CITY OF ROSEVILLE CALIFORNIA

AGENDA
AUGUST 14, 2013
CITY COUNCIL
LAW & REGULATION COMMITTEE
5:30 P.M.
CITY COUNCIL CHAMBERS
311 VERNON STREET

1. CALL TO ORDER

2. ROLL CALL (Appointed Committee Members)

Councilmember/Committee Member: **Bonnie Gore**
Mayor/Committee Chair: **Susan Rohan**

3. PLEDGE OF ALLEGIANCE

4. PUBLIC COMMENTS

NOTICE TO THE PUBLIC

Persons may address the Law & Regulation Committee on items not on this agenda. Speakers shall restrict their comments to issues that are within the subject jurisdiction of the Law & Regulation Committee and limit their comments to three (3) minutes per person. The total time allocated for Public Comment is 25 minutes. The Brown Act, with certain exceptions, does not permit the Committee to discuss or take action on issues that are not listed on the agenda.

5. MINUTES

5.1 Minutes of Prior Meetings
June 26, 2013 Law & Regulation meeting, (File 0103-32).
CONTACT: Sonia Orozco (916) 774-5263 sorozco@roseville.ca.us

6. PRESENTATIONS

6.1 Overview of Proposed Modifications to Federal Government-Operated Mortgage Programs
Memo from Government Relations Analyst Mark Wolinski and Public Affairs & Communications Director Megan MacPherson providing information to the Law & Regulation Committee (L&R) on government-operated mortgage programs. Staff recommends bringing continual updates on mortgage reform measures to the committee as new information develops on topic, but requests the committee's input on any of the items presented. Staff initiated a process to understand what changes, if any, the

administration, federal departments and congress might be contemplating regarding housing-related programs. Staff is requesting assistance from Congressman McClintock to survey federal departments on changes they might be proposing to mortgage programs overseen by their departments and anticipates a response from the congressman by August 12. If approved, staff expects the letter to be distributed that week.

The following is the list and current status of current legislation the City is tracking that would make changes to mortgage related programs or policies:

- H.R. 101-Conyers (D) – 1/25/2013 – In HOUSE Committee on Judiciary: Referred to Subcommittee on Regulatory Reform, Commercial and Antitrust Law
- H.R. 189-Kaptur (D) 1/04/2013 – To HOUSE Committee on Financial Services
- H.R. 234-Kaptur (D) 1/04/2013 – To HOUSE Committee on Financial Services
- H.R. 736-Welch (D) 2/14/2013 – To HOUSE Committee on Financial Services
- H.R. 941-Capuano (D) 03/04/2013 – To HOUSE Committee on Financial Services
- H.R. 1145-Waters (D) 03/13/2013 – To HOUSE Committee on Financial Services
- S. 563-Corker (R) 03/14/2013 – To SENATE Committee on Banking, Housing and Urban Affairs

U.S. bank regulators are moving cautiously in developing new rules to prevent reckless underwriting and other mortgage-market abuses. Since the 2010 Dodd-Frank financial reform law, regulators have been concerned about the impact of potential changes on the fragile housing market, including those raised by an uncommon alliance of both lenders and consumer groups questioning rules that are overly aggressive which could hamper credit availability. Additional areas for discussion include:

- Tax Reform - The two leaders of the Senate Finance Committee, Senate Finance Committee chairman Max Baucus, D-Mont., and ranking Republican member Orrin Hatch, R-Utah, have offered to take a "blank slate" approach as a starting point for tax reform, in which there would be virtually no tax breaks available, and called on their Senate colleagues to provide suggestions on which tax provisions need to be added back and improved in a reformed tax code.
- SAVE Act - On June 6, 2013, Senators Bennet (D-CO) and Isakson (R-GA) introduced S. 1106, the "Sensible Accounting to Value Energy (SAVE) Act" (Attachment A). The bill is an attempt to develop standards for valuing energy efficiency in the appraisal and mortgage-underwriting processes. The bill recognizes that an energy-efficient home can save a homeowner hundreds of dollars a year in lower utility bills while improving comfort and helping the environment.
- Housing Finance Reform and Taxpayer Protection Act - On June 25, 2013, a group of bipartisan senators led by Senators Mark Warner (D-Va.) and Bob Corker (R-Tenn.) introduced legislation to address wholesale reform of housing mortgage giants Fannie Mae and Freddie Mac. The two government-sponsored enterprises (GSEs) were nationalized in 2008 to prevent their collapse.

  The bill, The Housing Finance Reform and Taxpayer Protection Act (S. 1217), aims to wind down Fannie Mae and Freddie Mac over five years, replacing them with a single housing finance system that promises to better protect taxpayers from potential loss, relies more heavily on diverse private capital, continues to keep the mortgage market competitive and liquid and preserves a government guarantee to encourage investment in housing finance. The bill also supports dedicated capital to fund loans and grants for affordable housing activities.

