



# CITY OF CUPERTINO

## DRAFT MINUTES

### LEGISLATIVE REVIEW COMMITTEE

Friday, May 22, 2020

10:00 AM

### SPECIAL MEETING

#### ROLL CALL

The meeting was called to order at 10:05 a.m.

Present: Mayor Scharf, Councilmember Chao, City Manager Deborah Feng, Assistant to the City Manager Katy Nomura, Townsend Public Affairs (TPA)

#### APPROVAL OF MINUTES

1. Subject: Minutes from April 17, 2020  
Recommended Action: Approve minutes from April 17, 2020

Councilmember Chao moved to approve the April 17<sup>th</sup> Legislative Review Committee minutes. Mayor Scharf seconded. The motion carried unanimously.

#### ORAL COMMUNICATIONS

Jennifer Griffin is happy that the City had a special meeting on Plan Bay Area 2050

#### PUBLIC COMMENT

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

#### 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 came back to session a few weeks into May and has been out of session since mid-March. Since the Senate and the Assembly came back to session at separate times, they are both on different legislative schedules. The Assembly

will wrap up their fiscal bills and policy committee hearings today, May 22<sup>nd</sup>. The Senate is a week behind the Assembly since they started a week after. The Assembly will have their summer recess from June 19- July 13 and the Senate from July 4-July 13. Each policy committee is holding only one hearing. The number of bills being considered during these hearings are greatly reduced from previous years. Normally about 75-80% of bills would get a hearing and this year about 30-40% of bills are getting hearings. This does not necessarily mean that bills that do receive a hearing are more likely to pass.

The Governor's May Revise budget was released a week ago. The May Revise is a drastically different budget than what was proposed in January. The state is working to fill a hole of about \$54 billion, which includes current year budget impacts related to COVID-19 related spending. The governor has proposed a mix of solutions to address that budget gap, which fall into five broad categories. First, the Governor proposes the cancellation of expansion of programs or other new programs, which will relieve about \$8.5 billion. Second, the Governor proposes to access the entire \$16 billion rainy day fund over the next 3 fiscal years. Third, the Governor proposes to borrow \$10 billion in transfers and deferrals to resolve cash flow issues. Fourth, the Governor proposes two new revenue streams including temporarily suspending the ability for net operating losses and limiting the amount of tax credits that a taxpayer can use in a given tax year. These will generate about \$4.4 billion for this year. Fifth, the Governor proposes triggered spending reductions of about \$14 billion. The May Revise does have a proposal that would provide \$450 million of CARES Act funding directly to cities. This money would be split in half with \$225 million going to the cities with a population over 300,000. The rest will go to cities with a population below 300,000. Currently the legislation has been holding hearings on the budget. The Senate Budget Committee will meet to unveil their recommendations on the May Revise by the end of next week. The budget still has to pass by June 15<sup>th</sup> as stated in the Constitution.

The housing bill package that aimed to reassess impact fees is gone. AB 725 (Wicks) and AB 1279 (Bloom) are measures that would modify zoning requirements and are currently in the second house which means that they will not be considered until other bills pass out of their house of origin. Mayor Scharf mentions that the Santa Clara County Cities Association took an oppose position on AB 1279 last week.

TPA predicts that AB 1924 (Grayson) regarding housing development fees is unlikely to move forward. AB 2093 (Gloria) is a reintroduction from last year that was vetoed by the Governor. This bill is eligible to move forward, but it is unclear whether the author or the committee will like to move it forward. AB 3173 (Bloom) regarding microunit buildings is not likely to move forward since it has not yet been set for a hearing.

There was a Senate housing production package that came out on Wednesday May 20,

2020. There are five bills in this package as well as one budget proposal. SB 995 is targeted at providing CEQA relief for housing projects and would provide expedited CEQA judicial review. SB 1085 modifies density bonus laws and creates concessions as incentives for developers based on the number of affordable units in the project. SB 1120 would create ministerial approval processes for duplexes and lot splits. SB 1385 is looking to increase land available for residential development by unlocking areas zoned for commercial and office areas to potentially accommodate housing. SB 902 is one of the bills in this package that has been heavily amended. This package also includes a budget proposal which would create a renter-landlord stabilization program that would allow them to resolve unpaid rent during the COVID-19 pandemic. This would require both parties (renter and landlord) to agree to enter into the program. The state would pay about 80% of the back due rent to the landlord in the form of tax credits that could be used in the next five years.

