



CITY OF CUPERTINO

DRAFT MINUTES

LEGISLATIVE REVIEW COMMITTEE

Thursday, March 24, 2022

11:00 AM

SPECIAL MEETING

ROLL CALL

The meeting was called to order at 11:00 a.m.

Present: Vice Mayor Chao, Councilmember Moore, Deputy City Manager Katy Nomura, Gonsalves & Son (G&S)

AGENDA REVIEW/ORDERS OF THE DAY

There were no changes to the Orders of the Day.

APPROVAL OF MINUTES

1. Subject: Consider approving the February 17, 2022 Legislative Review Committee minutes
Recommended Action: Approve the February 17, 2022 Legislative Review Committee minutes

Councilmember Moore motioned to approve the February 17, 2022 Legislative Review Committee minutes. Vice Mayor Chao seconded. The motion carried unanimously.

ORAL COMMUNICATIONS

Jennifer Griffin is concerned about ADU issues, specifically SB 897.

Steven Scharf is concerned about bills relating to ADUs, density bonus, and impact fees.

PUBLIC COMMENTS (Including comments on all agenda items)

This item was not conducted as the Chair decided to take public comments on agenda items when the agenda items were discussed.

ACTION ITEMS

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

On February 16, about 1500 bills were introduced, 600 of those were spot bills. These bills must be in print for 30 days, by March 16, before they become eligible to be heard. These bills are starting to move through the process and Committee deadlines for the House of Origin are coming up in May.

On the state budget, the Legislature is looking at a \$45.7 billion budget surplus, about \$20.6 billion is discretionary, and the rest will go to Prop 98 K-12 education, and pension. There is growing pressure for the Governor to address escalating gas prices. The position of the Governor and Legislature is not to suspend the gas tax. Moderate Democratic Assemblymembers proposed a \$400 per taxpayer rebate (\$9 billion total) for households with income tax up to \$250,000 The Speaker countered with a \$200 rebate per taxpayer. On March 23, the Governor proposed a \$400 rebate to each vehicle registered owner, up to two per household, regardless of income, estimated to cost a total of \$11 billion.

Between now and the house of origin deadline on May 20, we will see which bills are moving and viable within a 6–8-week period, due to the week-long Spring Recess. Senator Melendez had SCR 5 calling for the termination of the Governor’s emergency declaration for the COVID pandemic, but it failed on a party line vote. It’s important for us because we understood that remote meetings and flexibility contained in AB 361 was set to sunset on March 31. The Governor’s office opined that irrespective of March 31, we will still be under the emergency declaration and remote meetings will continue until the Governor declares an end to the Declared State of Emergency, which does not seem to be any time soon.

There’s a 27 percent turnover within the Legislature. So far, five members resigned in January, 20 won’t seek reelection, and there will be 33 new members in the Legislature after the November 2022 elections.

Vice Mayor Chao shared a slide from Cal Cities on the legislative process.

Councilmember Moore asked about the gas rebate and how it applies to electric vehicles. G&S said the Governor didn’t address EVs but provided \$1.6 billion for his EV incentive program. Councilmember Moore asks about the Gann limit and where the money comes from and how it interacts with Prop 98. G&S says that the Governor and Legislature are likely to hit the Gann limit threshold, but there a lot of ways to work

around it. Doing the rebate will likely preclude the Gann limit. There are three tests for Prop 98. The K-12 education gets up to 58% of every new dollar that comes from the state. Every year, that total becomes the minimum and it escalates from there.

Councilmember Moore was concerned about supply chain issue that affects truck fleet. G&S mentions that it is a very real and timely concern. This can, and already has, resulted in cargo being diverted elsewhere.

Vice Mayor Chao asked why surplus is not allocated for affordable housing and is concerned about the people at-risk of homelessness. G&S explained that the January budget will most likely change by the May revise as well as the June-July budget.

Councilmember Moore mentioned that the gas rebate has an underlying lower income limit, because some people can not afford to buy a vehicle and they will not be getting a rebate.

Public Comment

Jennifer Griffin spoke about the importance of returning to Council Chambers for transparency and public participation.

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

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

The League of Cities has not adopted positions on the ADU bills so their list of positions will be growing the closer we get to the May 20 deadline. It's early in the process and we are just beginning to see hearings on the bulk of bills. G&S submitted a report that noted all positions on each bill of the League, APA, and CASCC.

Councilmember Moore asked how the public can bring certain bills into the LRC agenda. Vice Mayor Chao explained that items can be brought up during the meeting and members of the public are always welcome to email the LRC to suggest bills for consideration at a future meeting.

