

SUPPLEMENTAL

COUNCIL AGENDA: 12-8-09
ITEM: 3.8(b)



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: December 3, 2009

Approved

Date

12/4/09

SUBJECT: REVISIONS TO CITY OF SAN JOSE'S INVESTMENT POLICY TO UPDATE JOB TITLES AND INCLUDE THE SOCIAL RESPONSIBILITY OBJECTIVE OF FORECLOSURE MITIGATION

RECOMMENDATION

Adopt a resolution approving revisions to the City of San Jose Investment Policy ("Policy") to include foreclosure mitigation as one of several criteria used when evaluating an institution's short-term investment instruments, and update job titles of the City Investment Officials.

OUTCOME

City Council's adoption of the proposed resolution will approve revisions to the City's Investment Policy that add a section for Social Responsibility in relation to a financial institution's effort toward foreclosure mitigation as an additional criterion, considered only after safety, liquidity and yield, when considering similar short-term investment instruments for the City's Investment Portfolio, and update job titles of City Investment Officials to reflect recent Finance Department organizational changes.

BACKGROUND

The City of San Jose Investment Policy requires an annual review of the Policy by the Finance Department and submittal of any proposed changes to the City Council for consideration and approval. On June 9, 2009, staff submitted the Policy and recommended revisions to Council for approval. During the meeting, the Council adopted the recommendation set forth and in a memorandum drafted by Mayor Reed, Councilmember Liccardo, and Councilmember Nguyen, directed staff to research the feasibility of altering the City's Investment Policy to add a financial institution's commitment to foreclosure mitigation, as an additional criteria to be considered by staff when making investment decisions for a portion of the City's portfolio.

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On November 19, 2009, staff presented their findings and an overview of the proposed Policy changes to address foreclosure mitigation to the Public Safety, Finance & Strategic Support Committee (Attachment A). Committee member inquiries included a discussion on how staff would make the determination of what are "substantially equivalent" investments as included in the proposed policy changes; the types of socially responsible components in other California cities' investment policies; and the option of a sunset clause for the proposed foreclosure mitigation section. At the conclusion of the presentation the Committee voted to forward the proposed Policy change to the full Council for consideration.

Subsequent to the Public Safety, Finance & Strategic Support Committee meeting, a last final review of the Investment Policy prior to submitting the proposed change for inclusion in the Council resolution, it was determined that it was an appropriate time to also amend the Policy to update the job titles to reflect current Finance Department working titles post the completion of the reorganization earlier this fiscal year.

ANALYSIS

Based on the Council referral, Finance Department staff, with assistance from the Housing Department and City Attorney's Office, commenced research and analysis on how to implement this direction. The result of this work is a proposed amendment to the Policy that adds a new section 16.0, "Social Responsibility – Foreclosure Mitigation." The proposed revision and the body of staff's research and analysis is discussed in Attachment A. In addition, staff is proposing an administrative change to section 3.0 to reflect the current Finance Department working titles resulting from the department's recent reorganization. A copy of the Investment Policy marked with the proposed changes is also attached to this report (Attachment B). The following summary provides the proposed changes.

Section 3.0 Prudence

The working titles of several of the individuals responsible for the day-to-day management and compliance review of the investment portfolio have changed. The recommended change in this section updates the titles of "City Investment Officials" by deleting previously used titles and replacing with the current working titles of Assistant Director of Finance, and Division Manager, Treasury.

Section 16.0 Social Responsibility – Foreclosure Mitigation

As discussed above, the Public Safety, Finance & Strategic Support Committee voted to forward the proposed change to the Investment Policy with respect to adding a new investment criteria, "*Social Responsibility – Foreclosure Mitigation*," which is provided below.

"In addition to and subordinate to the objectives set forth in Section 4.0 herein, investment of funds should be guided by the following socially responsible investment goals when investing in permitted short-term investment instruments provided by mortgage servicers. To the extent competing financial institutions offer short-term investment instruments of substantially equivalent safety, liquidity and yield, the level of participation in the federal Home Affordable Modification Program (HAMP) and/or a Community Reinvestment Act rating of "satisfactory" or higher will be used as an investment criteria to differentiate between similar financial institutions' short-term investment instruments."

At the request of Councilmember Constant, staff met with the Councilmember on November 30, 2009, to describe in greater detail the internal process for determining if an investment is substantially equivalent. At the conclusion of the meeting Councilmember Constant indicated that the issue had been addressed sufficiently. For purposes of illustration the short-term investment instrument of commercial paper was used during the discussions. The primary points addressed in the meeting are discussed below.

What is "Substantially Equivalent?"

Prior to the City investing in commercial paper (CP) an issuer must meet the criteria established by the City's Investment Policy which is the same as the California Government Code Section 53601, which establishes the following credit, maturity and concentration restrictions:

- CP must be of prime quality of the highest ranking or of the highest letter and number rating by Moody's Investor Service, Standard and Poor's or Fitch Ratings and the issuer of the CP must be organized and operating within the United States and have total assets in excess of \$500 million and if issues debt, other than CP rated "A" or higher by Moody's, S&P, or Fitch.
- CP must have a maximum maturity of 270 days.
- Local agency may invest no more than 25% of its portfolio in CP and may purchase no more than 10% of the outstanding CP of any single corporate issuer

To further enhance the diversification of the City's portfolio the City's Investment Policy establishes the following additional concentration criteria:

- City may invest no more than 20% of its portfolio in CP
- City may invest no more than 5% in the CP of a single issuer

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In addition, when a new CP issuer is considered for approval the Investment Program performs an internal credit review which is then approved by the Assistant Director of Finance. All approved CP issuer's are monitored on an ongoing basis to ensure that their credit characteristics continue to meet, or exceed, any legal restrictions and conform to the Investment Program's primary goals of safety and liquidity.

The aforementioned legal restrictions and internal controls create a potential CP issuer pool that exhibits very similar credit characteristics and therefore are priced similarly in the marketplace. Every morning the Investment Program retrieves the posted overnight rates for City approved CP issuers, an example of which is provided below:

	Bank of America	Wells Fargo	General Electric	Toyota Motor	UBS
December 1, 2009	0.12%	No Quote	0.09%	0.08%	0.15%

Based on the above quoted overnight rates for commercial paper on the morning of December 1, 2009, the Investment Program would deem a potential investment to be substantially equivalent if its yield fell within the range of approved issuer quotes. In this example that would be between a yield of 0.08% and 0.15%.

EVALUATION AND FOLLOW-UP

Staff does not anticipate any follow up at this time. The annual Investment Policy is expected to come forward for City Council annual review and approval in late spring 2010.

PUBLIC OUTREACH

Not Applicable

COORDINATION

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

COST IMPLICATIONS

Not applicable.

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CEQA

Not a project.



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