



CITY OF CUPERTINO

DRAFT MINUTES

LEGISLATIVE REVIEW COMMITTEE

Friday, June 18, 2021

11:00 AM

SPECIAL MEETING

ROLL CALL

The meeting was called to order at 11:02 a.m.

Present: Vice Mayor Chao, Councilmember Moore, Interim City Manager Greg Larson, Assistant to the City Manager Katy Nomura, Townsend Public Affairs (TPA)

APPROVAL OF MINUTES

1. Subject: Consider approving the May 14, 2021 Legislative Review Committee minutes.
Recommended Action: Approve the May 14, 2021 Legislative Review Committee minutes

Councilmember Moore motioned to approve the May 14, 2021 Legislative Review Committee minutes. Vice Mayor Chao seconded. The motion carried unanimously.

POSTPONEMENTS

This item was not conducted.

PUBLIC COMMENT (including comments on all agenda items)

Jennifer Griffin expressed her concern of the housing bills.

AGENDA REVIEW

This item was not conducted.

ACTION ITEMS

2. Subject: Legislative Update
Recommended Action: Receive legislative update and provide any input

TPA explained that the Legislature passed AB 128, which is a budget bill that does not reflect an agreement with the administration on a final budget package. This bill has not been signed by the Governor and it is unlikely that it will be signed without a broader agreement in place. There are still ongoing negotiations about the final budget package that will continue hopefully before the end of the weekend. The legislature can continue

to work on budget trailer bills after the upcoming fiscal year passes. These bills flesh out the details of the budget on specific issues and programs after the budget has been adopted.

Currently, bills have moved out of the House of Origin and now we are in the Policy Committee process for bills that are in the Second House. The Policy Committee deadline for bills to move out of all Policy Committees in the Second House is July 14th. Then the Legislature will go on summer recess for a month and then they will come back for four more weeks to go through the Appropriations Committee and the final floor votes and then the legislative session will be over. This year the Pro Tem and the Speaker indicated that they only would allow members to move 12 bills out of each house. In total there were about 70 bills that made it out of the Appropriations Committee that did not get a floor vote. These bills become two-year bills and the bills that did get a floor vote will move along further in this legislative process.

AB 1091 (Berman), the bill that would change the composition of the VTA board, has become a two-year bill and will be back for consideration in January 2022. The housing bills from the Senate continue to move forward in the legislative process and will be evaluated in the Assembly in the next couple of weeks.

Councilmember Moore referenced SB 37 (Cortese) and explained that there are some sites within Cupertino that are listed on the broader list not just on the "Cortese List". She also mentioned that it is difficult to fully understand the impacts of this bill and that the definition of what it means to be on these lists is confusing for everyone.

Councilmember Moore asked TPA if SB 9 and SB 10 are likely to be passed into law. TPA explains that SB 9 passed out of the Local Government Committee and will go to the Housing and Community Development Committee, which it will most likely pass. TPA also thinks it will most likely pass out of the Appropriations Committee. SB 9 may face a harder time passing out of the Assembly floor, but if it does, it is likely that it will be signed by Governor Newsom. SB 10 did not pass out of the Appropriations Committee last year due to its complicated political dynamics and it is possible that it will also not pass this year because those dynamics may still exist this year.

Councilmember Moore would like to add ACA 7 to the Watch List. TPA explained that the LRC has taken a support position on ACA 7, but will add it to the existing Watch List.

Public Comment:

Jennifer Griffin asked about the Housing Accountability Unit from the Governor's Budget.

3. Subject: Update on positions taken by the League of California Cities (League) and the Cities Association of Santa Clara County (CASCC)

Recommended Action: Receive update on positions taken by the League and CASCC and provide any input

There are not many new bills that are getting new positions at this time in the legislative process. At this time, the organizations are mainly lobbying the positions they have already taken and working towards amendments. Vice Mayor Chao mentioned that she is on the Cities Association Legislative Action Committee and that they voted to oppose SB 9 with the cities of Mountain View and Los Altos abstained from opposing.

Public Comment:

Jennifer Griffin is concerned about SB 9 and its possible connection to SB 35.

