



COUNCIL AGENDA: 06-05-07
ITEM: 3.8(c)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

SUBJECT: SB 46 (PERATA) – PROPOSITION 1C REGIONAL PLANNING, HOUSING,
AND INFILL INCENTIVE ACCOUNT **DATE:** May 24, 2007

RECOMMENDATION

As recommended by the Rules and Open Government Committee on May 16, 2007, approve the support position for SB 46 (Perata) – Proposition 1C Regional Planning, Housing, and Infill Incentive Account 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: SEE BELOW

DATE: May 16, 2007

Approved

Deanna Johnson

Date

5/17/07

Council District: All
SNI: All

**SUBJECT: SB 46 (PERATA) – PROPOSITION 1C REGIONAL PLANNING, HOUSING,
AND INFILL INCENTIVE ACCOUNT**

RECOMMENDATION

The Housing Department recommends that:

1. The Mayor and City Council support, with amendments, SB 46 (Perata).
2. A one-week turn around for Mayor and City Council review.

OUTCOME

If the Rules and Open Government Committee and the Mayor and City Council accept staff's recommendation, the City lobbyist could begin seeking amendments for SB 46. Staff believes that SB 46 deserves the utmost attention of the City, because if passed, it could have significant impacts on affordable housing and its programs in San José.

BACKGROUND

The 2006-2007 State Legislative cycle has featured over 100 housing-related bills. Of these, over 20 bills seem to be particularly relevant to the residents of San José, the Housing Department, and the City. SB 46 is one of these bills; as such, Housing Department staff are presenting it to the Rules and Open Government Committee.

ANALYSIS

A fact sheet and analysis of SB 46 is attached.

May 16, 2007

Subject: SB 46 (Perata) – Proposition 1C Regional Planning, Housing, and Infill Incentive Account

Page 2

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This legislative item does not meet any of the above criteria.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

POLICY ALIGNMENT

The attached fact sheet and analysis are consistent with the Council-adopted 2007 Legislative Guiding Principles and the 2007 Proposition 1C Guiding Principles.

CEQA

Not a project


LESLYE KRUTKO
Director of Housing

SB 46 (PERATA) – PROPOSITION 1C REGIONAL PLANNING, HOUSING AND INFILL INCENTIVE ACCOUNT

What's the issue the bill is trying to resolve?

On November 7, 2006, the voters of California approved Proposition 1C, which provided \$2.85 billion for housing and housing-related infrastructure improvements. Of this amount, \$850 million is set aside for a new Regional Planning, Housing, and Infill Incentive Account.

The language adopted by California voters stipulated that the \$850 million would be made available for “infill incentive grants for capital outlay related to infill housing development and other related infill development.” 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. The ballot language gave no other specific program associated with these funds, but instead indicated that the California State Legislature would need to create the program.

SB 46 (Perata) seeks to provide the statutory framework for expenditure of the \$850 million that relates to programs included in Proposition 1C. There are currently about 25 bills progressing through the legislative process. However, this bill and AB 29 are likely to be the vehicles for the use of the Infill Incentive monies.

How would the passage of this bill affect San José?

As currently written, SB 46 would split the \$850 million program for regional planning, housing, and infill incentive account, into two programs: (1) an unspecified amount of funds for capital outlay related to an infill housing development and related infill infrastructure needs that are an integral part of the infill housing development; and (2) an unspecified amount of funding for qualifying infill projects for the purpose of assessment, remedial planning and reporting, and technical assistance, and for the cleanup, remediation, or development of brownfield sites, or other related costs.

Capital Outlay Funds

The first pot of money is an unspecified amount of funds for capital outlay related to an infill housing development and related infill infrastructure needs that are an integral part of the infill housing development. The eligibility for these funds is based on the following criteria:

- Residential or mixed-use residential projects within an urbanized area, as defined by the U.S. Census Bureau, on a site that has been previously developed or is abutted on at least two sides by properties that are or have been developed. The development may also include a single-residential development or cover a master development area that includes a single development or other planning development;
- Site must be designated for residential or mixed-use residential development in a general plan, redevelopment plan, capital improvement plan, regional blueprint, or regional transportation plan;
- The project must be in a city or county that has an approved housing element;

