine voting members who are residents of Somerville. Of the nine members, at least one member shall own a small business in Somerville with less than 50 employees, one member shall be a tenant, and one member shall be a homeowner, and two members shall be board members or insenior leadership positions of a nonprofit organization.
 - a. No member shall serve more than two consecutive three year terms. In order to stagger the terms of the members, the initial appointment of one-third of the members shall be for one year; onethird shall be for two years; and one-third for three years.

- b. Members of the Committee shall serve without compensation and shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws.

2. Announcement of Open Positions

There shall be a public announcement of any open positions, with at least a three week period for submittal of an application to the Mayor. The names and a brief summary describing each candidate's qualifications shall be posted on the city website for at least two weeks to solicit comments. The members of the Committee should include residentcitizens who have demonstrated interest in economic development, preventing and mitigating displacement of residents and businesses, empowering residents to create and sustain community, and ensuring that developments deliver benefits to the community.

3. Establishment of Nominating Committee

- a. Applications to serve on the Community Benefits Committee shall be reviewed by a nominating committee. The nominating committee shall consist of three members, as follows:
 - i. One member to be appointed by the Mayor;
 - ii. One member to be appointed by the Board of Aldermen; and
 - iii. One board member from a non-profit organization appointed by agreement of the Mayor and the Board of Aldermen
- b. The nominating committee shall make recommendations for Committee membership which shall ensure that there is city-wide representation and that Committee members have expertise in one or more of the following areas: finance and development, planning and zoning, open space, sustainability, housing, traffic/engineering, human services, culture and the arts. The nominating committee shall forward its recommendations for appointment to the Mayor. Appointments by the Mayor to the Community Benefits Committee shall be subject to Board of Aldermen approval.

4. Election of Chairperson

The Committee shall annually elect one of its members to serve as chairperson and may elect such other officers, adopt procedural rules and regulations and establish any subcommittees as it deems appropriate. A Committee member may serve as chairperson for no more than two consecutive years.

C. Community Benefits Committee: Powers & Duties

To carry out its responsibilities under this chapter, the Committee shall:

1. Identify community benefits needs of the residents of Somerville based on the priorities established by various Neighborhood Councils or Neighborhood Advisory Committees.
2. Evaluate and make recommendations to the Mayor for the award of grant agreements or contracts for the provision or undertaking of community benefits to be paid for from the Community Benefits Stabilization Fund consistent with the Neighborhood Council Funding Priorities and in furtherance of the funding priorities.
3. Establish rules, regulations and guidelines to provide for the proper administration and implementation of the Committee's responsibilities.
4. Conduct an annual public hearing and additional public hearings as needed to prioritize needs, possibilities and resources regarding community benefits. Subject to and consistent with the Funding Priorities and Neighborhood Council Funding Priorities, the Committee shall consider the following guiding principles:
 - i. Fund programs or services that directly benefit Somerville residents.
 - ii. Emphasize Neighborhood Funding Priorities informed by the outcomes of a needs assessment.
 - iii. Consider neighborhood(s) impacted by development projects.
 - iv. Consider other public resources allocated to a neighborhood in order to better understand unmet needs.
 - v. Prioritize funding for Applicants with a history of promoting collaboration, partnership and collective impact.
 - vi. Establish a transparent, inclusive, and collaborative process.
5. Develop a standard form of application for Funding Requests.
6. Evaluate Funding Requests for the provision of community benefits.
 - i. No less than sixty (60%) percent of any funds paid to mitigate development in a specific neighborhood shall be allocated to benefit that neighborhood; provided, however, that the Committee may vote to allocate a higher percentage of such monies to such neighborhood, with the balance to be allocated city-wide.

- (1.)The Committee shall accept Funding Requests from city-wide applicants for disbursements from the city-wide fund.
 - (2.)The Committee shall prioritize Funding Recommendations from the city-wide fund in accordance with the funding Priorities established by the city-wide needs assessment.
- ii The committee shall reject Funding Requests submitted for an applicant’s capital or infrastructure projects or general operational expenses, unless such operational funding directly provides for an expansion of the applicant’s initiatives. Notwithstanding the foregoing, an applicant’s Funding Request budget may include reasonable overhead attributable to the provision of the program services to be funded.
 - iii In subsequent years, if initial community benefits Funding Priorities have been met, the committee may elect to allow Funding Requests for renewable grants to returning nonprofit providers that have an excellent performance evaluation record and programmatic success.
7. Conduct a city-wide needs assessment of community benefits Funding Priorities every five (5) years.

