



Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE **FROM:** Betsy Shotwell

SUBJECT: SEE BELOW

DATE: January 22, 2009

Approved

Christine J Shippy

Date

1/23/09

SUBJECT: SUMMARY OF FEDERAL RELATIONS ACTIVITIES – YEAR-END 2008 AND 2009 OUTLOOK

RECOMMENDATION

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

OUTCOME

Presentation by Patton Boggs staff on the City's federal activities in Washington, D.C. in 2008 with an overview of the first year of the 111th Congress in 2009 and President Obama's Administration.

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.

ANALYSIS

The attached report describes in detail Patton Boggs various activities, including, but not limited to: the City's interests regarding the FY 2009 federal budget and appropriations process; funding for the Airport; housing and community development; environmental and energy issues; homeland security and public safety; and advocacy efforts with federal agencies and other governmental bodies. Final outcome of the Federal 2008 Legislative Priorities, which includes pending City sponsored appropriations, will be brought back to the Rules and Open Government Committee when final action has been taken by Congress and the President.

Rules and Open Government Committee

Re: Summary of Federal Relations Activities – Year-End 2008 and 2009 Outlook

January 22, 2009

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PUBLIC OUTREACH

- 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)**

By providing this document to the Rules and Open Government Committee in January, this document will be posted on the City's website with the January 28 meeting agenda and interested public will have the opportunity to review the document prior to the full Council acceptance.

COORDINATION

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

POLICY ALIGNMENT

The 2008 Federal legislative summary reflects the City's 2008 legislative policy goals and priorities and the City's efforts to work with our federal partners to advocate on issues of concern and interest to the City.



BETSY SHOTWELL

Director, Intergovernmental Relations

Attachment: Patton Boggs, LLP Summary of Federal Relations Activities – Year-End 2008

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MEMORANDUM

To: City of San Jose
From: Patton Boggs LLP
Date: January 21, 2009
Subject: Federal Relations Year-End Report for 2008

This memorandum summarizes Patton Boggs federal relations work on behalf of San Jose throughout 2008. Specifically, the memo highlights activities related to –

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Mayor Federal Advocacy and Outreach – Washington, D.C. Visits

We assisted in identifying and organizing various D.C. meetings for the Mayor in order to promote the San Jose national profile and involvement in federal policy and funding debates, as well as better inform the City of new program and policy opportunities.

In coordination with the Mayor’s Office, we developed agendas, prepared background materials, briefed staff, and engaged in meeting discussions and follow-up. Topics included appropriations, transportation, affordable housing, energy and environmental sustainability, economic development, workforce development, airport security financing, and federal facilities.

In addition to meeting with the full San Jose delegation and key staff in both the House and Senate, we again focused on expanding the Mayor’s contacts to include priority Congressional Committees, relevant federal agencies, and various think tanks, such as –

- Senate Committee on Environment and Public Works (Staff Director), regarding energy, climate change, GreenTech jobs, and related economic policy.
- House Select Committee on Energy and Global Warming (Staff Director and Majority Counsel), regarding energy, climate change, GreenTech jobs, and economic policy.
- Office of Rep. Hilda Solis (Legislative Director), regarding GreenTech jobs and workforce development. Solis has been nominated to serve as Secretary of Labor.
- Transportation Security Administration (Assistant Administrator and senior staff), regarding airport in-line explosive detection system financing.
- Brookings Institution (Vice President), regarding metropolitan policy research and legislative proposals related to transportation, innovation, technology, and environmental investments.
- Center for American Progress (Senior Fellows for Energy and Climate Change topics).
- Steve Goldsmith, former Mayor of Indianapolis, current Kennedy School/Harvard Director of Innovations in Government and CapitalSource Director of Infrastructure Finance and Investment, regarding innovative municipal finance and public management practices.

- Pareto Energy (CEO and staff), regarding clean power system and project applications.

Several of these meetings resulted in specific outcomes, such as subsequent recommendation by the delegation to NASA Ames to pursue an “urban greening” energy-related partnership project, highlighting of San Jose economic impact factors during Senate debate on climate change legislation, pending consideration of a clean power microgrid project, and increased agency responsiveness to particular funding concerns.