4. Subject: Consider adopting a position on AB 989 (Gabriel) Housing Accountability Act:

Appeals: Housing Accountability Committee

Recommended Action: Adopt an oppose position on AB 989 and authorize the Mayor to send letters to the state legislature

TPA explains that this bill creates a Housing Accountability Committee (Committee) which would be in charge of reviewing appeals of affordable housing projects that are denied by local governments to determine if that denial violated the Housing Accountability Act (HAA). The membership would consist of eight members, but only six voting members. Two of those members are required to have a background in affordable housing, the other two are required to have a background in local government, and the last two could come from either of those categories. These members would be appointed by the Governor. If the Committee found that there was a violation of the HAA then the local government would be required to carry out the committee's decision within a 30 day window.

Vice Mayor Chao asked if the Committee members need to have a legal background. TPA says that is not a requirement.

Public Comment:

Jennifer Griffin is very concerned about this bill and the connection to the Housing Accountability Unit in the Governor's Budget. She believes this takes away lots of local control and strongly opposes this bill.

Councilmember Moore asked if the Committee members would be paid. TPA explains that the members would not necessarily be paid positions, but they may get paid on a

per meeting basis. Also, the Housing Accountability Unit in the Governor's Budget, though not connected to this bill, could be used to staff a committee like this and pay for the necessary costs. Councilmember Moore also highlighted the fact that there is already a court system in place that can overturn City decisions like this, which makes this bill redundant

The LRC expressed that Committee members should have legislative backgrounds and could be City Attorneys from various cities. It was also expressed that there should also be provisions in the bill that accounts for possible conflicts of interest. If the Committee is established, it should be able to appeal any approved or denied projects instead of just denied project. TPA explained that this bill does not allow a member of the public to appeal, only the developer, in order to fix this the bill would need to be broadened to allow a member of the public to make an appeal. It was expressed that Housing and Community Development is getting into a judicial role where they are trying to create their own court system and the cities will bear the cost.

Action Taken:

Councilmember Moore motioned to take an oppose position on AB 989 and authorize the Mayor to send letters to the state legislature. Vice Mayor Chao seconded, and the motion carried unanimously.

5. Subject: Consider adopting a position on AB 1401 (Friedman) Residential and commercial development: parking requirements
Recommended Action: Adopt an oppose position on AB 1401 and authorize the Mayor to send letters to the state legislature

TPA explained that this bill would prohibit local governments from enforcing local parking requirements for developments that are located near public transit. This bill has made it out of the Assembly and will be considered in the Senate Committees. This bill may relieve the need for parking concessions regarding Density Bonus Law. TPA clarified that this bill can apply to residential, commercial, and retail developments within the City.

Councilmember Moore mentioned that Density Bonus Law already has a mechanism in place for parking to be reduced in developments.

Public Comment:

Jennifer Griffin is very concerned with this bill and believes that adequate parking is essential for people with children, pets, and those who find it difficult to walk long distances.

Action Taken:

Councilmember Moore motioned to take an oppose position on AB 1401 and authorize the Mayor to send letters to the state legislature. Vice Mayor Chao seconded, and the motion carried unanimously.

6. Subject: Consider adopting a position on SB 60 (Glazer) Residential short-term rental ordinances: health or safety infractions: maximum fines
Recommended Action: Adopt a support position on SB 60 and authorize the Mayor to send letters to the state legislature

TPA explained that this bill would allow cities to impose increased fines for violations of a short-term rental ordinances from \$1300 to \$5000 for each violation within an additional year. This only applies to infractions that pose a threat to public health and safety and not for minor violations. There is an option for a hardship waiver for those who can prove they cannot pay the fines. This bill is currently on the Assembly floor awaiting consideration.

Public Comment:

Jennifer Griffin is concerned about the actions occurring at some short-term rentals and wants further state regulations.

Action Taken:

Vice Mayor Chao motioned to take a support position on SB 60 and authorize the Mayor to send letters to the state legislature. Councilmember Moore seconded, and the motion carried unanimously.

7. Subject: Consider adopting a position on SB 323 (Caballero) Local government: water or sewer service: legal actions
Recommended Action: Adopt a support position on SB 323 and authorize the Mayor to send letters to the state legislature

TPA explained that this bill would provide legal protections for public agencies which are also afforded to fees and charges for other governmental services. This would establish a 120 day statute of limitations for any lawsuit challenging a fee for water and sewer service beginning on the effective date for that fee or charge. This would apply for water and sewer fees that are enacted after January 1, 2022.

