



Memorandum

**TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE**

FROM: Leslye Krutko

**SUBJECT: PROPOSITION 1C – HOUSING
BOND UPDATE**

DATE: September 20, 2007

Approved

Date

9/23/07

Council District: All

RECOMMENDATION

It is recommended that the Community and Economic Development Committee review and accept the following report and provide any feedback and comments to staff.

BACKGROUND

On November 7, 2006, the voters of California approved a \$2.85 billion housing bond. Of this amount, \$1.45 billion was allocated to programs that have no corresponding or existing program and must be created by the California State Legislature. Specifically, the Legislature during the 2007-2008 Legislative Session sought to create or shape four programs under Proposition 1C. The following outlines these four programs:

1. The Regional Planning, Housing and Infill Incentive Account (\$850 million), which will provide grants for various projects related to infill housing.
2. 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. The 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.
4. The Transit-Oriented Development Account (\$300 million), for grants and loans to local governments and developers to encourage more dense residential development near public transportation.

The 2007 regular Legislative Session came to a close on September 12, 2007 with much of the Proposition 1C legislation left undecided or decisions made in the last day of the Session. The following highlights the actions taken by the Legislature this year and those issues that will come back next year for further discussion.

The City of San Jose adopted set of “Guiding Principles” for how it would like to see these dollars allocated on May 1, 2007, and City staff worked to ensure throughout the process that the City’s desired outcomes would be reflected in legislation related to Proposition 1C. These were extensive and fractious discussions as there were many different opinions and priorities around the State for how these dollars should be spent.

ANALYSIS

At the beginning of this year, the Housing Department had identified nearly 30 bills introduced related to Proposition 1C implementation. Most bills either failed to make it out of policy committee, with a handful becoming “two-year bills,” which means they may be taken up next year for further negotiation and discussion. The following outlines the key measures in each category and actions taken under Proposition 1C during the last Legislative Session:

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.”

During this year’s Legislative Session, SB 46 (Perata), AB 1053 (Nunez), and SB 86 (Committee on Budget and Fiscal Review) became the legislative vehicles for establishing a program related to the \$850 million in infill housing dollars under Proposition 1C.

SB 46 and AB 1053, authored by the Senate President pro Tem and the Assembly Speaker respectively, were similar measures up until the last day of Session on September 11, 2007. The bills generally followed the City’s guiding principles, with a few exceptions. The bills generally supported the concept of tying affordable housing and infrastructure development and allowed for a wide array of infrastructure options to be eligible for funding.

On June 5, 2007, the City Council approved staff’s recommendation to support the bills if they were amended to align more closely with the City’s guiding principles. Generally, the City sought amendments to these bills that would have provided additional ranking points to jurisdictions that have received increased regional housing needs allocation (RHNA) and removal of language that funds be dispersed based on a “reasonable geographic distribution” and for communities that are deemed “economically struggling.” Largely, both bills were deemed to have met the City’s adopted guiding principles.

While the City was working on these amendments, the Governor, State Administration, and the State’s Legislative leadership decided in early August to release funding under the Regional Planning, Housing and Infill Incentive Account through the State Budget process, instead of through the normal policy committee process (i.e. SB 46 and AB 1053). This was largely due to the fact that consensus on how to spend these monies was difficult and leadership was seeking to release at least part of the funds in 2008.

SB 86 became the budget trailer bill for appropriating a total of \$300 million of the \$850 in the Infill Incentive Account. The trailer bill, SB 86, was identical to many provisions in SB 46 and AB 1053, but specifically it allows for the appropriation of \$240 million for the Infill Incentive Grant Program, a competitive grant program established to support selected capital improvement projects (including for parks and transit-oriented development) that promote the development of a qualifying infill project or infill area. In addition, SB 86 appropriated \$60 million for the California Recycle Underutilized Sites (CALReUSE) grant program, which was established for the purpose of brownfield clean up that promotes infill residential and mixed-use development, consistent with regional and local land use plans.

Once the State Budget was passed and signed by the Governor on August 24, 2007, including SB 86, the Legislature focused on the end of Session and getting the remaining bills to the Governor by September 14, 2007 deadline.