- The project or area served by the grant must include 15% of units that will be affordable at unspecified affordability levels;
- The project must be developed at a density that is equal to or greater than the “Mullin” densities described in housing element law, namely 30 units/acre in metropolitan counties, 20 units/acre in suburban counties, and 10 units/acre in rural counties;

Eligible expenditure of these dollars would be for the following uses:

- The costs of development, including construction and related planning and design;
- Project-specific creation, development, or rehabilitation of parks or open space;
- Water, sewer, utilities, or other infrastructure related to the infill development;
- Roads, parking structures, sidewalks, streetscapes and transit linkages;
- Improvements for alternative transit modes, including walking, bicycling, and ride sharing;
- Traffic mitigation,
- Demolition and site preparation,

The projects would receive additional ranking points for the following criteria:

- Project readiness (to be defined by HCD);
- Exceeding Mullin densities;
- Exceeding 15% affordability requirement;
- Project achieves reductions in vehicle trips, emissions, or miles traveled based on its proximity to transit, accessibility to alternative transit modes, consistency with a regional blueprint, and availability of pedestrian-friendly features.

Planning and Remediation Funds

SB 46 also sets aside an unspecified amount of funding for qualifying infill projects for the purpose of assessment, remedial planning and reporting, and technical assistance, and for the cleanup, remediation, or development of Brownfield sites, or other related costs. SB 46 identifies an unnamed entity to administer this pot of funding.

The eligibility for these dollars is similar to the provisions under the capital outlay funds specified above. In addition, the bill also gives priority to “economically struggling communities” for these funds. California Code defines economically struggling communities to include: (1) a community with an unemployment rate equal to or greater than 125% of the statewide average; (2) A community with median family income of less than 80% of the statewide average based; (3) A community with a poverty rate equal to or greater than 110% of the statewide average; 4) A state designated Enterprise Zone (including a Local Agency Military Base Recovery Area, Manufacturing Enhancement Area or Targeted Tax Area; (5) A federally designated Empowerment Zone or Enterprise Community; (6) A redevelopment project area adopted where the Strategic Partner determines that the project area meets the definition of blighted area; or (7) A city or county with a military base designated for closure, or any subsequent closure approved by the President of the United State without objection by the Congress.

Staff's Proposed Position:

On May 1, 2007, the Mayor and City Council adopted guiding principles for the use of Proposition 1C funding. These guiding principles have become the basis for evaluating the 25 bills offered by the California State Legislature related to Proposition 1C programs. Based on the City's adopted guiding principles, the City should **support SB 46 with the following amendments.**

First, staff would recommend that SB 46 be amended to give additional ranking points to jurisdictions that have received increased regional housing needs allocations. It is extremely important that those jurisdictions being asked to accept a greater allocation are given the resources necessary to create the needed housing. This action would help align the State's allocation policy with the funding priorities.

Second, the City opposes splitting the \$850 million into two funds without specifying dollar amounts to be allocated. Staff recommends amending SB 46 by adding the planning and remediation to the capital outlay funds, and allowing distribution of these dollars across the board, instead of compartmentalizing these functions. The current proposal would result in a less effective use of these dollars and likely a lower number of affordable housing units and related infrastructure. The City is also concerned that these dollars should be allocated through a single source, the Department of Housing and Community Development (HCD). The language under the Planning and Remediation funds makes it unclear how or who would be responsible for ensuring that there is some tie with the residential development. In addition, the City is opposed to setting aside funds that would give priority to "economically struggling communities," as the definition used in the bill would likely disqualify San José from receiving these dollars, even though it is considered a high-cost area.

Lastly, regional blueprints are not necessarily adopted or approved by all jurisdictions in California. Since the goal is to ramp this funding up quickly and get it out into the communities in a timely manner, staff recommend that this be offered as an option for ranking points and not eligibility.

Who are the bill's supporters and opponents?

To date, the California Association of Councils of Government is the only supporter of SB 46 and there is no registered opposition.

What is the current status of the measure?

The measure was heard in the Senate Transportation and Housing Committee on April 17th and passed by a vote of 7-3. It now goes to the Senate Appropriations Committee for consideration, where it is scheduled to be heard on May 21.