



HOUSING COMMITTEE

COMMITTEE MEETING

~ MINUTES ~

Wednesday, December 1, 2021

2:00 PM

Sullivan Chamber

Call to Order

| Attendee Name | Present | Absent | Late | Arrived |
|------------------------|-------------------------------------|--------------------------|--------------------------|---------|
| E. Denise Simmons | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Alanna Mallon | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Marc C. McGovern | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Quinton Zondervan | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Jivan Sobrinho-Wheeler | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

The Housing Committee will conduct a public hearing on Wednesday, December 1, 2021, at 2:00 p.m. to resume its discussion of the hearing on November 10, 2021, regarding the September 20, 2021, Policy Order (**ATTACHMENT A**) that seeks to amend the Zoning Ordinance via potentially raising the linkage fee.

Participating in the hearing via Zoom were Councillor Simmons, Councillor Sobrinho-Wheeler, Co-Chairs of the Committee, Vice Mayor Mallon, Councillor Carlone, Councillor Zondervan, Mayor Siddiqui, Councillor McGovern, Councillor Nolan, Louis DePasquale, City Manager, David Kale, Assistant City Manager for Finance, Iram Farooq, Assistant City Manager for Community Development, Chris Cotter, Housing Director, Linda Prosnitz, Housing Project Planner, Community Development Department (CDD), Maura Pensak, Housing Liaison to the City Manager, Nancy Glowa, City Solicitor, Megan Bayer, First Assistant City Solicitor, Ellen Semonoff, Assistant City Manager, Department of Human Services, Sue Walsh, Division Head, Workforce Development, Human Services Department, Neal Alpert, Aide to Councillor Simmons, Naomie Stephen, Executive Assistant to the City Council, and Paula M. Crane, Deputy City Clerk.

Also present were Peter Daly, Executive Director, Homeowner's Rehab, Inc., Valerie Bonds, and John Hawkinson.

Councillor Simmons read the Governor's Executive Order regarding remote participation and requested that the Deputy City Clerk call the roll to indicate a quorum for the hearing.

The roll was called and resulted as follows:

PRESENT: Councillor Simmons, Councillor Sobrinho-Wheeler, Vice Mayor Mallon, Councillor McGovern, and Councillor Zondervan -5

ABSENT: -0

A quorum was present.

Councillor Simmons then read from prepared Opening Remarks (**ATTACHMENT B**).

Councillor Sobrinho-Wheeler stated that he is looking forward to continuing this discussion. He thanked Nancy Glowa, City Solicitor, and Iram Farooq for their responses to questions raised at the November 10, 2021, hearing on this topic.

Nancy Glowa gave an overview of her responses, in conjunction with CDD (**ATTACHMENT C**), to the questions from the November 10, 2021, meeting of the Housing Committee.

Ms. Farooq introduced City staff and invited Mr. Cotter to give an overview of CDD's responses to questions about the Affordable Housing Trust. Ms. Farooq underscored that, as it relates to the chart that shows future projections, these figures are just projections and rely on streams of funding coming through in the way that they have historically done. She said that on the city-funding side, it relies on future City Managers and City Councils allocating similar amounts with some increase over time, as has been the trend over the last few years. She said that on the CPA allocations, they are assuming the continued 80% allocation toward affordable housing. On the incentive side, the calculations are based on the current linkage fee; however, they do rely on projections of development that mirror trends that they have been seeing and projections related to that. She said that as the nexus study points out, there is some relationship to big increases in linkage fees and that is why the study recommended keeping the fee relatively comparable to our neighboring communities. She said that Boston and Somerville were the key areas that they looked at.

Councillor Sobrinho-Wheeler asked about the jobs linkage trust fund and the Home Rule Petition. He asked if the City Council could submit a Home Rule Petition to establish a jobs linkage fee without naming a specific number for the linkage fee. Ms. Glowa responded in the affirmative. She said that special legislation pursuant to a Home Rule Petition would be for the authority to establish a separate trust fund, which would be required for anything not to go into the General Fund or specific funds that had been created by special or general legislation. She said that it does not require the setting of the linkage fee – that would be done by ordinance, and it could be done at any time after the City Council has obtained the authority to establish the trust fund to administer a job linkage fee. Councillor Sobrinho-Wheeler said that he is an advocate for that. He then asked about the nexus report: he said that the memo lays out that as part of the ordinance, a nexus report should be done not more than once every three years. He asked if this is flexible, and if a nexus study could be conducted in 2022. Ms. Glowa said that a nexus study must be initiated at an interval of not less than three years, and not more than five years. She said that with respect to preparing a nexus study, it requires a procurement process to select a consultant to do the work necessary to prepare the report, and then the time to actually do the work. She said that with respect to doing that sooner than three years, you would be butting up against one of those timelines. Councillor Sobrinho-Wheeler asked if there are best practices on how often the City should do a nexus study. Mr. Cotter said that the 2019 study also had a recommendation to do the update to the nexus study at a frequency of no more than five years, which would allow time to account for changes and to see that reflected in the market. Ms. Farooq said that the five-year threshold was recommended by the last study.