November 2008 Post-Election Analysis

Immediately following the election, Patton Boggs provided a comprehensive report highlighting the anticipated impact on the upcoming 111th Congress. This report included a detailed analysis and expectations on a wide range of topics of interest to the City, including: federal appropriations and earmark reform, homeland security, environmental policy, financial services, health care, tax policy, and transportation programs. We also provided a separate memorandum highlighting issues related to President-elect Obama’s urban policy agenda and initiatives.

First Economic Stimulus / FY2008 Supplemental

We engaged in advocacy on content of the proposed economic stimulus / supplemental package on behalf of the City. In particular, we advocated with the delegation and congressional leadership for (1) an increase in the Fannie Mae and Freddie Mac conforming loan limit to around \$730,000 in order to address housing finance needs in high-cost areas; (2) supplemental transportation project appropriations for projects immediately ready to contract and expend, providing specific San Jose examples; and (3) restoration of public safety Byrne Grant FY2008 funding that had been cut by about 60% in response to a Presidential veto threat. All of those were included in various House and Senate iterations of the economic stimulus bill during negotiations, but ultimately only a one-year conforming loan limit increase was enacted; that also was addressed permanently in subsequent foreclosure response legislation.

We continued to pursue these funding priorities, in collaboration with other large local governments, through supplemental vehicles. Efforts to include the funding in the FY2008 War Supplemental proved unsuccessful. However, we currently are engaged on the second economic stimulus proposals, where all of these transportation and public safety funding priorities are incorporated.

Second Economic Recovery Stimulus

Beginning in early fall, we again engaged in advocacy on the status of a second stimulus package, focusing on opportunities for delivering direct financial assistance to the City, such as additional Community Development Block Grant (CDBG) funding, public safety grants, energy efficiency and renewable energy investments, additional foreclosure response aid, transportation funding suballocation issues, and municipal finance. We met regularly with House and Senate leadership

offices, transition economic team contacts, and other interests regarding transportation, water infrastructure, energy, and other funding opportunities.

Following the model we established for advocacy on homeland security and foreclosure response, we leveraged our local government base to organize and facilitate a separate coalition of large cities and urban counties to advocate on specific high-impact issues. For example, we drafted and coordinated a detailed letter and justification paper highlighting policy and funding priorities. The letter secured more than 30 major city and county endorsements from jurisdictions representing a total of approximately 40 million people (including eight of the nation's ten largest cities).

We also provided regular content summaries and specific guidance on targeting decision-makers for City access to likely grant funding sources under a final bill, both at the state and federal agency levels. To complement this, we drafted a comprehensive Frequently Asked Questions document as a baseline reference, as well as a side-by-side comparison of proposed spending in House and Senate bills considered last year.

FY2009 Budget and Appropriations Projects

With regard to the regular FY2009 appropriations cycle, we forecasted at the start of the year that the process would stall without a real prospect for completion before December or beyond, due to Congressional Democrats' dissatisfaction with FY2008 outcomes of negotiating with the Administration, the President's early threat to again veto all spending bills that exceed his comparatively low domestic spending request levels, and the strong prospect for Democratic gains in the election. In combination, these factors indicated that Democratic leadership would delay final action on most FY2009 appropriations bills until after the elections, when likely in a position for more favorable outcomes on party spending priorities, either during a lame duck session or the first three months of this year, depending on the results of the Presidential race.

In February, we completed and circulated an annual comprehensive summary of the proposed President's FY2009 Budget, focused on local government interests. The memorandum (1) analyzed the budget proposal; (2) highlighted relevant policy, program, and funding reforms; and (3) assessed impacts, opportunities, and prospects for action. Given the President's lame-duck status and the draconian domestic spending cuts proposed, we assessed that Congress again would dismiss most aspects of the FY2009 proposal.

At that point, we focused on advocacy for any broader program priorities with particularly significant local impacts (e.g. maintaining funding levels for homeland security programs in which the City is one of a few eligible applicants), or reinforcing association-led efforts on major programs, such as raising the Byrne Grant levels or pursuing energy-related assistance. We worked with similarly situated localities, providing specific San Jose information and justifications for funds based on local needs and experience.