In the closing days of Session, AB 1053, authored by Speaker Nunez, was “gutted and amended” at the request of Anschutz Entertainment Group (AEG) who is developing the downtown Los Angeles sports and entertainment center. This amendment would allow Business Improvement Districts (BIDs) to be an eligible applicant to apply for funds under Proposition 1C without a tie to affordable housing. This is contrary to the City’s adopted guiding principles for Proposition 1C. Staff also believes that AB 1053, as amended, is contrary to what the voters of California intended with the passage of the Housing and Emergency Shelter Bond Act.

AB 1053 passed out of the Legislature and is currently on the Governor’s desk for a signature or veto. The City staff is recommending that the Governor veto AB 1053 as it is in direct conflict the City’s adopted guiding principles for Proposition 1C.

It is unclear, at this point what action the Governor will take related to AB 1053 and the extent to which SB 46 will receive further consideration when the Legislature reconvenes in January 2008. Staff will continue to track this issue and report back to City Council on future actions.

2) Parks Fund - \$400 million

The most critical component to ensuring parkland is available to residents of affordable housing is locating the financial resources to acquire and develop the land for public park purposes. The recently approved Propositions 1C and 84, along with other grants, are an important source of funding for parklands.

There are two different pots of money for regional and local parks under Proposition 1C. One is “up to” \$200 million under the Infill Incentive Program 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 that can be used for revitalizing “communities and making them more sustainable and livable by investing in sound land use planning, local parks and urban greening.”

One of the main objectives of the parks funding under Proposition 1C is to make resources available for the effective development of parks in conjunction with affordable housing located on infill sites. In the Proposition 1C Guiding Principles the following criteria was adopted by City Council: (1) support of park funds for the purchase of potential park sites that are identified in a City's adopted Greenprint Plan for parks and open spaces; and (2) support for parks funding for infill affordable housing projects that have completed construction in the last two years, especially in areas such as North San Jose, Downtown, Mid-Town Specific Plan area, and Evergreen would qualify, as well as other infill sites in the City.

As noted above, SB 86 the Budget trailer bill, allowed up to \$240 million to be allocated for the Infill Incentive program for capital improvement projects related to housing. One of the eligible uses for this \$240 million will be for parks creation or maintenance. These funds will become available in 2008.

A second vehicle for parks funding also emerged during this year's Legislative Session, AB 1252 (Caballero). In June 2007, the Mayor and City Council voted to support staff's recommendation to support AB 1252 if it were amended to more closely align with the City's Proposition 1C guiding principles. However, recent hostile amendments (September 7, 2007) make the bill even more problematic for San Jose. First and foremost, there is no tie to affordable housing, which is in direct conflict with the Council-adopted Proposition 1C Guiding Principles. The City's Sacramento office has worked with the author's office on amendments. However recent Senate amendments significantly changed the bill and added several new provisions. City staff is now reviewing the latest version and will provide a report back to the City Council on its position. Specifically, the bill allows the Department of Parks and Recreation (DPR) to give funding priority to communities with the following:

- Less than 3 acres of usable parkland per 1,000 residents or is a disadvantaged community, as defined in State law and can demonstrate to the DPR that the community has insufficient or no park and recreation facilities.
- Project service areas with a significant percent of persons living at or below the poverty level and significant unemployment rate.
- Project service areas with a significant number of children under the age of 18 years.
- Projects that enhance workforce development and employment opportunities or accommodate outdoor learning opportunities for school pupils, at-risk youth in the service area, members of the California Conservation Corps, or members of a certified local conservation corps.
- The project is a joint partnership project between two or more agencies, including, but not limited to, school districts, nonprofit organizations, and local governmental agencies that share responsibility for ownership, development, and maintenance of the project in order to enhance investment of public resources.

AB 1252 failed to make it out of the Senate and now becomes a two-year measure. Discussions will continue through the Fall to find a consensus between the State Department of Housing and Community Development (HCD), housing advocates, environmental organizations and parks

proponents. Staff will analyze AB 1252 and provide a recommendation to City Council should the bill move forward next year.

It is anticipated that staff will apply for monies made available under SB 86 for parks. An interdepartmental City team has been established by the City Manager's Office to work together to develop potential projects for the use of Proposition 1C and 84, so we will be ready to apply as soon as funding is available.