Public Comment

Jennifer Griffin is concerned about SPUR and YIMBY.

4. Subject: Discuss Prioritizing the Legislative Platform
Recommended Action: Discuss and provide any input

Deputy Manager Katy Nomura said that this item was discussed at the last meeting, and it was added as an agenda item as an opportunity to discuss what the LRC really wants to focus on.

Councilmember Moore suggested LRC continue this item to see how bills change before LRC can say if it's a priority as it seems too early to tell right now.

Vice Mayor Chao explained that she wants to focus on the housing issue because that is an area where the local government voice is ignored.

Vice Mayor Chao mentioned that public safety is also important for the City, along with advocacy issues like environmental, but LRC has not focused much on those issues.

The LRC agreed to continue this item to the next meeting.

5. Subject: Position on Assembly Bill 1603 (Salas) Theft: Shoplifting
Recommended Action: Adopt a watch position on AB 1603.

G&S explained that this bill, relating to shoplifting, smash and grabs, and public safety, is of keen interest to local governments and law enforcement. This bill would also amend Prop 47, which would have to go back to the voters. This bill was heard but failed passage with a 2-4 vote. Though the bill failed passage in committee, but the next day eight co-authors added on to the bill so it will be heard for reconsideration and the author is strongly pushing for this legislation.

Deputy City Manager, Katy Nomura, explained that there is a recommended watch position because the LRC legislative platform has a very specific monitor language that states, "monitor legislation related to organized retail theft as well as modifications to the definitions of petty theft and petty theft value limit"

Action Taken

Councilmember Moore motioned to adopt a Watch position for AB 1603. Vice

Mayor Chao seconded. The motion carried unanimously.

Public Comment

Jennifer Griffin said this is a very important bill because she is a customer of a small business in San Jose whose window shop has been broken for third time.

6. Subject: Consider adopting a position on Assembly Bill 2449 (Rubio) Local Agencies: Teleconferences
Recommended Action: Adopt a support position on AB 2449 and authorize the Mayor to send letters to the state legislature

G&S explains that given the new norm and access to public meetings, a hybrid system will be adopted by many agencies. These bills related to teleconferencing seek to provide flexibility in response to AB 361. As an example, under current law officials have to state their location if you're phoning in which is problematic for members of the public and the elected representatives, councilmembers, State Legislators, and the like.

G&S said there are also personal safety concerns with those disclosures. As an example, during COVID discussions, members of the legislature and the local level have been threatened at their personal residences by those disclosures. Vice Mayor Chao asked if the City has to adopt an ordinance for the bill to take effect for any public meeting. Deputy City Manager, Katy Nomura, said the municipal code states members need to be in person so it would have to be amended if the bill is passed.

Public Comment

Jennifer Griffin is concerned about changing the Brown Act and said that anyone joining a meeting by phone must register in the City and residents and nonresidents must identify themselves because there are public comments from people who are nonresidents.

Vice Mayor Chao said that legally anyone has the right to come to these meetings and speak and are not legally required to disclose their names or location.

Action Taken

Councilmember Moore motioned to adopt a support position on AB 2449 and

authorize the Mayor to send letters to the state legislature. Vice Mayor Chao seconded. The motion carried unanimously.

7. Subject: Consider adopting a position on AB 1944 (Lee and Garcia) Local Government: Open and Public Meetings
Recommended Action: Adopt a support position on AB 1944 and authorize the Mayor to send letters to the state legislature

Similar to AB 2449, this bill seeks to provide flexibility in response to AB 361 to continue the ability to have teleconference meetings. AB 1944 and AB 2449 will most likely be moving together.

Deputy City Manager, Katy Nomura added that to require teleconferencing will require more staffing in IT and the City is doing what it can in a virtual setting but to hold hybrid meetings to accommodate both in person and virtual is much more complicated.

Councilmember Moore asked about the differences between AB 2449 and AB 1944 and how it will be resolved if both bills pass. G&S said either there can be a chaptering out of amendments that will state neither bill cancels one another, or the last bill signed will be the law. The chaptering out amendment is more likely. G&S clarified that the Brown Act does not apply to the Legislature so neither bill would affect members of the Legislature.

As to the “last bill signed”, Councilmember Moore asked if the Governor will order bills a certain way before signing. G&S said the Governor will catch the conflict and consider that in the order of signing.

Public Comment

Jennifer Griffin commented that she would feel more comfortable if elected politician would not need to disclose their home location but should disclose their city, state, or country.

Action Taken

Councilmember Moore motioned to adopt a support position on AB 1944 and authorize the Mayor to send letters to the state legislature. Vice Mayor Chao seconded. The motion carried unanimously.

