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Subject: Response to Mike Firestone's letter to Board of Aldermen concerning legal standing of USNC

To: <BoardofAldermen@somervillema.gov>, "Michael Firestone"

<mikefirestone@gmail.com>, <law@somervillema.gov>

Honorable Members of the Board of Aldermen;

Yesterday you received an advocacy letter from a member of the recently elected Founding Board of Union Square Neighborhood Association (USNC). The letter was apparently requested by the chair of the Legislative Matters Committee, Alderman Mark Niedergang.

Not an independent legal opinion, it offers a seemingly clear, but in fact ambiguous, interpretation of Massachusetts tax law favoring the legitimacy and potential role of USNC. Below are my comments to Mike Firestone, author of the letter. I respectfully request that these remarks be included in the record of discussion of the Resolution regarding USNC, on the agenda for Legislative Matters for February 1.

Hello Mike,

Some reactions to your note on behalf of the Neighborhood Council, submitted yesterday and published today:

- The funds negotiated by the City in the covenant with US2 to be drawn on in a Community Benefits Agreement are surely the funds that you seem to propose might be made available to the newly created Union Square Neighborhood Council, for the benefit of said Council's stated purposes. To suggest that the City would not be giving funds to the Council is disingenuous and possibly deceptive. If, on the other hand, you are simply arguing that the Neighborhood Council should be recognized as playing an "advisory role" to the City concerning the disposition of benefits, as your letter also seems to indicate, I see no problem.
- The City, by your apparent argument, could equally well allow any other Union Square organization to negotiate with US2 and to determine distribution of those funds. The Council has, at this time, no special standing (in addition to being significantly discredited by many as a legitimate voice for the community). **Absent a Community Benefits Ordinance, and assurance that the Council complies with the requirements of the ordinance, it is hard to see how it can be authorized by the City to negotiate on behalf of the community.**

- To my knowledge, the only local organization properly recognized as a non-profit is Union Square Main Streets. (USMS has to date expressed no interest in negotiating community benefits with the master developer.) The Neighborhood Council has yet to achieve standing as a 501 (c) 3 organization. The legality of such an organization as a negotiator and distributor of public benefits is questionable at best. Again, if the role of USNC is advisory only, this ceases to be an issue.
- You assume that the Neighborhood Council board was "duly elected". Many in the community challenge that assumption. **The meaning of "duly elected" would, in any event, need clarification in a Community Benefits Ordinance, but, as you acknowledge, no such ordinance exists yet.** For example, the City might require in an ordinance that business owners and property owners are fairly represented on its governing board.
- The organization of "summits" to gain input on community benefits, when such potential benefits have been hashed out interminably over the past three or four years in open community process is appealing but strange, and probably reflects on the inexperience of those elected to the board, who are generally not familiar with these earlier processes. That said, **the "summits" do not, in themselves, confer any additional legitimacy on the board, or address the fact that it fails, in its composition, to represent the diverse interests of the community.**

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