D. Board of Aldermen Approval of Funding

1. In order to identify Somerville’s most pressing community benefits needs, the Board of Aldermen shall periodically assess the Committee’s Funding Priorities based in part on a needs assessment conducted every five years by the Committee.
2. In each fiscal year, the Board of Aldermen shall make such appropriations from the Community Benefits Stabilization Fund as it deems necessary for the administrative and operating expenses of the Committee, including funds necessary for the city-wide needs assessment to be undertaken by the Committee.
3. After receiving the Committee’s funding recommendations from the Mayor, the Board of Aldermen shall take such action and authorize such appropriations from the Community Benefits Stabilization Fund.
4. In the event that the Committee initially proposes that a project be funded by the Community Benefits Stabilization Fund and that initial proposal is rejected or reduced by the Board of Aldermen, the Committee shall be given one opportunity to respond to such actions by the Board of Aldermen and/or to adjust the scope and terms of any proposed project prior to a final decision by the Board of Aldermen as to the allocation of Community Benefits Stabilization Fund for the given year.

III. EFFECTIVE DATE

This chapter shall take effect upon its passage.

Approved:

President
Board of Aldermen

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Nominating Committee

The nominating committee is a temporary group that chooses the members of the Somerville Benefits Committee.

Mayor's proposal	<u>Union United Proposal</u>
<ul style="list-style-type: none"> • 3 people on nominating committee • One chosen by mayor, one chosen by BOA, one chosen by mayor and BOA from a nonprofit 	<ul style="list-style-type: none"> • 6 people on nominating committee • One chosen by mayor, one chosen by BOA, 4 from general public

Citywide Benefits Committee

The citywide benefits committee is a group that allocates funding contributed by developers to a citywide fund.

Mayor's proposal	<u>Union United Proposal</u>
<ul style="list-style-type: none"> • Called "Community benefits committee" 	<ul style="list-style-type: none"> • Called Somerville Benefits Committee or Public Benefits Committee. Using the term "community benefits" is confusing because it conflates the committee's work with a CBA.

Neighborhood Council

The neighborhood council is an independent, democratic, representative group of people representing a particular neighborhood in Somerville.

Mayor's proposal	<u>Union United Proposal</u>
<ul style="list-style-type: none"> • NCs must be approved by BOA on an annual basis • NCs must submit a list of members • The Neighborhood Council has an advisory role, recommending priorities to the Community Benefits Committee. • In neighborhoods where the residents don't have a NC, the mayor appoints an advisory committee for that neighborhood. 	<ul style="list-style-type: none"> • NCs must be approved by BOA if applying for funds. • For approval, NCs must submit a list of board members (the Union Square NC is proposing a 15-member elected board) • The NC shares decision-making power with the City, presenting a plan with funding priorities that the CBC must give weight to. • The NC selects its own team to negotiate a CBA between the NC and developer. • The process of creating an advisory committee should be similar to the process for creating the CBC, and the mayor should not appoint an advisory committee if an NC is already in formation.

Commitment for a CBA

A community benefits agreement (CBA) is a legally binding contract between a developer and a community group addressing the needs of the community and the impact of the development.

Mayor's proposal

- **NO proposal on this item. Union Square developer US2 said that they would negotiate a CBA but would not put any financial resources into it beyond what they are putting in the citywide fund (\$3.6 million over 30 years).**

Union United Proposal

- Includes a requirement that high-impact developers negotiate a CBA with the NC. This CBA should include monetary and non-monetary items.
- The CBA is a separate contract from the City's covenant and is enforceable by the Neighborhood Council.

Community Stabilization Fund

Any money paid by developers for community benefits or public benefits will go into this fund. It will be overseen by the citywide benefits committee.

Mayor's proposal

- At least of 60% of funding paid by a developer in a specific neighborhood must go to that neighborhood
- Funding cannot go directly to the NC
- Funds can be expended for "community benefits or other related purposes."
- Funds allocated to mitigate development impacts in a specific neighborhood will be deposited into a neighborhood-specific community benefits stabilization fund sub-account.

Union United Proposal

- At least of 75% of funding paid by a developer in a specific neighborhood must go to that neighborhood
- An NC can apply for funding to supplement the initiatives funded through the CBA
- Funds can be expended for community benefits as defined in this ordinance
- The NC will present a plan with funding priorities and supporting budget. If the committee approves the priorities, they will be recommended to the mayor and funds will be deposited in a neighborhood-specific fund. If the CBC and NC disagree, the dispute can be settled by an independent arbitrator.