As the process continued through committee consideration, the lack of progress actually exceeded original expectations and resulted in only three appropriations bills passing in CY2008. We anticipated that Democrats at least would position for rapid post-election action on an omnibus package by advancing all twelve of the regular appropriations bills through committee and passing most through the House. That goal was not met because, prior to the July 4 recess, Republicans unexpectedly began proposing offshore drilling amendments to every measure, and to avoid votes on that issue, the Democrats suspended committee and floor action.

Therefore, only Defense, Military Construction, and Homeland Security bills were enacted into law, and passage of a Continuing Resolution (CR) through February 2009 was required to keep the rest of the government operating. Reconciliation of the remaining FY2009 appropriations bills have been negotiated by the House and Senate committees and likely will be passed as an omnibus measure after the next economic stimulus bill is completed.

Each year, a primary function in the appropriations process is to help the City execute an effective approach to identify, seek, and secure several million dollars in project-specific federal "earmarks" for a wide range of activities. For the most part, this involves City-led and executed functions, but also garnering funds in partnership with other entities that deliver direct and measurable benefits for City priorities, such as transit, water, or educational projects.

The political debate over the earmarking practice continued from FY2008, when reforms created an even more competitive and difficult environment. The absolute number and funding levels for projects were dramatically reduced in most FY2008 bills, some by more than 50%. Additional reforms were considered, including a one-year moratorium on all earmarking, and further limitations were imposed such as restricting eligible uses, eliminating subgrants, and requiring more disclosures. Despite these constraints, the number of earmark requests submitted continued to increase, while the number of projects included in the draft FY2009 bills did not.

Following the approach that has resulted in successful outcomes over the past few years, we worked with the City Manager's office to identify and advance a diverse set of FY2009 project requests for different Congressional offices across multiple appropriations bills. The process began in fall 2007 with updated written guidance for internal agency efforts with regard to identifying potential projects, followed by a series of discussions in January and February to review ideas with agencies. In early February, we began discussions with the Congressional delegation to assess interest in various topics, and included the Mayor's meetings. Through February and into June, we helped to further develop project requests, finalize materials for submission, and follow-up with delegation and committee staff issues regarding justifications, account targeting, and prioritization. With City agencies, we coordinated supplemental support from local stakeholders. We also drafted transmittal letters and completed detailed paperwork required by individual offices and subcommittees. The number of City submissions substantially exceeds the anticipated number of projects that could be funded, as only a very small percentage of appropriations requests ultimately are financed. Numerous factors influence project funding relative to others, including the strength of the request

and its justification, status of the requesting Member, the amount of overall funding available and number of competing requests, etc.

Despite these constraints, funding for City-led projects pending in the available draft bills increased to more than \$10.6 million (*the vast majority for a major water infrastructure request, where larger amounts are possible than for program / service-based projects*). Compared against the same point in the funding cycle for prior years, that amount exceeds about \$3 million in FY2008 and \$2 million in FY2007. In addition, that does not include notable City requests that also are pending in major bills that have not been marked up, particularly for transportation programs, or Army Corps project funding led by the Santa Clara Valley Water District and supported by the City.

These amounts are tentative, and it is almost certain that that these projects or funding levels will change later in the process of negotiation over the final version of the bills, typically adjusted downward and sometimes stripped entirely. Recognizing these caveats, the projects identified for the City thus far include –

- | | |
|--|---|
| ▪ Homeless Post-Hospitalization Medical “Respite”
Care facilities and equipment | \$500,000 (Senate)
\$350,000 (House) |
| ▪ Law Enforcement technology records management
and field reporting systems | \$695,000 (House) |
| ▪ B.E.S.T. Gang Intervention Program intensification | \$250,000 (Senate) |
| ▪ SVWIB Silicon Valley Small Business Portal | \$250,000 (House) |
| ▪ Japantown Sewer Rehabilitation | \$500,000 (House) |
| ▪ San Jose Water Reclamation Project | \$8,000,000 (House)
<i>up from \$250,000 in President’s Budget</i> |

Other pending requests that still have potential for inclusion in a final bill address needs related to a one-stop homeless center facility, highway improvements, rail grade separations, and library services.