Councillor Zondervan said that, regarding the trust fund and job linkage fee, he is unclear why we need a trust fund. He said that it seems to him that the funds could go into the General Fund and offset any money that we are already spending on job training programs. Ms. Glowa said that it has more to do with the limits of what the City can do with respect to the General Fund, and the differing treatment that would be sought with respect to the administration of such job training fees. Ms. Farooq suggested that this is something that the Finance department could likely best answer. Mr. DePasquale said that he will attempt to get the answer to this question. Councillor Zondervan said that it sounds to him that it is not a legal requirement, and he asked the City Solicitor if it would be illegal to simply not establish a trust fund. Ms. Glowa responded that her understanding of the General Fund is that money has to be deposited and then you must appropriate money out of it, and that it cannot sit and roll over from year to year being designated for specific purposes like this. She said that in order to have a fund that can have the flexibility

of where monies are being spent, it needs to be administered in a separate account. She said that it is not necessarily illegal, but that the City would not have the flexibility with respect to both tracking payments and carrying them over from year to year and tracking from other monies in the General Fund. Councillor Zondervan stated that this is his understanding as well. He said that earlier in the meeting, it was stated that part of the reason that we are not recommending a job linkage fee is because of the administrative overhead involved. He said that if we do not need it, it would be more feasible to do a job linkage fee with the funds going into the General Fund with a budget for the workforce development programs, and the City Manager can report back how much money was received to the linkage fee and how much that compares to how much we are spending on workforce development; as long as we are spending more than we are receiving, it wouldn't seem like a problem to him.

Councillor McGovern stated that Boston and Somerville both have the job component, and he asked if they set it up through the trust fund. Ms. Glowa responded that both had special legislation through Home Rule Petitions in order to establish the trust funds they use. Councillor McGovern said that we must figure out a way to do this most efficiently. As it relates to the \$33/square foot figure, Councillor McGovern asked how that figure was determined, and what was the analysis in getting to that figure. Mr. Cotter responded that the study recommended a \$6 increase over the current rate. He noted that the rate has just been increased with the annual CPI adjustment, so it is now \$21.02/sq foot, and the action that the City Council took in early 2020 to increase it by that \$3 continues to benefit and grow with the annual CPI adjustments. He said that the \$33/sq foot amount was what the study team called that maximum defensible amount based upon the need for housing in terms of housing folks in new jobs and new buildings projected to be built over the next ten years. Mr. Cotter said that the competitive concerns were noted by the study team and factored into their recommendation – and that the hope was to create a predictable and significant rate increase over a number of years, without creating a situation where developers might instead seek to develop in Somerville or Boston, potentially still flooding Cambridge with people seeking to live here and stressing our local housing market but without the benefit of the incentive housing contributions that could be used to mitigate this additional housing strain.

Councillor Simmons stated that Appendix B, paragraphs 2 and 3, talk about how the study team arrived at that figure. Councillor McGovern said that he is seeing a lot of commercial development in Waltham and Watertown. He asked if the City has looked further out from our most immediate neighbors. Mr. Cotter responded that when they looked at this in the 2019 study with the team, the only neighboring communities with incentive zoning-like requirements were Boston and Somerville. Councillor McGovern asked if there is thought to having different linkage fees for smaller businesses with smaller backing versus larger developers. He asked if this is possible.

Ms. Farooq said that in terms of which communities we compare ourselves to, CDD also tries to think about it from the development perspective of what communities are similar, so a person making a decision about where to locate might see parity. She said that even though there are clusters that are starting to spawn in places like Waltham and Watertown, they are different than the clusters in Cambridge, Somerville, and Boston which are much more transit connected and have a certain amount of amenities in terms of retail activity, etc. She said that as we think about commercial development, there is some benefit overall to the region for some of that spread happening elsewhere as well. She said that if someone is choosing to develop in Boston or Somerville, Cambridge is likely to see the residential impact whereas the impact might not be the same if the development is happening in Watertown or Waltham, where people may choose to live in more suburban locations. She said that they looked at whether it makes sense to break things down differently for different types of commercial uses, and also explored the idea that the rate should be different in different parts of Cambridge. She said that while both of those ideas were explored, both were deemed to create too much complexity for too little actual benefit.