*Public Comment:*

Jennifer Griffin is concerned about the bills in the housing package.

Councilmember Chao asks about AB 3155, which is currently in the Senate Appropriations Committee. This bill applies only to projects with 10 or fewer units. The single use plastic bills have until the last night of session to be considered since they made it all the way to the floor of the second house last year. These will most likely come back after the senate returns from their summer recess. There is a bill that has PG&E related provisions that allows the State to assume PG&E's service area if certain safeguards and thresholds are not met. SB 5 has turned into an economic recovery proposal but still requires \$10 billion from the general fund, which is not likely to pass under these hard-economic times.

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 in positions taken by the League and CASCC and provide input

TPA explains these updates reflect positions taken from the League and CASCC. For the most part these entities have not taken new positions on housing related bills. The full list of positions taken from the League and CASCC can be viewed in the meeting materials.

4. Subject: Consider adopting a position on SB 899 (Wiener) - Housing development: non-profit hospitals or religious institutions  
Recommended Action: Adopt a watch position for Senate Bill 899 (Wiener) - Housing development: non-profit hospitals or religious institutions

TPA explains that this bill would require housing development be a use by right at the request of a non-profit hospital, non-profit nursing home, or religious institution that partners with the qualified developer on the land owned by the applicant. An amendment was made that it includes independent institutions of higher education. The LRC is concerned with the possible overlays of the density bonus laws and its close proximity to single family homes. However, the LRC likes that this bill requires 100% affordable units.

The LRC agreed to take a support if amended position on this bill. They would like to see the bill amended to include a height limit for land near single family homes to address privacy concerns. They also do not want projects under this bill to be allowed to apply density bonus law.

*Public Comment:*

Jennifer Griffin does not support this bill and is concerned about the impact on neighborhoods.

Kitty Moore is concerned that this bill includes private institutions.

*Action Taken:*

Councilmember Chao makes a motion to adopt a support if amended position for SB 899 with the discussed amendments and authorize the Mayor to review and send a letter of support to the state legislature. Mayor Scharf seconds. The motion passes unanimously.

5. Subject: Consider adopting a position on SB 1299 (Portantino) - Housing Incentives: Rezoning of idle retail sites  
Recommended Action: Adopt a support position for Senate Bill 1299 (Portantino) - Housing Incentives: Rezoning of idle retail sites and authorize the Mayor to send a letter of support to the state legislature

TPA explains that this bill would require the Department of Housing and Community Development (HCD) to administer a program to provide grants to local governments that elect to rezone idle sites that have been previously used for commercial retail to allow by right workforce housing. This is a voluntary program that is aimed at eliminating financial disincentives to allow these types of projects. This bill is contingent on funding appropriations by the legislature. In order to qualify for the grant, local governments must first rezone the land, approve and issue a certificate of occupancy for workforce housing, then they can apply for the funding. The amount of the grant provided to local governments would be equal to the amount of the sales and use taxes that have been generated by that site over the previous seven years. The local government would receive that amount for the seven years following the application. This bill will be considered by the Senate Housing committee next week and if it is approved it will move to the Senate Appropriations committee, which is chaired by Senator Portantino, the author of this bill. TPA explains that "workforce housing" is

defined as owner occupied or rental housing with affordable housing made of household income equal to 80% but not to exceed more than 120% of the area median income.

*Public Comment:*

Jennifer Griffin does not agree with this bill and wants more retail.

Mayor Scharf and Councilmember Chao mention that this bill would not require cities to rezone since it is purely on a voluntary basis. TPA mentions that this bill defines “idle” to mean that at least 80% of the leased or rentable square footage has not been occupied for at least a year.

*Action Taken:*

Councilmember Chao makes a motion to adopt a support position for SB 1299 and authorize the Mayor to send a letter of support to the state Legislature. Mayor Scharf seconds. The motion passes unanimously.

6. Subject: Consider adopting a position on SB 939 (Wiener) - COVID-19: commercial tenancy evictions

Recommended Action: Adopt a support position for Senate Bill 939 (Wiener) - COVID-19: commercial tenancy evictions and authorize the Mayor to send a letter of support to the state legislature

TPA explains that this bill is a response to tenants of commercial property that are being impacted by the COVID-19 pandemic. This bill would prohibit evictions from commercial property including businesses and nonprofit organizations while the COVID-19 State of Emergency is in effect. This bill would create penalties for eviction or harassment of tenants which will be punishable by fines. This bill would not prohibit the continued eviction that lawfully began prior to the pandemic. In addition, it authorizes small business owners that meet certain qualifications to negotiate their lease provisions with their landlord. If negotiations can't be reached, then this bill would allow the tenants to terminate the lease. This is an urgency bill so it will go into effect if and when it is signed into law. Its provisions would be in effect until the end of 2021 or when the State of Emergency ends, whichever is later.

