



Memorandum

TO: RULES COMMITTEE

FROM: Betsy Shotwell

SUBJECT: SEE BELOW

DATE: August 26, 2005

Approved

Deanna Parker

Date

8/26/05

SUBJECT: UPDATE ON SAN JOSE FEDERAL RELATIONS ACTIVITIES

RECOMMENDATION

Acceptance of the attached report from the City's Federal lobbyist firm of Patton Boggs, LLP, in Washington, D. C.

BACKGROUND

The firm of Patton Boggs, LLP is providing the attached update on their lobbyist activities on behalf of the City in Washington, D.C. This activity supports the City's advocacy and education in promoting our federal legislative priorities. Representatives from the firm of Patton Boggs will present this report at the August 31 Rules Committee Meeting.

ANALYSIS

The attached report describes in detail Patton Boggs various activities including, but not limited to: the passage of the transportation reauthorization measure; the City's interests regarding the FY 2006 federal budget and appropriations process; homeland security funding and legislative activities; and advocacy efforts related to the preservation of the Community Development Block Grant program.

COORDINATION

This report was coordinated with our Washington, D.C. lobbyist firm of Patton Boggs, LLP.

Betsy Shotwell

BETSY SHOTWELL

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Attachment



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MEMORANDUM

To: City of San Jose
From: Patton Boggs LLP
Date: August 26, 2005
Subject: Update on San Jose Federal Relations Activities

This memorandum highlights recent Patton Boggs federal relations work on behalf of the City of San Jose. Specifically, the report reviews -

- transportation reauthorization and BART extension advocacy;
- FY2006 appropriations agenda status and action;
- homeland security funding and legislative activities;
- housing and community development issues;
- eminent domain legislative assessments;
- telecommunications reform monitoring;
- other federal legislative and grant opportunity assistance.

Transportation Reauthorization and BART Extension

After more than two years of delay caused by policy disputes over total funding levels and the specific formula for distribution to individual states, the highway and transit reauthorization bill (SAFETEA-LU) was passed and became law on August 10. During the final phases of conference negotiations, we communicated regularly with congressional staff to reinforce City requests.

For specific San Jose priorities, the bill includes: (1) \$33.4 million in total funding for all five of the transportation projects advanced by the City, (2) authorization for the Silicon Valley Rapid

Transit Corridor project, and (3) an important policy modification that will facilitate federal approval of the BART extension.

Overall, the final bill includes six years of guaranteed highway and transit funding totaling \$286.45 billion (FY04 to FY09). Funding for highway construction and improvements will grow by 30% above the funding levels in the last reauthorization bill (TEA-21). All donor states (states that contribute more in Highway Trust Fund user fees than they receive back) will be guaranteed to receive at least 92% of their annual contributions to the Trust Fund by the conclusion of SAFETEA-LU. California is estimated to receive \$21.6 billion in guaranteed formula funding for highway and transit projects, which is \$1.175 billion more per year than the funding levels for California in TEA-21.

Beyond the formula allocations through states, the City advocated for and received specifically earmarked funding for five project requests --

I-880 / Stevens Creek Boulevard Interchange	\$12.6 million
Guadalupe River Trail	\$6.4 million
Silicon Valley Traffic Incident Management Center	\$6.4 million
U.S. Corridor 101 - Capitol Interchange to Tully Road Interchange	\$4.0 million
Coyote Creek Trail	\$4.0 million

The funding for these projects is guaranteed money that will become available on a reimbursement basis over the six-year course of the reauthorization period (FY04 to FY09). The City does not have to seek separate annual appropriations for these five projects, so the City is now able to focus future requests on funding other transportation priorities.

With regard to the BART extension, we continued to work closely with VTA representatives, City leaders, and other local interests to seek supportive language for the Silicon Valley Rapid Transit Corridor project. The final bill includes language authorizing the continued development of the BART extension, which effectively allows VTA to continue the process of developing the project for a Full Funding Grant Agreement (FFGA).

More significantly, Rep. Honda and the House delegation led a remarkably effective effort, in coordination with VTA, to successfully include language to grandfather the BART extension as one of just four transit projects nationwide that will its FFGA application assessed on evaluation standards in place prior to a recent change by the Federal Transit Administration (FTA). That provision notably improves the chances that the project will receive federal funding approval. Earlier this year, the FTA announced plans to tighten its cost-effectiveness rating of projects using criteria that would make it difficult for many currently planned projects, including the BART extension, to receive future federal funding support. While a large coalition of transit agencies fought to use SAFETEA-LU as a vehicle to prevent these rating changes from

occurring, the bill essentially allows the FTA to move forward as planned, with the exception of the BART extension and the three other projects.

