



COUNCIL AGENDA: 04-24-07  
ITEM: 3.7

## *Memorandum*

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**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Lee Price, MMC  
City Clerk

**SUBJECT:** PROPOSITION 1C - LEGISLATIVE GUIDING PRINCIPLES  
**DATE:** April 18, 2007

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### **RECOMMENDATION**

As recommended by the Rules and Open Government Committee on April 18, 2007, approve a general set of "guiding principles" for the creation of programs related to Proposition 1C as outlined in the attached memo previously submitted to and approved by the Rules & Open Government Committee.



# Memorandum

**TO: RULES AND OPEN GOVERNMENT COMMITTEE** FROM: Leslye Krutko

**SUBJECT: PROPOSITION 1C - LEGISLATIVE GUIDING PRINCIPLES** DATE: April 13, 2007

Approved

*Kay Winer*

Date

*4/13/07*

Council District: All

## RECOMMENDATION

It is recommended that the Committee recommend that the City Council:

1. Approve a general set of "guiding principles" for the creation of programs related to Proposition 1C. Implementing legislation should allow San José the opportunity to successfully compete for these future funds, which will help address the City's need for more housing, parks, and transit-oriented development; and,
2. The City administration work closely with the California State Legislature on the development of enabling legislation for the four programs not yet defined under Proposition 1C once the guiding principles are approved.

## OUTCOME

If the Mayor and City Council approve the administration's recommended "guiding principles," the City's Lobbyist in Sacramento will continue to work with the various stakeholders and Legislative offices to ensure that the City Council's priorities are represented in legislation being considered by the Legislature.

## BACKGROUND

In 2002, California voters recognized the strong need for more affordable housing and approved a Statewide Housing Bond, Proposition 46, for \$2.1 billion. The City of San José received nearly \$50 million in funding through this source for affordable housing development, homeownership, capital infrastructure needs, code enforcement, and accessibility improvements through this bond program.

On November 7, 2006, the voters of California approved another \$2.85 billion housing bond. Of this amount, \$1.45 billion will be allocated to programs that have no corresponding or existing program and must be created by the California State Legislature. Specifically, the Legislature

will be tasked during the 2007-2008 Legislative Session with the creation of three new programs. The following outlines the legislative parameters of these new programs.

1. Creation of the Regional Planning, Housing and Infill Incentive Account (\$850 million), which will provide grants for various projects related to infill housing. As specified, up to (1) \$200 million may be expended for the creation, development or rehabilitation of parks and the remainder of the funds for the following types of improvements: (2) water, sewer, or other public infrastructure costs; (3) transportation improvements; (4) traffic mitigation; and (5) Brownfields cleanup.
2. Creation of the Housing Urban-Suburban-Rural Parks Account (\$200 million), which will provide grant funding for housing-related parks grants in urban, suburban, and rural areas.
3. Affordable Housing Innovations Fund (\$100 million), which will provide grants and loans to sponsoring entities that develop, own, lend, or invest in affordable housing and to create a pilot program to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing.

Two other programs created under Proposition 1C do not require new legislation however HCD will be developing guidelines for the programs.

4. Transit-Oriented Development Account (\$300 million), for grants and loans to local governments and developers to encourage more dense residential development near public transportation.
5. MHP Homeless Youth Program designed to provide for projects that deliver housing for "homeless youth," which is defined in Government Code Section 11139.3(e)(2). HCD has developed guidelines for this program and issued the funding NOFA on January 31, 2007.

There are currently extensive discussions occurring in Sacramento and around the State regarding the purpose, methodology, eligibility (including restrictions and incentives), and timing for allocation of these funds. The City of San Jose Housing Department has had conversations with a number of these stakeholders including: the California Housing Consortium (CHC), the Silicon Valley Leadership Group, the State Department Housing and Community Development, the California Housing Preservation Corporation, California Supportive Housing Corporation, the Nonprofit Housing Association of Northern California (NPH), the Conservation Strategy Group (an environmental lobby firm in Sacramento) and the League of California Cities to determine what proposals will be pursued in the 2007 Legislature related to these new programs.

## ANALYSIS

The bill introduction deadline in the California State Legislature was February 23, 2007. Of the current bills related to housing, 23 are identified as related to Proposition 1C. Most bills are still in “spot bill” form, only setting forth intent language at this point. It is therefore recommended that the City adopt a list of guiding principles that should be followed for any legislation related to Proposition 1C funding. The following analysis highlights the four major areas and guiding principles the City should ensure are incorporated in any Proposition 1C legislation.

### *1) Regional Planning, Housing and Infill Incentive Account (\$850 million)*

The single largest pot of money under Proposition 1C is the Infill Incentive Account. The language adopted by the voters of California stipulated that \$850 million would be made available for “infill incentive grants for capital outlay related to infill housing development and other related infill development.” However, there was no specific program associated with these funds, but language instead indicating that the California State Legislature would need to create the program specifics.