Vice Mayor Mallon asked if someone could remind her what the process was for the annual increase: was it a simple vote of the City Council, or did it go to the Ordinance and Planning Board for the approval of the \$3 increase? Ms. Farooq said that it was a change to the Ordinance, so it did go through the Ordinance Committee and Planning Board process. She said that the City Council had introduced a City Council petition at that time and selected the number. As it relates to the jobs linkage fee and the nexus study from 2019, Vice Mayor Mallon said that when looking at the \$1.51/sq foot on the high end for Cambridge, it seems out of step when considering Boston is at \$2.39 and Somerville is \$2.60. She asked why the Cambridge figure is so much lower than our immediate neighbors. Mr. Cotter said that what he was previously saying in terms of looking at the different types of uses when they look at the projected development in Cambridge over the next years, it is of a certain type. When they look at the share of jobs in sectors that they would expect to be in those buildings where employees are going to be low, moderate, and middle income, there will likely be a lower share in buildings where there are companies with higher paid employees. For example, R & D employees are going to have less of a need for new housing assistance to house employees that are low, moderate, and middle income than restaurants and retail. He said that may be different than what the projected development might be in Boston and Somerville. Vice Mayor Mallon said that there is a strong case that Cambridge's job linkage fee should be much higher based on our immediate neighbors and the types of building that we are building versus the types of buildings that these other communities are building. She said that if you look at Just A Start's biomedical program, which does place our low-income residents into biomedical careers, they rely heavily on Somerville's job linkage fee to help subsidize Somerville residents that are taking their classes. She said that we should be doing this too. She said that one of the things that she likes about the Affordable Housing Trust is their oversight on how to dispense the funds and whom to dispense the funds to. She said that she would be in favor of having an oversight board and trust to dispense these funds. She said that she is a huge advocate to having a job linkage fee. She said that she would like to put together Home Rule legislation to get this rolling.

Councillor Simmons asked why Cambridge cannot do it ourselves rather than setting up a process for a linkage fee. She asked if it is not in the City's ability to do our own job linkage program that the City funds. She also acknowledged that anything that goes through the Home Rule petition process will be a long process. Ms. Semonoff responded that she does not know how much money Somerville provides to Just A Start through its job linkage fee. She said that the City of Cambridge provides close to \$200,000 per year to support the biomedical program of Just A Start, to ensure that as many Cambridge residents who want to participate can participate can do so. She explained that City does it through a combination of City tax dollars and Community Development Block Grant funding. She said that the City also provides support to the Just A Start IT Program. She said that right now, the City uses its tax dollars as well as its Community Development Block Grant funding to actually support workforce development initiatives, as well as community-based job training. She said that there is the ability to use ARPA funding over the next 3-4 years to support job training, as it is an eligible category and there is a massive amount of money and resource that the State is about to put into Boston, Cambridge, Somerville, and surrounding regions as infrastructure to support job training for the same populations that we are concerned about. Councillor Simmons said that the linkage fee may be the standard way, but that it may not be the best way, and that we should not hinder ourselves by trying to follow a path that may not be expedient or as effective as we are aiming for.

Sue Walsh said that regarding the difference in the suggested rate for Cambridge's linkage for jobs, as opposed to Somerville and Boston, part of the analysis was also looking at the gap in available training and what it would take to close that gap. She said that the analysis did look at all of the training providers in Cambridge and the region. She said that the City has a lot of resources that come from the City to support workforce development. She said that part of the analysis out of the report was that if this jobs trust fund is going to yield \$500,000 - \$1,000,000 per year and that would be inconsistent, is it really worth doing it through a more complicated pathway versus doing it ourselves. She said that there is a lot

of money (\$104,000,000 +) that is ready to be flooding the field. She said that part of that will need infrastructure support in order to take the dollars and get people trained. She said that Cambridge will be part of a regional planning effort to figure out how to support what the State is looking at, which is a huge influx in money to Adult Basic Ed, resources for career and technical education, and more money for the Workforce Competitive Trust Fund for employers to apply for. She said that if we can organize ourselves to figure out who we want to support with these resources, we can find them and then help them find the right direction. She said that throughout the work with the UMass Donahue Institute (in collaboration with CDD and the CRA), there is a good sense of who is left out of this economy: women, young people, African American men, and older workers. She said that there are a lot of resources that will be in the system with a regional focus. She said that there are many pieces in place that can already be done, regardless of whether or not the City decides to do the jobs trust fund. Councillor Simmons said that there is a package that comes with the job training. She said that it does not necessarily have to be the rule or road that the City takes.