There are provisions for which businesses would qualify. These businesses are required to show a decline in monthly revenue of at least 40% as compared to the 2 months prior to the shelter in place order or as compared to the same month as 2019. Restaurants and entertainment industries must also show a 25% or more decline in capacity. This bill does not relieve obligations for business owners to pay rent. This bill focuses on stopping evictions on businesses.

*Public Comment:*

Kitty Moore does not feel this bill is necessary but does not see a problem with this bill since it does not include a provision to forgive rent payments.

Jennifer Griffin does not trust this bill.

Lisa Warren explains that bills are normally sponsored, not written, by the legislators.

*Action Taken:*

Mayor Scharf makes a motion to adopt a support position for SB 939 and authorize the Mayor to send a letter of support to the state legislature. Councilmember Chao seconds. The motion passes unanimously.

7. Subject: Consider adopting a position on SB 1410 (Gonzalez) - COVID-19 Emergency Rental Assistance Program

Recommended Action: COVID-19 Emergency Rental Assistance Program and authorize the Mayor to send a letter of support to the state legislature

TPA explains that this bill would establish the COVID-19 Emergency Rental Assistance Program to provide rent relief for individuals affected by the pandemic. This program will provide rental payments for households that can demonstrate the inability to pay all or part of the rent between April 1<sup>st</sup> to December 31<sup>st</sup>, 2020. In order to participate, the owner of the dwelling unit must participate in this program. The bill would require the payments to be of at least 80% of the amount of the rent owed. This bill would prohibit any owner that participates in this program to increase rent or charge late fees.

The LRC is concerned that this bill will be too costly since it does not take into consideration a household's total assets. TPA mentions that the City could move to a support if amended position or watch position since this proposal is not included in the Governor's May revise and still needs to be considered by the Appropriations committee.

*Public Comment:*

Jennifer Griffin wonders how this bill would apply across the state when there are drastically different income and affordability levels throughout California.

Kitty Moore agrees with the LRC's concern and wonders who will be responsible for the administering this bill.

TPA explains that the fiscal estimate of the total cost for this bill will be established at the appropriations committee. Senator Gonzalez is a representative for the Long Beach area in southern California and is very much in support of the working class. TPA

explains that the resources will be disproportionately allocated to certain areas in California based on income levels and cost of living.

*Action Taken:*

Mayor Scharf makes a motion to adopt a watch position on this bill. Councilmember Chao seconds. The motion carries unanimously.

8. Subject: Support legislative initiatives to secure funding and relief related to COVID-19  
Recommended Action: Authorize the Mayor, in consultation with the City Manager, to support and send letters regarding legislative initiatives to secure funding and relief related to COVID-19 that would benefit the Cupertino community

Assistant to the City Manager, Katy Nomura, explains that this action will allow the City to support legislative initiatives to secure funding and relief related to COVID-19. By authorizing the Mayor to send letters in consultation with the City Manager, the City will be able to show its support for COVID-19 related initiatives quicker and more efficiently. If the Mayor or the City Manager find that a bill is potentially controversial, the bill will be brought to the LRC.

*Public Comment:*

Kitty Moore asks if the letters will be specific or more general.

Katy explains that the letters will depend on the bill or initiative that the City wants to support. The main purpose is to send letters of support that would provide funding and relief to Cupertino. The LRC agreed to add the words “not controversial” to the motion for clarity.

*Action Taken:*

Mayor Scharf makes a motion to authorize the Mayor, in consultation with the City Manager, to support and send letters regarding legislative initiatives that are not controversial to secure funding and relief related to COVID-19 that would benefit the Cupertino community. Councilmember Chao seconds. The motion carries unanimously.

## **FUTURE AGENDA SETTING**

At the next meeting, the LRC plans to discuss SB 902, SB 995, SB 1085, SB 1120, SB 1385, AB 725, AB 3155, and AB 1279. The next LRC meeting is scheduled for June 19 at 8 a.m.

## **ADJOURNMENT**

The meeting was adjourned at 12:35 p.m.