In addition, we consulted with Sen. Boxer's office about including the BART extension among some specific transit projects that Congress targeted for special emphasis in the bill by providing a "symbolic" earmark for their development. The final bill included an \$11 million funding level for the BART extension; unlike the other City highway projects, this earmark does not guarantee actual funding at that level, and the amount itself has no bearing on the total amount the project can ultimately seek through the FFGA process. Rather, the earmark is intended to convey the strong level of support the project enjoys with the Congressional delegation and aid in the annual appropriations process.

FY2006 Appropriations Projects

At the start of the August recess, the full House had passed all of its appropriations bills, while the Senate had passed only five out of ten bills. Two measures -- the Interior and the Environment Appropriations Bill and the Legislative Branch Appropriations Bill -- have been approved by conference committees and signed into law. Homeland Security, Energy and Water, and Foreign Operations bills remains pending in conference committee.

For the principal appropriations bills in which the City has targeted project requests, almost all earmarks have been reserved for inclusion during conference. As previously reported, the budget environment is austere, with deep cuts in many domestic program accounts. Trends in reported bills that included earmarks reveal major reductions in the number and size earmarking, with the number of earmarked projects being cut by more than half from last year's level in some accounts.

However, a few City-led and City-supported projects already have been incorporated in Senate and House bills. Most notably, the Senate appropriations bill for transportation provides \$5 million the BART extension, the project ranked the highest priority among the City requests. In addition, the Energy and Water Appropriations bill approved in the House and Senate include five projects led by the Santa Clara Valley Water District and supported by the City, totaling more than \$11 million.

At this point in the process, we continue to liaise regularly with delegation and committee staff regarding pending projects in anticipation of when final priorities must be reinforced with conferees. We also worked to support delegation staff in pursuing specific Member interests, such as securing supplemental funding for the new federal courthouse site acquisition.

Additionally, we began to organize a site visit to San Jose by Rep. Knollenberg (R-MI), Chairman of the House Appropriations Subcommittee on Transportation-Treasury-HUD. That bill is the target for half of the City's project requests, including the BART extension. We believe that the Chairman's direct experience in the City will afford favorable context on the value of project requests as final decisions are made on what will be included in the bill.

Homeland Security

We continued advocacy on long-standing funding and legislative issues, primarily focused on the Urban Area Security Initiative (UASI) and other smaller federal funding streams from which the City benefits directly.

The UASI program remains under threat of pending legislation for major modifications that could reduce and dilute the resources available to San Jose and the other large, high-threat municipalities. Partnering with federal relations representatives from the Governor's DC office and San Francisco, we developed and organized a series of briefings for lead officials of the California UASI designees to discuss the importance of continued UASI funding and preservation of the current program structures. These meetings included discussions with senior staff to the House and Senate Homeland Security Committees, House and Senate Appropriations Committees, White House Homeland Security Council, Department of Homeland Security, and key members of the California House and Senate congressional delegation.

We also continued working with the Senate delegation and our national coalition of the large, high-risk municipalities on advancing legislative changes to changing first responder grant programs that provide greater risk-based distributions. Specifically, we assisted in securing additional co-sponsors and support for amendments to pending appropriations bills related to changes in federal funding distributions and keeping the current UASI program intact. After that effort failed on the Senate floor, we began to engage in negotiations with relevant House and Senate Homeland Security Committee staff on a compromise structure for a modified regional grant program that preserves the most advantageous aspects of the UASI system.

Finally, we advocated with House and Senate Appropriations Committee staff about incorporating priority funding and policy elements into the final bill during the pending conference, including funding levels for UASI, Metropolitan Medical Response System, Emergency Preparedness, and Urban Search and Rescue grants; risk-based allocations for State first responder grants; flexibility to undertake construction, overtime, and maintenance activities; and waiver of limits on advance funding drawdowns.

Housing and Community Development

As previously forecasted, the Community Development Block Grant program was largely preserved in both House and Senate versions of the appropriations bills. The House bill includes a 7% funding cut from FY2005, while the Senate bill includes a 9% reduction.