Housing and Community Development

Extensive policy and advocacy work centered on housing issues, primarily related to foreclosure crisis response legislation. Several iterations of the foreclosure response bill passed back and forth between the House and Senate over about five months, during which time we provided local input to address a range of identified concerns. Generally, we provided several detailed memoranda and informal updates on the primary House and Senate bills, with analysis on potential concerns and recommended next steps. After identifying key issues relevant to San Jose, we took a lead role in

organizing a group of the largest cities and urban counties for advocacy on those policy topics, preparing policy meeting with House and Senate Committee leadership. Those interests primarily centered on grant assistance to local governments and program flexibility.

That process culminated in a final package encompassed in "The Housing and Economic Recovery Act of 2008," passed in July 2008. San Jose ultimately received more than \$5.6 million via the new Neighborhood Stabilization Program.

Foreclosure Assistance Grant Funding to Local Governments

With regard to local grant assistance, more than 50 organizational interests advocated for inclusion of support in the final bill, such as government associations, housing / community development groups, and unions. We worked within this broad coalition in support of general efforts, and through city letters and direct communication with committee staff.

Separately, our primary advocacy focused on work with the Senate and House committees and coordinating with a smaller group of large cities and counties to address three principle concerns about viable use of those resources, most of which were not fully consistent with the other interest group positions --

(1) Flexibility in Uses of Funds – Prior versions of the bill limited use of funds to the purchase and rental or resale of foreclosed properties, requiring the local government or nonprofit partner to first possess the asset. That was the favored position of many housing advocacy groups, which pitched bulk purchases and large-scale rental conversions. We sought and secured flexibility to use funds for a broad range of reoccupancy programs without the locality having to own the property or act as the intermediary purchaser, including soft second loans, revolving funds, closing costs, etc.

(2) Income Targeting – Prior versions of the bill created a 50% set-aside for very low-income households (50% of average median income (AMI)), including 12.5% targeted to extremely low-income households (35% of AMI), which was considered an unworkable requirement for local housing program leads. We sought and secured a reduction in the income targeting to only 25% of grants used for households at 50% of AMI. We also further assured that the spending would not be an absolute 3:1 requirement, but allows a locality use the full 75% of unrestricted funds for households up to 120% of AMI even if it cannot expend all of the 25% set-aside without penalty.

(3) Local Government Awards -- Prior versions of the bill awarded funds solely to states for control and suballocation of the resources, with the local government role ambiguous and receipt of funds uncertain. We sought and secured specific inclusion of language referencing formula funding going to both states and units of local government, but that specificity moves back somewhat from more favorable House language that required direct funding to large cities and counties and now could be read to allow the U.S. Department of Housing and Urban Development (HUD) to choose making grants only to states, at a minimum for passthrough purposes.

Immediately upon passage, we initiated agency-side work to protect City interests as HUD actually implements the measure. We analyzed and reported potential concerns with the final bill, initiated ongoing dialogue with the HUD Assistant Secretary and Deputy Assistant Secretary responsible for the program, and organized several large cities and urban counties to collaborate on joint advocacy. We received a commitment from HUD to be integrated in the program development and consultation process going forward, alongside anticipated general association outreach. Issue areas where we helped to reach successful results included --

- (1) Use of Funds – Preservation of the option to undertake reoccupancy activities that do not require local governments (or nonprofits) to actually purchase the properties, and potentially including some code enforcement and maintenance functions.
- (2) Formula Weighting – Reasonable weighting of various grant formula criteria like the required “number” and “percentage” values in the formula, such as whether a percentage of national foreclosure totals are used versus percentage of foreclosures per household within a jurisdiction, which could greatly shift resources toward or from large cities.
- (3) Direct Local Grant – Award of direct grants to local governments, resisting the pressures created by Congress not providing HUD administrative funds and apparent legislative flexibility for HUD to award funds only to States, even with a required local passthrough, which opened potential for further uncertainty in distribution decisions, possible dilution of funding, and delays.
- (4) Supplemental State-Local Allocations – Allowance for additional State grants to entitlement localities receiving direct funding, in contrast to standard CDBG rules.
- (5) Local-State Grant Split – Maximum local component of the local-state funding share, while also providing that not all CDBG entitlement localities need to receive allocations if formula results are insubstantial, in order to prevent dilution.
- (6) Administrative Funding Allowance – Significant administrative spending allowance, with further guidance that certain costs for implementing are deemed program expenses and not administrative.
- (7) Planning, Reporting, and Auditing Processes – Reduced local administrative burdens on content and form of spending proposals, reporting systems, etc.

