



CITY OF CUPERTINO

APPROVED MINUTES

LEGISLATIVE REVIEW COMMITTEE

Monday, June 22, 2020

8:00 AM

SPECIAL MEETING

ROLL CALL

The meeting was called to order at 8:06 a.m.

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

APPROVAL OF MINUTES

1. Subject: Minutes from May 22, 2020
Recommended Action: Approve minutes from May 22, 2020

The Mayor makes a motion to approve the minutes from May 22. Councilmember Chao Seconds. The motion carries unanimously.

2. Subject: Minutes from June 2, 2020
Recommended Action: Approve minutes from June 2, 2020

The Mayor makes a motion to approve the minutes from June 2. Councilmember Chao Seconds. The motion carries unanimously.

POSTPONEMENTS

None

ORAL COMMUNICATIONS

Jennifer Griffin is concerned that the terms “ministerial” and “by-right” have not been defined or explained by the state legislature.

Lisa Warren provides zoom meeting troubleshooting tips.

PUBLIC COMMENT (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.

AGENDA REVIEW

This item was not conducted

ACTION ITEMS**3. Subject: Legislative Update**

Recommended Action: Receive legislative update and provide any input

TPA explains that the Assembly is on summer recess until July 13. The Senate will be adjourning for summer recess next week right before the 4th of July weekend. Conversations and negotiations on budget have continued over the weekend. Currently the legislators are waiting for the final approval of the State Budget, which will most likely be signed in a few days.

4. 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 input

TPA provided a matrix of bill positions that have been taken by the League and CASCC. The matrix can be viewed in the agenda packet.

5. Subject: Consider adopting a position on Senate Bill 902 (Wiener) - Housing development: density

Recommended Action: Adopt a support if amended position on SB 902 and authorize the Mayor to send letters to the state legislature

TPA explains that this measure is part of the Senate democrats housing package and has faced many amendments. The provisions related to two, three, and four-plexes have been removed. Currently, this bill would allow local governments to pass an ordinance to rezone any parcel with up to 10 units of residential density at a height specified by the local government. In order for a parcel to be eligible, it would need to be an infill near a high-quality transportation area or in a jobs rich area. This bill is not a requirement because the decision to pass an ordinance is at the discretion of the local government. This bill allows local governments to approve this ordinance even if voters have approved a ballot measure that would be contrary to the ordinance.

The Mayor explains that local governments already have the right to rezone their land. TPA explains that this bill would also provide CEQA exemptions on the ordinance, but mainly, this bill brings the local control element to the broader democratic housing bill package. This bill aims to counteract some of the Article 34 issues that historically have been used to restrict housing in certain communities. There has been discussion in the legislature to place a measure on the ballot to repeal Article 34, however it is not there

yet.

The Mayor and Councilmember Chao appreciate the amendments made by Senator Wiener, however they do not want to support this bill because of the provision that would allow the City to override any voter approved ballot measure that contradicts the ordinance. Because of this reason, the LRC decided that instead of taking a support if amended position, they would take an oppose unless amended position on this bill.

Public Comment:

Jennifer Griffin does not support this bill

Action Item:

The Mayor made a motion to adopt an oppose unless amended position on SB 902 and authorize the Mayor to send letters to the state legislature. Councilmember Chao seconded. The motion carried unanimously.

6. Subject: Consider adopting a position on Senate Bill 995 (Atkins) - Jobs and Economic Development Through Environmental Leadership Act of 2011: housing projects. Recommended Action: Adopt a support position on SB 995 and authorize the Mayor to send letters to the state legislature

TPA explains that this measure would amend the Jobs and Economic Development Through Environmental Leadership Act of 2011 (Act), which allows the judicial streamlining of CEQA challenge cases. This bill would modify some of the provision of the Act in an effort to allow more housing projects to qualify for the provisions of this act. Currently, the minimum state investment under the Act is \$100 million, and this bill would bring that down to \$15 million. This bill would also add a required 15% affordable component, which is not included in the Act currently.

Mayor Scharf and Councilmember Chao believe that reducing the minimum state investment from \$100 million to \$15 million is not enough if the state wants to incentivize the construction of affordable housing. The Mayor wants to take a support if amended position and would like to specify in the letter that the state investment should be proportional to the project size.

Public Comment:

Jennifer Griffin does not support the housing bill package.

Lisa Warren states that Toni Atkins wife is a developer.

Action Taken:

The Mayor made a motion to adopt a support if amended position on SB 995, with the recommendations stated above, and authorize the Mayor to send letters to the state legislature. Councilmember Chao seconded. The motion carried unanimously.

7. Subject: Consider adopting a position on Senate Bill 1085 (Skinner) - Density Bonus Law

Recommended Action: Adopt an oppose position on SB 1085 and authorize the Mayor to send letters to the state legislature

TPA explains that this bill would modify density bonus law to provide additional developer incentives or concessions for projects with moderate income units.

Public Comment:

Jennifer Griffin opposes this bill.

Action taken:

The Mayor made a motion to adopt an oppose position on SB 1085 and authorize the Mayor to send letters to the state legislature. Councilmember Chao seconded. The motion carried unanimously.

8. Subject: Consider adopting a position on Senate Bill 1120 (Atkins) - Subdivisions: tentative maps

Recommended Action: Adopt an oppose position on SB 1120 and authorize the Mayor to send letters to the state legislature

TPA explains that this bill would require cities and counties to do a ministerial permit for duplexes if the project meets certain circumstances. This bill would also allow ministerial approval of lot splits that meet certain provisions. This bill also includes language that would not require cities to ministerially approve ADU's that have been subject to these provisions.

Public Comment:

Jennifer Griffin opposes this bill and lot splits.