8. Subject: Consider adopting a position on SB 1100 (Cortese) Open Meetings:

Orderly Conduct

Recommended Action: Adopt a support position on SB 1100 and authorize the Mayor to send letters to the state legislature

G&S explained that this bill is a response to some disruptions wherein council meetings and legislative meetings have been forced to shut down because of disorderly conduct that took place. This bill seeks to amend the Brown Act and provide the local electeds a process to have orderly conduct if there are disruptions in a meeting.

Councilmember Moore is concerned about the bill's language and is wondering what "disruptive behavior" means. As written, she prefers to watch the bill especially after seeing what the VTA has done, and their mindfulness with First Amendment rights that they don't want to remove people from participating and making comments after they were given the rules and guidelines. There are legal reasons for VTA's approach. She proposed the City set up something similar but she's not sure about a support position.

G&S said they put a support as requested by the City's local legislators and local agencies sponsored by CSAC and statewide association of counties. The analysis noted that the City has the police power to deal with criminal behavior, so either a watch or support make sense.

Vice Mayor Chao concurred with the watch position and said the Brown Act already has language that disallows disorderly conduct.

Public Comment

Jennifer Griffin asked why we are altering the Brown Act and what would it do for this bill.

Action Taken

Councilmember Moore motioned to adopt a watch position on SB 1100. Vice Mayor Chao seconded. The motion carried unanimously.

9. Subject: Consider adopting a position on Assembly Bill 2762 (Bloom) Housing: Parking Lots

Recommended Action: Adopt an oppose position on AB 2762 and authorize the Mayor to send letters to the state legislature

This bill preempts local control by prescribing that local agencies build affordable housing units in parking lots, which can limit access to parks and other open space areas. It is an overarching preemption of the local land use authority.

Public Comment

Jennifer Griffin is concerned about the loss of parking lots.

Action Taken

Councilmember Moore motioned to adopt an oppose position on AB 2762 and authorize the Mayor to send letters to the state legislature. Vice Mayor Chao Seconded. The motion carried unanimously.

10. Subject: Consider adopting a position on the AB 2164 Disability Access
Recommended Action: Adopt a support position on AB 2164

G&S explained that this bill seeks to provide funding and flexibility to assist small businesses in complying with ADA access requirements. It is sponsored by the City of San Jose and a number of business properties association support and business chambers request support. This bill was brought to the City's management team by the City's local chamber.

Vice Mayo Chao asked if the City currently collects ADA fees. Deputy City Manager, Katy Nomura affirmed. Under the legislative platform, the City supports funding for disabilities and vulnerable populations and help the business community have a source of funds to bring their establishments into compliance.

Councilmember Moore said she expected the bill to address the predatory ADA lawsuits against businesses, so she proposes a watch position now until there is further analysis. G&S confirmed that this bill doesn't address the aforementioned lawsuits. Senator Steinberg sought to address this several years ago but only curtailed it and not put an end to it.

Deputy City Manager, Katy Nomura, clarified that the current law reduced the fee from \$4 to \$1 and this bill would make the \$4 fee indefinite. The LRC would like to learn more information about the fees for this item and would like to bring it back to the next meeting.

Action Taken

Councilmember Moore moved to adopt a watch position on AB 2164. Vice Mayor Chao seconded. The motion carried unanimously.

Public Comment

Jennifer Griffin said ADA access varies by county and there should be money to help accommodate disability access.

11. Subject: Consider adopting a position on the California Plastic Waste Reduction Regulations Initiative
Recommended Action: Adopt a support position on the California Plastic Waste Reduction Regulations Initiative and authorize the Mayor to send letters to the state legislature

G&S reported that this has qualified and will go to the voters in November. The LRC requested to postpone this item for the next meeting.

12. Subject: Discuss Special LRC Meeting: Legislative Process 101
Recommended Action: Discuss the presentation

Deputy City Manager, Katy Nomura explained that this event is set for March 29 at 6 p.m. It's a presentation by G&S and will be recorded for the LRC website. The topics are: Overview of the Legislative Process; How the members of the public can engage; How the City engages with examples of bills. She invited the public to attend. There will be time for a Q&A at the end.

Public Comment

Jennifer Griffin is looking forward to the presentation.

FUTURE AGENDA SETTING

The public Legislative Process 101 will be held on March 29 at 6 p.m. The next LRC meeting is set for May 31 at 11 a.m. and will include: the California Plastic Waste Reduction Initiative; AB 2164; bills on ADUs; bills on impact fees; and issues on homelessness.

ADJOURNMENT

The meeting was adjourned at 1:24 pm.