The following briefly outlines the concerns identified to date:

1. Placement – The first area of debate is where the dollars will be allocated. The Administration supports the continued use of the Department of Housing and Community Development (HCD) as the repository of Proposition 1C infill program funds. These funds should be distributed on a competitive, performance-based award process. It should also be noted that the Council of Governments (COGs) has proposed a plan to distribute some of the money through the regional Council of Governments for communities with a “Regional Blue Prints.” The City of San Jose should very carefully consider these options because they could potentially either slow distribution of these dollars or de-emphasize affordable housing.
2. Purpose & Use – Most proposals recommend distribution of the monies under this pot for infrastructure or capital projects directly related to infill housing. Infrastructure would include water, sewer, transportation, parks, traffic mitigation, pedestrian improvements and Brownfields clean-up. The City should support this definition of eligible infrastructure uses.
3. Applicants – Most groups agree that eligibility should be restricted to cities and counties or developers. The City should make sure that if developers apply for these funds, they are being sponsored by the local government through a co-application. Other discussions have involved restrictions based on applicants who have a certified housing element or a regional blue print, a plan similar to a smart growth plan.
4. Threshold Requirements - Eligibility – In order to qualify for these funds, it is generally accepted that they are meant to be used for “infill” development. Therefore, the City should recommend that the following parameters be met in order to determine eligibility 1) define infill site to mean land surrounded by developed areas inside urban growth boundaries and not green fields, parks, agricultural lands, or wetlands; 2) a minimum

density of 10 units/acre for rural, 20 units/acre in suburban areas, and 30 units/acre in urban infill areas; and 3) that there be a minimum number of affordable units at 10-25% at 50% AMI (for rental projects) and 10-25% at 80-120% AMI (for-sale projects).

5. Ranking Criteria (Points) – It is also recommended that once these minimum levels are met, there be additional points or rankings to jurisdictions who met the following criteria: 1) jurisdictions that receive an increased RHNA allocation; 2) developments that achieve deeper affordability than the threshold; 2) projects with increased proximity to transit; 3) are pursuing green building certification; and 4) and have higher densities than the threshold.
6. Maximum Allocation Amounts, Time Limits, and Geographic Distribution - The City should support maximum allocations of \$5 million per project and a 5-year time limit to complete project.

The Housing Department has identified 12 bills that could potentially affect the dispersal, use, eligibility, or definition of infill housing. These bills include: AB 29 (Hancock), AB 655 (Swanson), AB 997 (Arambula), AB 1053 (Nunez), AB 1091 (Bass), AB 1231 (Garcia), AB 1460 (Saldana), SB 46 (Perata), SB 292 (Wiggins), SB 375 (Steinberg), SB 522 (Dutton), and SB 546 (Ducheny). The City should ensure that the guiding principles provided above are reflected in any legislation moving forward. Once the City has approved guiding principles, these bills can be brought forward individually to Rules Committee and the City Council for approval.

## *2) Parks Fund - \$400 million*

There are two different pots of money for regional and local parks under Proposition 1C. One is \$200 million under the “Infill Development” funds and the second is another, stand-alone allocation of \$200 million for “grant funding for housing-related parks in urban, suburban, and rural areas.” In addition to Proposition 1C, there is another \$400 million under Proposition 84. These funds are defined as being available for revitalizing our “communities and making them more sustainable and livable by investing in sound land use planning, local parks and urban greening.” In total, there is an estimated \$800 million for local and regional parks.

One of the main goals of the parks component of Proposition 1C is to make funds available for the effective development of parks in conjunction with affordable housing located on infill sites. Historically, affordable infill projects suffer from a lack of amenities that well planned parks can offer. To address this situation and enhance the development of affordable housing, listed below are guidelines, which implemented in conjunction with the Parks and Recreation Department, would maximize the benefit of the Proposition 1C park monies and enhance the City’s competitiveness in obtaining the funds.

1. Greenprint – The City should support park funds for the purchase of potential park sites that are identified in a City’s adopted Greenprint Plan for parks and open spaces. This criterion would demonstrate a City’s desire to effectively plan for park development

when competing for State funds. Additionally, these parks would be public parks not restricted to sole use by the residents of a particular development.

2. Affordability – The City should support funding for projects with an affordability component. The depth of affordability should be competitive criteria in selecting projects.
3. Infill – The City should encourage that projects meet the definition of infill (see the definition in the \$850 million Infill Program). Areas such as North San Jose, Downtown, and Evergreen would qualify, as well as other infill sites in the City.
4. Applicant - The City should be the lead applicant for the funds. Applications would be a joint effort of the Housing and Parks, Recreation and Neighborhood Services Departments along with the project developer. The unified application would ensure completeness and increase the prospects of a successful application. Funds from the program would be administered by the Parks, Recreation and Neighborhood Services Department.

State guidelines for the program are currently being defined, but these local criteria along with our existing development requirements should enhance San José's ability to compete for these funds.

The Housing Department has identified five bills dealing with parks under Proposition 1C. These bills include: AB 31 (De Leon), AB 600 (Garcia), AB 1252 (Caballero), AB 1303 (Smyth), and AB 1536 (Smyth).

