RULES COMMITTEE: 8-10-05
ITEM: C(1)(a)

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: RULES COMMITTEE

FROM: Leslye Corsiglia

SUBJECT: FEDERAL AFFORDABLE HOUSING LEGISLATION

DATE: August 3, 2005

Approved Deanna J. Santana

Date 8/3/05

COUNCIL DISTRICTS: Citywide
SNI: All

RECOMMENDATION

It is recommended that the Rules Committee recommend that the City Council support the affordable housing provisions in H.R. 1461, sponsored by Representative Richard Baker (R-LA), known as the "*Federal Housing Finance Reform Act of 2005*" and H.R. 2681 in full, sponsored by Representative William Jefferson (D-LA), known as the "*Affordable Housing Tax Credit Enhancement Act of 2005.*"

ANALYSIS

H.R. 1461 & S. 190 – The Federal Finance Reform Act

In 2003 and 2004 the City of San Jose supported the establishment of a National Housing Trust Fund, which would set aside a permanent source of financing for the development of affordable housing. While the Housing Trust Fund received overwhelming public support from over 5,400 organizations throughout the nation, Congress failed to pass a bill in both sessions.

In 2005, H.R. 1461 was introduced in response to accounting irregularities at the nation's two Government-Sponsored Enterprises (GSEs): the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Corporation (Fannie Mae). Many in Congress, as well as new leadership at Fannie Mae and Freddie Mac, agree that regulatory reform is needed. This bill proposes creating a new independent regulator, changing the size of the GSEs' portfolios, and changing receivership authority and the way new programs are approved.

Given the past failure to create a National Housing Trust Fund, advocates have changed focus and in May, during the mark-up of H.R. 1461 in the House Financial Services Committee, amendments were approved to the Federal Housing Finance Reform Act of 2005. These amendments seek to establish a new Affordable Housing Fund at Fannie Mae and Freddie Mac.

Then on July 28, 2005, the Senate Banking, Urban Affairs and Housing Committee passed similar legislation, S. 190, however, without including language to establish a new Affordable Housing Fund, as their counterparts on the House Financial Services Committee did in May.

Under the amended provisions in H.R. 1461, each GSE would dedicate 5% of its after-tax profits to its Affordable Housing Fund. The bill sets eligible uses for the funds and the process and criteria by which the GSEs will select applications. Eligible activities are:

- The production, preservation, and rehabilitation of rental housing for extremely low and very-low income families.
- The production, preservation, and rehabilitation of housing for homeownership, including downpayment assistance, closing cost assistance, and assistance for interest rate buy-downs. Homeownership assistance is only for extremely low- and very low-income families who are also first-time homebuyers. Not less than 10% of funds shall be used for homeownership and for leveraged grants.
- Leveraged grants for the development, preservation, rehabilitation, or purchase of affordable housing that meets underserved needs for affordable housing and for community and economic development activities in economically underserved areas. Not more than 12.5% of funds shall be used for leveraged grants.

In addition to the 5% set aside for the affordable housing fund, H.R. 1461 establishes new affordable housing goals for the GSEs, bringing those goals in line with commercial bank lending goals. The new proposed goals focus on credit needs of persons under 80% of area median income (AMI). Up until now, banks have been able to finance primary mortgages for this population, but no market existed to purchase the mortgages on the secondary market. The GSE goals were not similarly set, and there were no incentives to invest in the 50-80% AMI market.

If the new GSE affordable housing goals for single and multi-family mortgages in the 50-80% AMI range are adopted, banks and nonprofit lenders will be able to provide loans to more households in this bracket. This lending goal and new market is very important with areas for high housing costs, such as San Jose.

Overall, H.R. 1461 represents an opportunity, in its current form, for a permanent source of funding at the federal level. While S. 190 does not contain similar language, the majority of Republican and Democrat Senators indicated they are committed to working together to get a bill on which both sides can agree and to provide new money for affordable housing production in the bill. The Housing Department recommends support for the affordable housing amendments in H.R. 1461 and encourages the Senate to find common ground regarding affordable housing provisions.

Additionally, the City should remain active as both bills make its way through the House and Senate in order to ensure that it is flexible and works well in high-cost areas. Should these provisions be signed into law by the President, the City should also work with the GSEs on

implementation to make certain that distribution of the funds are fair and regulations are not unduly burdensome.

H.R. 2681 – The Affordable Housing Tax Credit Enhancement Act

Over the last three years, funds for affordable housing development in San José have been reduced due to the drop in tax increment and, subsequently, the 20% Low-Income Housing Fund. The City has undertaken efforts to bridge this loss of funds by seeking other sources of permanent financing. One of the more stable sources of assistance available to affordable housing developments is the Low-Income Housing Tax Credit (LIHTC), which is administered by the State Treasurer's Office, by the authority of the federal government.

On May 26th, Representative William Jefferson (D-LA) introduced legislation that would rename the LIHTC and increase the per capita amount allowed in the determination of the State's housing credit ceiling. The first provision of the bill, which would change the name of the tax credit, is a relatively minor adjustment, seeking to counter community opposition by replacing the term "low-income" with the word "affordable." The second, and most substantial, provision of the bill would double the amount of the per capita credit allowed for each State from $1.85 to $3.70 in 2006. This would mean a major influx of new financing available for affordable housing development in California. The Housing Department strongly supports this effort and encourages Congress to move this measure forward.

OUTCOME

The City's 2005 Legislative Priorities, approved by the City Council in January 2005, seek to "support efforts to develop permanent sources of affordable housing funds at both the State and federal levels" and continued support for a "...federal role in the provision of affordable housing,...in terms of financing to increase, preserve and improve affordable housing..." These priorities show San José's commitment to affordable housing and by supporting these two federal bills, the City will send a strong message to Congress about the need to partner with local entities to provide funding for the development of affordable housing.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the Director of Intergovernmental Relations, and the City's federal lobbyist, Patton Boggs.

LESLYE CORSIGLIA
Director of Housing