Councilmember Moore asked if there was Cares Act funding that went towards the local water district. TPA explained that AB 128, the recent budget bill, includes \$1 billion for utility arrearages. This money was requested by the Water Board but there is no information in the bill about how that money will be used/dispersed.

Vice Mayor Chao made a motion to take a support position on this bill, however, Councilmember Moore expressed that she would prefer to take a watch position. Vice Mayor Chao agreed.

Action Taken:

Councilmember Moore made a substitute motion to adopt a watch position on SB 323. Vice Mayor Chao seconded, and the motion carried unanimously.

8. Subject: Consider adopting a position on SB 290 (Skinner) Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints.
Recommended Action: Adopt an oppose position on SB 290 and authorize the Mayor to send letters to the state legislature

TPA explained that this bill makes changes to Density Bonus Law (DBL) to expand the types of developments that can benefit from DBL. This bill allows for moderate income housing developments that meet certain requirements to receive a parking reduction and repeals the ability for a local government to deny a concession or incentive because of specific adverse impacts on the physical environment. This bill includes student housing developments that contains at least 20% of their units for low-income students eligible for one incentive or concession. This bill is similar to SB 1085 (Skinner) from last year, which the City opposed.

Councilmember Moore asked if this bill would take away the City's ability to protect the resident's public health and safety. TPA explained that there could be negative impacts to public health and safety, but it depends on the development.

Councilmember Moore highlighted the fact that it is important for the City to be able to deny a project that will have negative impacts to air quality, noise, and other public health, and safety measures.

The LRC expressed that Cupertino does not need to loosen its Density Bonus Law because developers are already incentivized with unlimited waivers and concessions. The City also allows developers to provide smaller sized units of already limited below market rate housing compared to the size and quantity of the market rate units. They also had concerns regarding the health and safety impacts

Action Taken:

Councilmember Moore motioned to take an oppose position on SB 290 and authorize the Mayor to send letters to the state legislature. Vice Mayor Chao seconded, and the motion carried unanimously.

9. Subject: Consider adopting a position on SB 477 (Wiener) General plan: annual report
Recommended Action: Adopt an oppose position on SB 477 and authorize the Mayor to send letters to the state legislature

TPA explained that this bill expands the data collection requirements that would be required to file as part of the annual progress report to HCD each year. Beginning on January 1, 2024 local governments would have to aggregate data on the number of applications submitted, developments approved, and building permits issued on a number of new state laws. The annual progress report would also have to include additional information related to units done pursuant to ADU/JADU statute.

Public Comment:

Jennifer Griffin is concerned about this bill

The LRC expressed that the data collected should include the units that are approved, and the environmental issues raised and found after the project is streamlined. This data will help determine the real problems and reasons for rejecting projects. This will help improve legislation instead of continuing to produce laws that punish local governments and do not look at the whole picture.

Action Taken:

Vice Mayor Chao motioned to take an oppose position on SB 477 and authorize the Mayor to send letters to the state legislature. Councilmember Moore seconded, and the motion carried unanimously.

10. Subject: Online resources for the public to participate in the legislative process (Continued from February 26, March 12, and May 14 LRC meeting)
Recommended Action: Receive information on online resources for the public to participate in the legislative process and provide any input

TPA explained that residents can find helpful legislative resources at the City's Legislative Review Committee Website at: cupertino.org/lrc. Here there is information about upcoming LRC meetings and the bill positions that have been taken with their corresponding letters. Additional information can be found by clicking in the left side column link "Contact your Legislators". This page includes contact info for state and federal legislators, links to legislative organizations advocacy pages, and information on how to submit a letter to the state legislature.

Vice Mayor Chao would like to include information on the general legislative process and on how residents can check a bill status and text. It was also mentioned that there

could be some clarification on the quick links to denote the specific pages of the other organizations rather than just listing the organization.

Public Comment:

Jennifer Griffin is happy that the City has these resources available

FUTURE AGENDA SETTING

The LRC discussed scheduling the next meeting for July 23.

The LRC expressed interest in having the presentation provided with Item 10 delivered to Council before the end of the legislative session. At the next meeting, the LRC would like to discuss having a Town Hall meeting to explain the legislative process once the legislative session has ended. The timing of the Legislative Action Day in Sacramento was also discussed to take place sometime during the end of August.

ADJOURNMENT

The meeting was adjourned at 1:27 p.m.