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

The Department of Housing and Community Development (HCD), stipulates that it has enough legislative authority to allocate the \$300 million at \$95 million per year for three years under the Proposition 1C Transit-Oriented Development Account. HCD issued proposed guidelines for the spending of these TOD dollars in early August 2007. These guidelines generally contain provisions that do the following:

- Require a minimum of 15% of the units must be set aside for affordable housing with an affordability restrictions are for 55 years.
- Requires the State Department of Housing and Community Development (HCD) to consider the extent to which the project or development will increase public transit ridership and minimize automobile trips.
- Requires HCD to grant bonus points to projects or developments that are in an area designated by the appropriate council of governments in a regional plan for infill development.
- Requires projects be within one-quarter-mile walking distance of transit.

The Housing, Planning, Building and Code Enforcement, and Transportation Departments and the Redevelopment Agency provided joint, written comments to HCD outlining some of the problems with its proposed guidelines on September 10, 2007. Staff outlined some of its concerns surrounding the proposal's reliance and points for increased ridership rates that weren't realistic, unrealistic parking requirements in Downtown and Urban Core areas, strict proximity to transit guidelines, and language that would exclude San Jose from applying for funding for future BART development.

Simultaneous to these proposed guidelines being issued by HCD, the Legislature advanced its proposal, AB 1091 (Bass), which requires HCD to make loans for the development and construction of a housing development project within close proximity to a transit station. The bill requires that developments assisted shall be on parcels at least a portion of which are located within one-half mile of a transit station, via a readily walkable route. Providing a slightly wider

radius would likely allow more communities to qualify under this program. The City of San Jose supports these changes per its Proposition 1C Guiding Principles, which is also consistent with the City's letter to HCD commenting on its proposed TOD guidelines.

AB 1091 is currently on the Governor's desk awaiting signature or veto. He has until October 14th to sign the measure.

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."

Staff identified SB 586 (Dutton) as a likely vehicle for the Innovations Funds during the 2007 Legislative Session. The City Council took a position to oppose SB 586, unless it was amended, to align with the City's guiding principles. The City supported the notion that these funds should be used for truly innovative local programs or projects and would therefore requested amendments that tied this innovation's idea back to a tangible program.

In its current form, the bill provides a 50-50 split of \$35 million between (1) existing Housing Trust Funds that agree to spend 65% of its funds for downpayment assistance and (2) newly established Local Housing Trust Funds in counties with population not exceeding 425,000. This will place San José's Trust Fund and the County of Santa Clara's Trust Fund at a distinct disadvantage. In addition, the bill allocates up to \$50 million of the \$100 million in the Innovations Account for an Affordable Housing Revolving Development and Acquisition Program. Of this \$50 million, \$25 million will be allocated to a single 'practioner' to administer and the remaining \$25 million will be available for a Revolving Loan Fund for development and acquisition projects. The City has concerns with giving away \$25 million for a single, non-governmental agency to administer a program and secondly has doubts about how this program would work. It is City staffs' understanding that currently there is only one firm in Southern California with the knowledge and experience to be able to administer this very specific program. City staff is concerned that providing \$25 million for a single, non-government agency to administer one program and the remaining \$25 million will not likely be beneficial in high cost areas like San Jose and could favor less expensive areas with lower land and labor costs.

The City has expressed opposition to these provisions in SB 586, as they may disadvantage San Jose in receiving funds. While some amendments were made to the measure, City staff recommends opposition to the bill in its current form.

The bill was passed out of the Legislature on September 12, 2007 and is currently awaiting signature or veto by the Governor. The Governor will have until October 14th to sign bills on his desk.

NEXT STEPS

Staff will continue to analyze legislation working its way through the legislative process in order to ensure the City's guiding principles related to the use of Propositions 1C funds can be utilized in San Jose. City staff, in coordination with the City's Sacramento Lobbyist and the Intergovernmental Relations Director, will also ensure regular updates on these legislative efforts are made to the City Council.

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 issue does not meet any of the above criteria.

COORDINATION

The drafting of this memorandum was coordinated with the Department of Parks, Recreation, and Neighborhood Services, the City Attorney's Office, the Director of Intergovernmental Relations, and the City's Sacramento Lobbyist.

CEQA

Not a project.


LESELYE KRUTKO
Director of Housing