Conforming Loan Limit Increase

With other very high-cost areas, we advocated for inclusion of a permanent raise in the cap on loans that Fannie Mae and Freddie Mac can purchase in high-cost areas, seeking an increase to \$730,000. The final result was a compromise at the lesser of \$625,000 or 115% of the area median housing price, which represents an increase from \$550,000 in the Senate and decrease from nearly \$730,000 in the House. The political challenge to achieving the higher level was that the only remaining populous areas where the \$625,000 cap might be exceeded are in parts of California, metro-New

York City, metro-District of Columbia, and metro-Salt Lake City, leaving a relatively minority of impacted districts.

Difficult Development Area Status

The required statutory adjustment to help restore the San Jose “Difficult Development Area” (DDA) designation under the Low Income Housing Tax Credit (LIHTC) program remains extremely challenging to advance. Anticipated reform legislation that could carry necessary changes were deferred or altered by the focus of the committees of jurisdiction on foreclosure response.

Certain related LIHTC issues were addressed in the foreclosure bill, which increased state-level flexibility to boost suballocations to local areas from its own regular LIHTC receipts. In addition, a provision that protects renters from the impact of decreasing area median gross income rates may begin to decouple income limit changes and rents in a way that leads to a helpful decoupling within the DDA formula. However, dealing with the San Jose situation in the foreclosure bill context primarily involved preventing potentially problematic “hold harmless” policy language from being included and codified.

We continued to work with delegation leads, as well as pursued exploratory contacts with organizations like the National Association of Home Builders, which may have generally aligned interests in a formula change.

McKinney-Vento Homeless Assistance Program Reauthorization

Responding to House Financial Services Committee outreach and action on H.R. 840, the HEARTH Act, that would reauthorize federal homeless assistance programs, we provided support to the City on various issues. In particular, we helped to address concerns around the definition of homelessness; educational and rural advocates generally sought to broaden eligibility to people living in substandard conditions, while other housing and urban governments wanted to keep it more narrowly focused on those actually living on the street. Because no additional funding could be reliably forecasted to expand the program, the anticipated impact of broadening the definition would be dilution of funding. The committee ultimately passed a version of the bill that kept the definition relatively narrow, but provided some flexibility in use of funds.

Energy and Environment

In support of the Green Vision initiative, we continued to assist in Congressional, agency, and external groups outreach. We also actively engaged on pending climate change legislation to assure local government benefits, and advised the City on advocacy efforts to extend expiring renewable energy tax incentives critical to both Green Vision objectives and local economic development.

We targeted and facilitated the Mayor’s meetings with House and Senate committees having jurisdiction over energy and climate issues, and supported ongoing outreach promoting San Jose

efforts. We also identified and organized discussions with policy opinion leaders, such as the Center for American Progress, trying to highlight San Jose innovation and economic messages at the national level in order to generate interest in advancing City interests and attract federal (or private) investment as opportunities arise. For example, those initial outreach efforts ultimately resulted in Sen. Feinstein specifically referring NASA Ames Research Center to work with the City on “urban greening” and energy initiatives, with efforts now underway.

During the failed Senate effort to advance a climate change bill cap-and-trade, we joined with a group of other large localities to work with the Senate Environment and Public Works Committee leads on amendments and policy items of benefit to the City, especially around use of carbon allocation auction proceeds for local government interests. In addition to the U.S. Conference of Mayors effort to carve out a funding stream for the new Energy Efficiency and Conservation Block Grant, we helped to promote modifications that were incorporated in the final bill providing separate resources for local government action around land use, transit-oriented development, and technology. That effort may lay the groundwork for action next year, although the potential proposals and politics around climate change legislation should change dramatically.