Councillor Zondervan again asked why we need the trust fund to manage the job linkage fee. He said that his understanding is that the monies could run through a General Fund but would not be able to be kept separate year to year to allocate them for this purpose. He said that given that we are already spending significant amounts of money of workforce training, we could simply receive the money from the job linkage fee in the General Fund and the City Manager could report how much we received versus how much we are spending and that would suffice. He asked if we truly need a trust fund. David Kale said that the problem is that you are trying to budget revenues when you don't necessarily know what they are, and you may then be trying to budget expenditures on a program that you don't necessarily have the funds for. He said that when you have a revenue that may not be as predictable, or that may not be sufficient to cover the cost of an expanded program, you have a reconciling difference and are potentially creating a deficit. He said that when you budget a revenue that is not actualized in a previous year, they do not allow you to use that funding to the extent that you would want to be based upon an estimate. He said that it really is a reconciliation between if you are trying to add programs and you are trying to pay for them, if you do not have a set amount of money that you are confident in, you could run a deficit between those reconciling items.

Mayor Siddiqui said that she is glad to hear about the funding from the State. She said that with ARPA, we must understand that this is one-time funding. She said that what is appealing to some kind of fund is that there is money continually coming in. She said that she concurs with some of the points made by the Vice Mayor regarding inherent gaps and needs in workforce development and some of the programs. She said that she often gets people seeking training. She said that we must think about ARPA funding and when it runs out. Regarding the linkage fee, she asked about differentiating the linkage fees by lab versus retail.

Councillor Carlone said that as it relates to raising the linkage fee, every developer looks at the big picture. He said that the big picture is taxation, not one instance of a linkage fee. He said that the City's taxes are half of that of Somerville, and approximately half of those in Boston. He said that in the suburbs, it is one-third in some cases. He said that you must look at the big picture. He said that the linkage fee being increased to the max would not be a dealbreaker. He said that we need an evaluation of the success of the programs that we have – non-profit, City, and private. He said that is how we will know what the need is. He said that we should expand the available money as he believes that Mr. Kale was suggesting that we know we are going to get it if it is part of the linkage fee and federal and state funding is going to change every cycle. He added that there is no way that we are going to settle in the linkage fee in housing the 21,000 regional need. He said that it is not our requirement or responsibility. He said that he is all for thinking about expanding to middle-income housing that is affordable and homeless housing. He said that is why he wants the housing budget to expand.

Councillor Nolan said that she appreciates all the work. She said that part of job preparation is ensuring that everyone that needs to learn English can learn English, and programs that offer this are not as available as they should be. She said that evaluation of the City's programs is something that she would like to hear more about. Councillor Nolan said that she would be interested in understanding how to move forward in terms of differentiating the linkage fees by user.

Councillor Simmons said that if there is a recommendation out of the Committee that goes to the City Council and the recommendation comes by way of a change in the ordinance, there will be an opportunity through the Ordinance Committee to have further discussion. She said that there will be ample opportunity for discussion and questions. She noted that there were only 30 more days in the current City Council term, and as both Chairs of the Ordinance Committee are present at this hearing, it would be wise to ask them if there is time in the calendar to complete this process. She also noted that Councillor Carlone had already stated that there is no way that this will get through the normal legislative process in this term. She said that the Committee can make recommendations or bring forward Policy Orders, but it is not likely to go through the 60-day legislative process. She asked Councillor Carlone for his input. Councillor Carlone stated that the Chair is correct as there are two Ordinance Committee meetings coming up. He asked the Deputy City Clerk and City Solicitor if this will be treated like zoning and there is a need for weeks in between and meeting minutes to move forward. He said that given the upcoming holidays, he does not feel it is remotely possible to conduct all this business before the term expires. Councillor Simmons said that page five of the City Solicitor's report illustrates the movement of any proposed change in the ordinance. She explained the timeline of amendments to zoning changes. Ms. Glowa explained that a draft zoning petition must be submitted to the full City Council and once the City Council votes upon it as a City Council zoning petition, it is automatically referred upon submission by the City Council as a City Council petition, being then referred by the Clerk's Office to the Planning Board and Ordinance Committee, and that is when the 65-day clock starts.