### *3) Transit-Oriented Development (TOD) - \$300 million*

This program is designed to provide assistance for the development of TODs, facilitating the development of higher density housing uses within close proximity to transit stations as defined in GC 65460.1(b). The program has two funding parts, 1) grants to localities and transit agencies for infrastructure necessary for the development or connection to the housing and 2) loans for the development and construction of the housing development

Approximately \$285 million is available to be allocated at \$95 million per year for three years. A minimum of 15% of the units must be set aside for persons of very low and low income and affordability restrictions are for 55 years. HCD will be administering the fund in collaboration with Caltrans. HCD has already adopted guidelines for use of TOD funds and is not requiring legislation or regulations. However, there are several proposed pieces of legislation that seek changes to HCD's current guidelines. The following briefly outlines concerns and issues regarding the program to date and recommended positions the City should adopt:

1. Affordability - The City should support deeper affordability for the projects and leverage other funds from state programs to achieve increased affordability even in mixed income, mixed-use projects.

2. Project Type & Design - The City should support projects that incorporate transit related design features that will increase public transit ridership and minimize automobile trips and are consistent with local zoning and General Plan densities.
3. Infrastructure Funds - The City should support infrastructure funds being made available for mixed-use developments. The City should also support infrastructure programs that provide pedestrian level improvements that provide the critical link between transit and TOD. To the extent that points are given under the TOD funds, the City should support giving jurisdictions that have been given an increased number of housing units in the next Regional Housing Needs Allocation process more transportation funds that can be used to provide improved connections for pedestrians.
4. Acquisition & Pre Development Funding - Some localities have advocated that funds be used for acquisition and/or predevelopment costs associated with housing development. The City should support the use of these funds as flexibly as possible, but not to the extent that it jeopardizes needed funding for infrastructure.
5. Joint Applications - The infrastructure and housing development funds are closely tied, therefore a joint application with the City and project developers is recommended to most efficiently utilize the funds.
6. Homeownership - Homeownership under the program is a permitted project for owners with incomes of 120% or less of area median income. The City should support the use of TOD program funds for homeownership, particularly for infrastructure costs.
7. Regional Project Approval - Ranking points may be given to projects or developments that are in areas designated by the appropriate council of governments for infill development as part of a regional plan. A more effective method of allocating the funds is to fund directly to local governments who are partnering with project developers.
8. Inclusionary Projects - Funds could be used for projects in an inclusionary development. However, the City supports the notion of requiring that even deeper affordability be achieved in order to qualify for funding.

There is only one bill currently identified by the Housing Department dealing with the dispersal of TOD funds under Proposition 1C: AB 1675 (Nunez).

#### *4) Innovation Fund - \$100 million*

The language in Proposition 1C stated that, "funds shall be expended for competitive grants or loans to sponsoring entities that develop, own, lend, or invest in affordable housing and used to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing." There have been numerous proposals for the use of the Innovation Fund from HCD and housing advocates.

Two of these proposals, while having merit, are generally not innovative in what we believe was the intent of the bond. However, the City supports them because they can lead to innovation in housing production. Furthermore, the City should support at least some portion of funding for truly innovative and creative programs at the local government level.

1. Housing Trust Fund - Funds should be available for the Local Housing Trust Fund Matching Grant Program. The program would provide matching grants to local governments or non-profits. This program is being supported by Silicon Valley Leadership Group and the Santa Clara County Housing Trust Fund.
2. Green Building, Energy Efficiency and Universal Design Program - Grants to finance a portion of the costs of incorporating additional energy-efficiency, green building, and universal design accessibility features in projects funded by HCD or CalHFA and related to the State's Green Building Initiative and is being sponsored by HCD.
3. Innovative Government Awards - Funds should be set aside for innovative and creative programs that help to promote, maintain or expand affordable housing opportunities for low- and moderate-income residents. These funds should help provide incentive to local governments to create or explore new ideas by providing seed-money for pilot programs that are chosen to be creative or innovative ideas.

There are a number of bills introduced in the State Legislature related to the Innovations fund under Proposition 1C. These bills include, AB 792 (Garcia), AB 1017 (Ma), AB 1493 (Saldana), SB 545 (Cox), SB 586 (Dutton), and SB 753 (Correa).

### PUBLIC OUTREACH/INTEREST

The City of San Jose Housing Department has had conversations with a number of organizations interested in the Proposition 1C issue. These have included the California Housing Consortium (CHC), the Silicon Valley Leadership Group, the State Department Housing and Community Development, the California Housing Preservation Corporation, California Supportive Housing Corporation, the Nonprofit Housing Association of Northern California (NPH), the Conservation Strategy Group (an environmental lobby firm in Sacramento), and the League of California Cities. Furthermore, the Housing Department will be discussing these recommendations with the Housing and Community Development Advisory Commission on April 12, 2007.

### COORDINATION

The drafting of this memorandum has been coordinated with the Department of Transportation, the Department of Planning, Building and Code Enforcement, the Department of Parks, Recreation, and Neighborhood Services, the Department of Environmental Services, the City Attorney's Office, the Director of Intergovernmental Relations, and the City's Sacramento Lobbyist.

### CEQA

Not a project.

  
LESLYE KRUTKO  
Director of Housing