Finally, we provided detailed reports, advised on the status of, and assisted in communicating support for extension of solar and renewable energy tax incentives. We conveyed to the delegation (and beyond) the City’s position on urgent local economic needs and rationale for action, and began to coordinate possible messaging efforts among a few other localities with similar economic interests.

After numerous Congressional attempts to pass this legislation, and efforts stalling over “pay for” issues despite bipartisan support for the incentives, renewable energy extenders were ultimately signed into law. This includes short- to longer-term extensions for the renewable Production Tax Credit, Investment Tax Credit, and an additional \$800 million in Clean Renewable Energy Bond and other local energy efficiency / alternative energy bonding programs that local governments can access.

Water Resources

Consistent with the City’s regional water partnerships, we supported broader efforts to successfully seek new project authorization under the Bureau of Reclamation Title XIX program for the Bay Area Water Recycling initiative (H.R. 1526 / S. 1475). That legislation gives authority to pursue annual appropriations for a range of additional smaller scale recycling projects in the region, including a new authorization of \$8.25 million for the South Bay treatment facility in which San Jose participates directly. It also consolidates the existing San Jose Area Water Reclamation and Reuse Project into the authority to split future appropriations, with the hope that the larger combined regional program will generate more resources overall. We then conferred with the delegation about funding the new program in FY2009, but given many different factors, including timing of the authorization, the City instead secured \$8 million solely for its existing San Jose Water Reclamation project in the pending FY2009 House appropriations bill.

We also provided the City with information regarding development of the next Water Resource Development Act (WRDA) bill for consideration of any relevant City projects. Intended to be biennial legislation that authorizes U.S. Army Corps of Engineers' Civil Works projects for navigation, flood control, and environmental restoration, such initiatives typically are the responsibility of the Santa Clara Valley Water District. However, a few more basic water-sewer infrastructure projects also may be authorized for later funding that must be secured separately as part of the annual appropriations process. The House Transportation and Infrastructure Committee solicited new project requests in late April, but because Congress just approved a WRDA bill in 2007 over a Presidential veto, which took nearly seven years to complete, no final bill was anticipated in 2008; another opportunity to seek projects will be available this year.

Finally, we monitored and conferred on potential local impacts of several water-related legislative and regulatory issues, including proposed financing incentives for public utility water reclamation desalination, and groundwater cleanup projects; Clean Water Act reforms that would expand federal oversight to additional water bodies; water treatment chemical security rule changes; and Congressional efforts to include additional funding for the Water State Revolving Loan Fund.

Norman Y. Mineta San Jose International Airport

Efforts on behalf of the Airport remained centered on support for funding of in-line Explosive Detection System (EDS) construction. We also assisted in monitoring and follow-up on provisions in the stalled Federal Aviation Administration reauthorization during unsuccessful efforts to advance the stalled bill.

With regard to the EDS system funding, we continued to help the Airport pursue maximum support from the Transportation Security Administration (TSA) through both advocacy and technical advice. We advanced a dual track of seeking a direct one-time grant and approval of the alternative "service agreement" long-term contract approach for potentially greater amounts of funding, engaging with TSA, Congressional oversight committees, and the delegation. Despite securing preliminary approval from the Office of Management and Budget, over the course of four months, TSA ultimately could not confirm the legal authority to enter into a multi-year service agreement.

TSA subsequently entered into negotiations on a grant for Terminal A, based in part on an increase of available appropriations, local needs and timing, and prior good faith efforts to work creatively on TSA interests in the service agreement approach. During this process, we provided assistance with TSA contacts, information on agency spending plans and timelines to aid in negotiations, clarification on grant procedures, and other activities. The Airport ultimately received \$18.1 million in grant funding. We continue to assist on comparable Terminal B financing.

Despite efforts to revive it following a spate of aircraft safety incidents, reauthorization of federal aviation programs remains stalled after passage by the full House and the Senate Committees due to disagreements in the Senate over changing fee structures for general aviation, as well as certain labor provisions. The House bill included the primary policy measures that the Airport supports, while

the Senate bill did not. We remain in contact with the Senate leads regarding those outstanding concerns, but anticipate that the reauthorization may not be resolved for another year.