However, the intensive focus on preservation of CDBG comes at the expense of other programs of importance to the City, such as the Section 108 loan guarantees, which are threatened with elimination in the House and cuts of at least two-thirds from FY2005 levels in the Senate. In anticipation of conference negotiations, we have begun to organize a coalition of larger municipalities that regularly utilize the Section 108 program, in order to preserve its future viability.

With regard to the Section 8 housing voucher program, we continued to work in support of the Santa Clara County / San Jose Housing Authority effort to secure a new Moving-to-Work program designation for the City and County as a rider to appropriations legislation. Although both the House and Senate delegations advanced the request to the subcommittee, the provision was not included in either version of the bill. Similar requests were made by other localities, but only extensions of the existing designations were incorporated in the Senate bill. We are consulting with the delegation and the Appropriations Committee staff about potential inclusion during conference consideration.

We also responded to agency requests for monitoring and assessment of City interests in legislation proposing changes to the structure and requirements of the Government Sponsored Enterprises, Fannie Mae and Freddie Mac, the largest buyers of secondary mortgages particularly for low-income homebuyers. The House version of the bill contains two affordability provisions that would benefit San Jose: (1) the creation of an affordable housing trust fund from a 5% mandatory set-aside in the Fannie Mae and Freddie Mac's after tax profits, and (2) the imposition of new affordable housing goals for the companies that would bring those goals in line with bank lending goals. Up until now, banks have been able to finance primary mortgages for homebuyers earning 50-80% of area median income, but no market existed to purchase the mortgages on the secondary market because the GSE goals were not similarly set, and the GSEs lacked incentive to invest in that category.

Eminent Domain

We began to monitor and advise the City on response to potential federal legislation restricting use of eminent domain powers for economic development initiatives, addressing Congressional dissatisfaction with the recent U.S. Supreme Court ruling in *Kelo v City of New London*. The House quickly passed a sense of the House resolution (H Res 340) disapproving of the decision, calling on State and local governments to carefully constrain their use of eminent domain, and asserted Congressional prerogative to pass legislation limiting the decision.

Eight bills have been introduced in the House and Senate that would impose various constraints on economic development as a permissible eminent domain use by prohibiting any federal funds from being used to support related activities. In addition, amendments to the FY2006 Transportation-Treasury-HUD appropriations bills are being considered as vehicles to pass stopgap restrictions.

With Senate consideration tied to appropriations, we discussed preliminary concerns with the Senate delegation and other Senate appropriations staff. Going forward, we will partner with other local government interests and assist the City in making a case for the importance of allowing prudent exercise of eminent domain authority for economic development purposes.

Telecommunications Reforms

We continued to monitor and assess Congressional positioning on legislation for comprehensive reforms to federal telecommunications policy frameworks and regulation with likely impacts on local

government taxing and regulatory authority. Key proposals will affect local government (1) authority to regulate television services through negotiation and granting of local franchises, regardless of the technology used, as well as taxation of telecommunications service providers and control over fees for using local right-of-way; and (2) ability to establish or sponsor local broadband networks to serve residents in order to promote access and economic development.

Progress on a measure is not anticipated this year as neither Senate Commerce, Science and Transportation Committee Chairman Stevens (R-AK) nor House Energy and Commerce Committee Chairman Barton (R-TX) have introduced any specific proposals, which would be the basis for action. However, several other Members of Congress have introduced bills that stake out policy positions, serving as indicators of what might be included in the comprehensive measure. In addition, industry and government associations are articulating general "principles" for consideration in crafting advantageous legislation.

Going forward, we will be gathering data from the City on likely budgetary impacts that various policy proposals would have, which will help to guide positions to be advanced in protecting local interests. In addition, we will be meeting with other California city representatives and large-city representatives about identifying specific issues of shared priority and coordinating advocacy efforts.

Other Federal Legislative and Funding Activities

We provided monthly briefings to the Intergovernmental Relations Policy Cabinet on the status of federal issues, as well as separate monthly updates with the Housing Department. We also responded to a few specific City agency inquiries regarding the status of appropriations earmarks and pending legislation or regulatory action.

Finally, we continued to regularly identify and circulate notices of federal and other funding opportunities for a variety of programs for which the City might be eligible, highlighting particularly relevant notices.