

----- Original Message -----

From: JT Scott <jtforward2@gmail.com>
To: MARK NIEDERGANG <m.niedergang@comcast.net>
Date: February 1, 2018 at 10:08 AM
Subject: Fwd: Neighborhood Council Recognition

For reference for tonight, this is the response I got from Ms. McGettigan. It may also be helpful to the rest of our colleagues on Leg Matters.

Thanks!
-JTS

----- Forwarded message -----

From: **Eileen McGettigan** <emcgettigan@somervillema.gov>
Date: Wed, Jan 31, 2018 at 4:26 PM
Subject: RE: Neighborhood Council Recognition
To: "J.T. Scott" <jtforward2@gmail.com>
Cc: "Michael F. Glavin" <mglavin@somervillema.gov>, Thomas Galligani <tgalligani@somervillema.gov>, Sunayana Thomas <sthomas@somervillema.gov>, Tim Snyder <tsnyder@somervillema.gov>, Annie Connor <aconnor@somervillema.gov>, Francis Wright <fwright@somervillema.gov>

Ald. Scott,

A resolution of the Board of Aldermen expresses a wish, or an opinion, of the Board. It does not have the force of law, and accordingly, in my opinion, it would have no binding legal impact or implication for the public or private status of the USNC.

Your resolution, if adopted, would be an acknowledgment of the formation of a neighborhood council, and an expression of opinion that it is “duly formed and prepared to negotiate in good faith a Community Benefits Agreement”. In my opinion, the resolution cannot formally recognize the existing council as the negotiating entity for the CBA because it does not satisfy the requirements of the Development Covenant, which creates a negotiating role for a council which “has been *duly formed and recognized in accordance with the City’s Community Benefits Committee ordinance* to be promulgated by the City.” Development Covenant, para. 7. (emphasis supplied). The draft Community Benefits Ordinance (“CBO”) currently before the Board describes the attributes of a neighborhood council and sets forth a process by which one could be recognized. The process involves submission of certain materials by the council and a public hearing, so that the recognition process is open, transparent, and public. It is therefore up to the Board of Aldermen to legislate such a process.

US2 is already obligated by the Development Covenant to negotiate with the Union Square neighborhood council, “*when ...recognized in accordance with the City’s Community Benefits Committee ordinance.*” Id. (emphasis supplied).

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From: JT Scott [mailto:jtforward2@gmail.com]
Sent: Tuesday, January 30, 2018 3:54 PM
To: Eileen McGettigan
Cc: Michael F. Glavin; Thomas Galligani; Sunayana Thomas; Tim Snyder; Annie Connor; Francis Wright
Subject: Re: Neighborhood Council Recognition

Thank you, Counsel.

Reading what you have written:

"In the absence of a Community Benefits Ordinance, the Board of Aldermen currently has no mechanism to recognize USNC. Moreover, the only potential role for USNC at this time is to be designated as the negotiating body for the CBA; this role arises not by ordinance but by contract."

This would seem to indicate that my resolution therefore would have no binding legal impact or implication for the public or private status of the USNC.

As a result, my resolution would simply be an acknowledgement of the USNC's legitimate formation and their stated intent to negotiate a CBA. The agreement of US2 to negotiate a CBA with them would be a separate contractual agreement they will have to negotiate.

Do I read you correctly?

-JTS

On Tue, Jan 30, 2018 at 1:23 PM, Eileen McGettigan <emcgettigan@somervillema.gov> wrote:
Dear Aids. Niedergang and Scott,

Attached is the opinion you requested on the legal issues surrounding recognition of the neighborhood council. Also attached is a handout which is referenced in the body of the opinion. This handout had been distributed to the prior Board of Aldermen and compares and contrasts legal requirements applicable to public bodies v. private entities.

If you have any questions on the attached documents, please do not hesitate to contact me.

Thank you,

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