We also researched and advised on expectations for future legislative proposals to amend the RIDE Act, which governs airport fees on limousine services.

Transportation

We started internal preparations for upcoming reauthorization of the surface transportation bill that funds federal highway and transit programs. We began drafting a guidance memo on developing individual projects and an overview of likely broader policy issues. We engaged with the U.S. Department of Transportation, House and Senate committees of jurisdiction, and think tanks on funding policy reform themes, focused on implications to major cities like San Jose.

As a result, we initiated exploratory conversations with a few similarly situated localities about these ideas. For example, we are discussing a proposal to create a mode-neutral, direct funding stream for major metropolitan areas for projects with strong cost-benefit metrics, bypassing states and emphasizing the importance of major urban areas as economic engines and the primacy of local decision-making.

We also responded to City requests for research on possible federal funding assistance toward specific projects, such as recreational trail connections.

Economic Development / Advanced Technology Vehicles Manufacturing Program

We assisted in advocacy to preserve existing funding for the Department of Energy's (DOE) Advanced Technology Vehicles Manufacturing (ATVM) program, anticipated to help finance the development of a proposed automobile manufacturing facility in the City. We worked with the Congressional delegation to oppose redirecting ATVM funds for the domestic automobile industry bailout, and instead use other sources. We also helped in public outreach, such as publication of an op-ed by the Mayor in "The Hill", a widely circulated congressional newspaper.

In addition, we worked with the City to address concerns about possible DOE interpretation of evaluation criteria relative to weighted consideration given ATVM funding for rehabilitation of existing facilities versus construction of new ones, which would have disadvantaged City economic development objectives. We secured clarifications from discussions with the DOE General Counsel and helped craft formal comments to DOE for the final rulemaking.

Homeland Security and Public Safety

Work on homeland security and public safety issues focused on effective implementation of 9/11 Act authorization bill reforms to the Urban Area Security Initiative (UASI) grant program, preserving appropriations for those grants delivering significant, targeted funds to the City, and

coordination on regional interoperable communications initiatives. We also monitored and supported involvement in general legislative action addressing public safety issues, as appropriate.

Following legislative efforts that completed the 9/11 Act in 2007, we focused on U.S. Department of Homeland Security (DHS) implementation of the measures to protect against administrative interpretations that may disadvantage the City and region. For example, we identified and advocated on concerns about the new DHS approach to data for the risk formula Population Index, utilizing Metropolitan Statistical Areas (MSA) as the scale no matter the geographic operating area. That disadvantages the Bay Area UASI, which is larger than the MSA and would not get the benefit of counting the full population being served, while other UASIs are smaller than the MSA and would receive inflated population values.

Additionally, we worked to address other operational concerns, such as seeking to clarify transparency requirements for State use of UASI funds it withholds, and using appropriations direction to prevent DHS administrative proposed imposition of a 25% non-federal match requirement.

We participated in legislative efforts to formally authorize Urban Search & Rescue Task Forces (H.R. 4158), and the bill was incorporated in an omnibus measure that passed the House Homeland Security Committee, but did not progress further. San Jose participates in the regional task force based in Menlo Park and would benefit from greater program stability and enhanced federal reimbursement standards.

We also collaborated with San Francisco, Oakland, and regional counties on support for joint briefings with delegation and appropriations / authorizing committee staff, updating them on the strengthened status of regional interoperable communications projects, as well as UASI concerns.

Finally, we assisted in monitoring and supporting general priorities, such as anti-gang legislation providing increased federal resources to prevention, intervention, and enforcement activities; COPS program reauthorization; Byrne Grant reauthorization; and the Mayor's Against Illegal Guns coalition violence reduction proposals.

Telecommunications

We provided technical / legal advice on the requirements of the moratorium in the Internet Tax Freedom Amendments Act (P.L. 110-108), as well as the potential for future legislative action when the federal standards expire in 2014. For example, the law created a new exemption for taxes on email service, homepages, and instant messaging, when not bundled and incidental to the Internet access service. That guidance was intended to inform consideration of impacts on the City's Utility User Tax and applicability to certain evolving telecommunications technologies (e.g., voice over internet protocol (VOIP), etc.).

