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Dear Board of Aldermen,

Thank you for the opportunity to comment on the draft of the Community Benefits Ordinance that is before you tonight. It's my belief that we need to move forward and successfully negotiate a Community Benefits Agreement with US2 as soon as possible, so the Union Square development, and the corresponding community benefits can be realized. I recognize that you are under time pressure to advance this legislation, particularly given a number of dependencies with respect to development of the D2 parcel and GLX construction as well as other competing legislative priorities.

Having had some time to review the draft ordinance that is before you, I see several areas that require further clarification and discussion, some of which are quite significant. In the attached document, I've outlined a brief list of those concerns based on my review. I think the CBO (even an interim CBO) requires significantly more community input and careful thought, and I believe you do too.

Given the urgency to move forward, however, I might suggest that you amend the version that you plan to adopt tonight to include language that somehow acknowledges that it is an imperfect ordinance and that the Board of Aldermen will revisit the issue in the very near future. Perhaps this could be accomplished by amending the ordinance to include the following "sunset" provision:

IV. Effective dates

Section II of this ordinance is repealed effective October 31, 2018 and any neighborhood council designation recognized pursuant to this Section shall be revoked effective October 31, 2018.

A sunset provision would give the Board of Aldermen, and the community, some level of assurance that passage of this imperfect legislation will be rectified. A neighborhood council could pursue designation under the future ordinance.

As we move forward toward CBA negotiations with US2, I believe we have not done enough to provide clear rules of accountability, transparency, and ethical standards to the Union Square neighborhood council. Expectations should be clear between all parties including the City of Somerville, the neighborhood council, and residents of the community. Without that clarity, my fear is that governance-related ambiguities will arise that will undermine the process. Given these concerns, I certainly hope a more thoughtful and comprehensive ordinance is developed and passed in the near future.

Thank you,

Rob Buchanan

Observation of all laws, regulation, and commonly held ethical standards - Section II (d)

Section II(d) states that in order for a neighborhood council be designated as the negotiating entity of a Community Benefits Agreement, that it shall:

“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.”

This language is vague, and it does not provide enough direction to a neighborhood council regarding the specific laws, regulations, and ethical standards that the Board of Aldermen wishes neighborhood councils to follow. For example:

- **Open Meeting Law:** Are neighborhood councils required to follow Massachusetts Open Meeting Law (General Law c. 30A, § 23(b)) and open meeting regulations issued by the Massachusetts Attorney General (940 CMR 29.00)? If so, should persons wishing to submit an Open Meeting Law complaint regarding a neighborhood council submit such a complaint to the Attorney General? Or some other body?
- **Conflict of Interest Law:** Are members of neighborhood councils required to observe Massachusetts conflict of interest law (General Law c. 268A)?

Similar language regarding observance of “all laws, regulations, and commonly held ethical standards...” appears in Section II (5) with respect to required affidavits of neighborhood council board members and members of any committee formed to negotiate a Community Benefits Agreement.

There needs to be clarity regarding which laws and regulations neighborhood councils will be held accountable to, so there is not ambiguity regarding appropriate neighborhood council actions and conduct.

Revocation of Neighborhood Council Status - Section II

Section II of the proposed ordinance goes on to include provisions that outline a process for revoking neighborhood council status for good cause. Specifically, the draft ordinance states:

The Board of Aldermen may also revoke by a 2/3 vote a neighborhood council’s designation as the negotiating entity for a Community Benefits Agreement, after notice and a public hearing, for good cause as determined by the Board of Aldermen, including without limitation based upon receipt of written allegations of:

(i) a violation of law, regulation, or commonly held ethical standard, including the failure of a member who may have a conflict of interest, whether personal, financial, or organizational, to recuse him- or herself;

(ii) a failure to act in accordance with the neighborhood council’s own organizational documents; or (iii) a failure to comply with the requirements of subparagraph (a), above

Attachment: Community Benefits Ordinance - Areas of Concern

My concern with this language is that it provides only one action that the Board of Aldermen could take to address these enumerated violations: *revocation of neighborhood council status*. This seems like a heavy-handed resolution and provides no process for taking intermediate actions to address and remediate instances when a neighborhood council acts in ways that are not consistent with “law, regulation, or commonly held ethical standards” (which, I again believe are vague and ambiguous standards in the first place.)

Short of revocation of the neighborhood council by a two-thirds vote of the Board of Aldermen, an action that would likely occur only in the most egregious of circumstances, the draft ordinance provides no other mechanism to ensure standards of accountability and transparency are met by neighborhood councils. This is not a theoretical concern. Members of the Union Square community have already raised concerns regarding appropriate public notice and frequent use of executive session without explanation of rationale, a requirement of Open Meeting process.