Councillor Zondervan said that the subject matter before the Committee is a Policy Order that does contain a proposed zoning petition, however, the entire Policy Order was referred to the Committee. He said that the City Council did not adopt the Policy Order, and therefore it has not turned into a zoning petition. He said that it is clear to him that the process will not be complete in this City Council term. He said that the Committee should refer this Policy Order back to the City Council and make a recommendation on it, and when it gets to the City Council, that City Council can vote to adopt it and turn it into a zoning petition and start the clock at that time. He said that the City Council may want to amend it because the current version does not introduce a job linkage fee. He said that the Committee should refer it back to the City Council and it will move the process through there.

Councillor Zondervan made the following motion:

ORDERED: That the Housing Committee refer Policy Order #5 from September 20, 2021 to the full City Council with a favorable recommendation.

Councillor McGovern said that Councillor Zondervan offered a possible amendment to include a job linkage fee. He said that the Committee should take up that amendment and potentially refer the Policy Order as amended. Councillor McGovern said that he is fine with referring it back to the City Council, but he would like it amended first.

Councillor Simmons clarified that the motion before the body is to forward the Policy Order to the City Council with a favorable recommendation, but she would like to hear what the linkage amendment would look like. She said that a favorable recommendation to forward the Policy Order back to the City Council with a favorable recommendation would be saying that the Committee is recommending increasing the linkage fee to \$30.00 (and change)/square foot. Attorney Glowa said that the proposal before the Committee is to increase the amount of the fee only. She said that if the City Council wanted to include

the job linkage fee requirement, that would have to be a new petition or new language that comprised the body of whatever that proposal is. She said that such language has not yet been prepared. She said that if it is the City Council's intent to include the job linkage element in the petition as it moves forward, there should be an opportunity for the City Council to ask to either draft itself, or have staff draft such language to bring back to the City Council for consideration. She clarified that if this Committee refers back the original proposal only to raise this fee and it is adopted by the City Council to be a zoning petition of the City Council and then referred to the Ordinance Committee and the Planning Board, then at that point, it could not be amended in such a substantive way without triggering the need for referring again to the Ordinance Committee and the Planning Board as a new petition essentially. She said that options are to either move forward without that change, or to make that change first and then forward the recommendation to the City Council. Councillor Simmons said that there will be two new City Council members in the next term. She asked Ms. Glowa if it would be an option to forward this back to the City Council without a recommendation in order to allow the new City Councillors to weigh in on this matter.

Councillor Sobrinho-Wheeler said that he is in support of a jobs linkage fee but he does not feel that it needs to be addressed at this time as there will be a separate process. He said that he feels that this should move forward with a favorable recommendation.

Vice Mayor Mallon said that she is in favor of moving it forward with no recommendation simply because the Committee has not discussed the \$34.00/sq foot as something that the Committee is in agreement with. She said that in terms of a job linkage fee, from this meeting and meeting minutes, could the Committee ask the Law Department to draft Home Rule legislation language and then refer it to the petition so that it could be heard together at the Ordinance Committee and Planning Board once it comes back to the full City Council together. Vice Mayor said that if the Committee does not want to wait for the meeting minutes to come to the City Council, it could be put in for Monday night, December 6th, and then refer to the petition should it pass. Councillor Simmons said that her suggestion is to bifurcate it and bring it in on Monday night that the Law Department investigate language on and around a linkage fee.

Councillor Simmons stated that the Committee will vote on Councillor Zondervan's motion which reads as follows:

ORDERED: That the Housing Committee refer Policy Order #5 from September 20, 2021 to the full City Council with a favorable recommendation.

The roll was called and resulted as follows:

| | | |
|---------|--|----|
| YEA: | Councillor Sobrinho-Wheeler and Councillor Zondervan | -2 |
| NAY: | Councillor Simmons, Vice Mayor Mallon, and Councillor McGovern | -3 |
| ABSENT: | | -0 |

and the motion Failed of Adoption.

Councillor McGovern made a motion to adjourn the hearing.

The roll was called and resulted as follows:

| | | |
|------|---|----|
| YEA: | Councillor Simmons, Councillor Sobrinho-Wheeler, Vice Mayor Mallon, Councillor McGovern, and Councillor Zondervan | -5 |
|------|---|----|

NAY:

-0

And the hearing was adjourned at 3:50 p.m.

For the Committee,

Councillor E. Denise Simmons, Co-Chair
Councillor Jivan Sobrinho-Wheeler, Co-Chair

That section 11.202(b) of Article 11.000 of the Zoning Ordinance, regarding the linkage fee, be amended by substitution (Ordinance #2021-20)

A communication was received from Councillor Simmons, transmitting opening remarks.

A communication was received from City Solicitor, Nancy E. Glowa, transmitting a response to Policy Order #5 of September 20, 2021.