We also advised on the status, prospects, and potential local consequences of H.R. 5793, Cell Tax Fairness Act, a bill led by Rep. Lofgren with the full House delegation cosponsoring. The bill proposes to set a moratorium on localities imposing additional cellphone-specific taxes.

Finally, we researched and provided detailed comparative information on E-rate program funding sources and relative levels of support for purposes of the Child Internet Protection Act and filtering access in public libraries.

Labor

We identified and monitored regulatory activity pertaining to the “normal retirement age” as defined by the Treasury Department / Internal Revenue Service (IRS), where rules for governmental plans were due to take effect on January 1, 2009 and could have had a significant local impact. The regulation would change a provision in the Internal Revenue Code regarding rules permitting distributions to be made from a pension plan upon the attainment of “normal retirement age” prior to a participant’s severance from employment. Some governmental and retirement associations believe the IRS should refrain from creating standardized definitions for early or normal retirement age with regard to governmental plans (particularly public safety and first responder employees), and instead defer to the applicable state or local laws, regulations, and policies governing the plan as such changes generally require a State legislative initiative or enabling authority.

We supported efforts to seek interim regulatory relief that would delay the effective implementation date by two years to January 2011, in order to permit the Internal Revenue Service (IRS) to fully consider public sector concerns, provide clarification relative to key definitions, provide time for State and local governing bodies to respond, and avoid confusing and potentially harmful actions to public sector employees. A long-term statutory fix may be needed to change the regulation itself.

Per requests from Council, we provided information and analysis on the AgJOBS bills (S. 340 / H.R. 371), as well as changes being proposed by the Bush Administration to the H2-A guest worker program. We then conveyed City stances to bill sponsors Sen. Feinstein and Rep. Berman, and the delegation.

Federal Courthouse

We continued to monitor and confer on siting and development issues related to construction of a new federal courthouse in downtown San Jose. Recognizing that local issues significantly impact the process, we maintained contacts with the General Services Administration (GSA) headquarters staff and delegation on assuring that federal agency responsibilities are addressed to avoid impediments that might delay moving forward, and so that future funding can be pursued when appropriate.

Federal Tax Withholding

We continued to engage in efforts with large local governments to seek repeal of legislation requiring municipal governments that expend more than \$100 million in outside contracts to withhold three percent from all payments for goods and services, imposing significant new administrative and potential contract costs for the City. The full Congressional delegation joined as cosponsors last year. Given the federal costs that need to be offset, we expect any action will be deferred until shortly before the deadline for implementation this year, and perhaps included as “emergency spending” in the economic stimulus bill.

National Associations and Intercity Support

On a continuing basis, we monitored and participated on behalf of the City in selected U.S. Conference of Mayors (USCM) and National League of Cities (NLC) policy activities of high priority to San Jose and with clear local impact.

Throughout April and May, we assisted the City with the annual USCM resolution process that sets the organization’s federal advocacy agenda for the next year. We helped to draft, edit, compile, and assess various resolutions. The Mayor ultimately co-sponsored nearly twenty resolutions on issues related to –

- renewable energy tax incentives and the development of solar energy;
- workforce development; educational access and teaching programs;
- foreclosed properties and assistance for local government action;
- affordable housing trust fund creation;
- chronic homelessness prevention and intervention;
- interoperable communications funding;
- federal anti-crime programs and gang abatement legislation;
- water infrastructure investment tax incentives;
- surface transportation policy framework; and
- municipal bond insurance rates and municipal securities auction rates.

We also generally facilitated City collaboration with other similarly situated large localities for the purposes of sharing best practices, and advising on involvement in national initiatives.

Federal Grant Opportunity Tracking

On a regular basis we provide the City with notices of federal and other funding opportunities for a variety of programs for which it is eligible, highlighting particularly relevant notices. We help to answer City questions regarding these grant program opportunities, and in some cases, we draft and secure Congressional letters of support for submissions.

Through 2008, we identified and circulated more than 200 potential competitive grant solicitations. We also assisted in drafting and securing Congressional letters of support for various applications.