Action taken:

The Mayor makes a motion to adopt an oppose position on SB 1120 and authorize the Mayor to send letters to the state legislature. Councilmember Chao seconded. The motion passes unanimously.

9. Subject: Consider adopting a position on Senate Bill 1385 (Caballero) - Local planning: housing: commercial zones
Recommended Action: Adopt an oppose position on SB 1385 and authorize the Mayor to send letters to the state legislature

This measure would allow cities to put housing in underutilized commercial areas. This would allow for residential/mixed use development under certain areas zoned for commercial, retail, office that are underutilized. The bill has been slightly amended to specify that developments under these provisions are prohibited from included any type of hotel, motel, or short-term rental in the project. TPA explains that developments that meet additional requirements could receive SB 35 streamlining, which is why TPA recommended for the City to oppose this bill.

Public Comment:

Jennifer Griffin opposes this bill.

Action taken:

The Mayor makes a motion to adopt an oppose position on SB 1385 and authorize the Mayor to send letters to the state legislature. Councilmember Chao seconded. The motion passes unanimously.

10. Subject: Consider adopting a position on Senate Bill 1431 (Glazer) - Property taxation: reassessment: disaster relief
Recommended Action: Adopt an oppose position on SB 1431 and authorize the Mayor to send letters to the state legislature

TPA explains that this measure is dead and will no longer be moving this year.

Public Comment:

Jennifer Griffin asks if this could come back next year as a two-year bill. TPA explains that SB 1431 cannot come back, but a new bill that does the same thing could be introduced.

Action taken:

None.

11. Subject: Consider adopting a position on Assembly Bill 725 (Wicks) - Moderate-income and above moderate-income housing
Recommended Action: Adopt an oppose position on AB 725 and authorize the Mayor to send letters to the state legislature

TPA explains that this is a two-year bill that was introduced last year. This bill amends the housing element law to require zoning for multifamily, moderate, and above moderate-income housing. This bill states that at least 25% of a regional share would need to be at least two units of housing, but no more than 35 units per acre.

TPA recommended that the City oppose this bill due to the requirement on how to allocate RHNA on moderate housing, which may encourage more dense development instead of what might otherwise be single-family zoning.

Public Comment:

Jennifer Griffin opposes this bill.

Action taken:

The Mayor makes a motion to adopt an oppose position on AB 725 and authorize the Mayor to send letters to the state legislature. Councilmember Chao seconded. The motion passes unanimously.

12. Subject: Consider adopting a position on Assembly Bill 1279 (Bloom) - Planning and zoning: housing development: high-opportunity areas
Recommended Action: Adopt an oppose position on AB 1279 and authorize the Mayor to send letters to the state legislature

TPA explains that this bill was introduced last year and is currently being considered by the Senate. This bill would require HCD to designate areas in the state as high opportunity areas, based on high resource maps. TPA recommended for the City to adopt an oppose position due to the issues with by-right housing and high opportunity areas in the past.

Action taken:

The Mayor makes a motion to adopt an oppose position on AB 1279 and authorize the Mayor to send letters to the state legislature. Councilmember Chao seconded. The motion passes unanimously.

13. Subject: Consider adopting a position on Assembly Constitutional Amendment 25 (Mullin) - State of emergency: remote legislative proceedings
Recommended Action: Adopt a watch position on ACA 25

TPA explains that this measure is a constitutional amendment, which means that if approved by a 2/3 majority in the legislature then it would require voter approval. This measure would provide more flexibility to state legislators to operate remotely during the current state of emergency from COVID-19 by allowing legislators to work remotely and vote by proxy. This measure has been amended to remove a provision that would have allowed the legislature to suspend some of their requirements for recording

proceedings, which were approved by voters.

Public Comment:

Jennifer Griffin recommends watching this bill.

Action taken:

The Mayor makes a motion to adopt a watch position on ACA 25. Councilmember Chao seconded. The motion passes unanimously.

14. Subject: Review Assembly and Senate Constitutional Amendments

Recommended Action: Discuss and provide and direction regarding Assembly and Senate Constitutional Amendments

TPA explains that constitutional amendments are unique because they aren't subject to the same schedule as other bills. They still need to be placed on the ballot in time for any upcoming election, because they all require voter approval. TPA provided a matrix of any upcoming constitutional amendments, which can be viewed within the agenda packet. The following are the main measures being discussed in the state legislature:

- ACA 4: Elections: voting age: Would permit a 17-year old who will be 18 by time of the next general election to vote at any primary or special election that occurs before the next general election.
- ACA 5: The California Constitution, pursuant to provisions enacted by the initiative Proposition 209 in 1996, prohibits the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. This measure would repeal these provisions.
- ACA 6: Elections, disqualification of voters: Would direct the Legislature to provide for the disqualification of electors who are serving a state or federal prison sentence for the conviction of a felony. This measure would also remove the requirement that the Legislature provides for the disqualification of electors while on parole for the conviction of a felony. The measure would provide for the restoration of voting rights upon completion of the prison term.
- SCA 6: Gambling: sports wagering. Would authorize regulated and taxed sports wagering, including online or mobile sports wagering, operated by horse racetracks and federally recognized Indian tribes, as specified.

In most years, it is normal to have about 12-15 constitutional amendments introduced, but most don't make it on the ballot. Generally, cities get involved with constitutional amendments if it directly affects them, but in the end, they all have to be approved by the voters.

There are some housing related measures, but they will face heavy amendments and are not likely to receive a 2/3 majority vote. TPA will know what exactly will be on the ballot more once the votes have occurred and they pass out of the legislature.

FUTURE AGENDA SETTING

The next LRC meeting is scheduled for July 24, 2020 at 8:00 a.m.

ADJOURNMENT

The meeting adjourned at 9:51 a.m.



Astrid Robles, City Manager's Office