Staff will continue to monitor the items discussed above and will remain informed on new bills or policy proposals relevant to mortgage programs overseen by the federal government. Congress recently began its summer recess, but it is anticipated that activities around mortgage reform will resume when congress returns from recess the second week of September. Staff will continue to provide updates to the committee as new information is available.
(Law & Regulation Committee Communication No. 5493 – File 0103-32).
CONTACT: Mark Wolinski (916) 774-5179 mwolinksi@roseville.ca.us

6.2 Overview of Federal Tax Reform: "Blank Slate" Proposal
Memo from Government Relations Analyst Mark Wolinski and Public Affairs & Communications Director Megan MacPherson providing information to the Law & Regulation Committee (L&R) on the recently proposed "blank slate" approach to tax reform that would eliminate all tax breaks (proposed by Senate Finance Committee Chairman Max Baucus and Ranking Member Orrin Hatch). Staff recommends bringing updates back to the committee on the matter, but requests the committee's input and direction regarding bringing the information to the full Council. In 1986, Congress overhauled the federal tax code, purging it of various exemptions, deductions and credits and using the savings to reduce marginal rates on both individuals and firms. It was a significant change, but over the years Congress and presidents of both parties have proceeded to undo the changes by tweaking the tax code 15,000 times over the last quarter-century. Special breaks, large and small, have crept back into the code during this time. For the past three years the Senate Finance Committee, under Chairman Max Baucus (D-Mont.), has been assessing the issue, poring over the code in hearings and private meetings, with the goal of writing the first major tax-reform bill since 1986 before the 113th Congress ends and Mr. Baucus retires. Many believe the effort will collapse under the typical polarization that besets Washington. The following summarizes the topic:

- Tax Reform Concerns
  Policymakers from across the political spectrum from President Obama to Senator Orrin Hatch, and from Treasury Secretary Jacob J. Lew to Ohio GOP Senator Rob Portman have called for fundamental changes to our tax rules to ensure that the United States remains competitive with the rest of the world. However, tax reform could have significant implications to the City particularly if changes are made to the tax-exempt status of municipal bonds and/or Home Mortgage Interest Deductions.
  - Tax-exempt Municipal Bonds
    In two recent letters to Senators Feinstein and Boxer (Attachments B & C) the Mayor requested the Senators' continued support for the tax-exempt status of municipal bonds. State and local governments have used tax-exempt municipal bonds to build public infrastructure for more than 200 years. It is the key feature that enables state and local governments to access necessary private investments for critical infrastructure projects, such as the construction or improvement of streets, highways, hospitals, bridges, water and sewer systems, playgrounds, public parks, and other public works. In fact, 75 percent of all national infrastructure projects have been completed using this low-cost, market-driven financing tool. Over the last decade, municipal bonds were used to finance $1.65 trillion in state and local infrastructure investments.

- Home Mortgage Interest Deduction (HMID) and Property Taxes
  A possible repeal of the HMID and real property-tax deduction would affect the finances of nearly every American and would have uncertain, potentially dangerous, impacts on an already volatile housing market. Deductions for mortgage interest have been in place for more than a century as a means of encouraging home ownership. Local communities directly benefit from homeownership, as homeowners are active in the civic and political organizations of the community and more likely to work with local officials to solve problems facing the community. Homeownership also promotes stability in the community, which creates positive social benefits and more desirable communities that retain and attract businesses and residents.

While tax reform is a laudable undertaking, there could be serious implications to the City if changes were made to these two deductions in particular. Reductions in the availability of tax-exempt financing to municipal governments, or increases in the cost of issuing tax-exempt bonds, could impose significant fiscal injury on the City. Changes to HMID could have a devastating effect on the fragile recovery of the housing market, for starters, which would likewise severely impact the City. Subsequently, staff recommends continuing to update the committee on tax reform matters and to remain actively engaged with the City's congressional delegation to ensure they are aware of the implications changes to the tax code could have on the City
(Law & Regulation Committee Communication No. 5492 – File 0103-32).
CONTACT: Mark Wolinski (916) 774-5179 mwolinski@roseville.ca.us

7. REPORTS/COMMENTS/COMMITTEE/STAFF

8. ADJOURNMENT

CITY OF ROSEVILLE CALIFORNIA

MINUTES
JUNE 26, 2013
CITY COUNCIL
LAW & REGULATION COMMITTEE
5:30 P.M.
CITY COUNCIL CHAMBERS
311 VERNON STREET

1. CALL TO ORDER

The meeting of the Law & Regulation Committee was called to order by Committee Chair Susan Rohan on Wednesday, June 26, 2013 at 5:30 p.m.

2. ROLL CALL (Appointed Committee Members)

Councilmember/Committee Member:	**Bonnie Gore**	**Present**
Mayor/Committee Chair:	**Susan Rohan**	**Present**

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilmember Gore.

4. PUBLIC COMMENTS

NOTICE TO THE PUBLIC

Persons may address the Law & Regulation Committee on items not on this agenda. Speakers shall restrict their comments to issues that are within the subject jurisdiction of the Law & Regulation Committee and limit their comments to three (3) minutes per person. The total time allocated for Public Comment is 25 minutes. The Brown Act, with certain exceptions, does not permit the Committee to discuss or take action on issues that are not listed on the agenda.

No public comment received.

5. MINUTES

5.1 Minutes of Prior Meetings

May 29, 2013 Law & Regulation meeting, (File 0103-32).

CONTACT: Sonia Orozco (916) 774-5263 sorozco@roseville.ca.us

Consensus to approve the minutes of May 29, 2013 Law & Regulation Committee meeting as presented.

AGENDA ITEM

5.1

6. PRESENTATIONS

6.1 Senate Bill 7 – Charter City Prevailing Wage Authority (Steinberg)

Memo from Government Relations Analyst Mark Wolinski and Public Affairs & Communications Director Megan MacPherson providing information to the Law & Regulation Committee (L&R) on Senate Bill 7 (SB 7). Senate Bill 7 (SB 7), if enacted, would prohibit a charter city from receiving state funding or financial assistance for a construction project if the city has a charter provision or ordinance that authorizes a contractor to not comply with prevailing wage provisions on any public works contract. This bill would authorize charter cities to receive or use state funding or financial assistance if the city has adopted a local prevailing wage ordinance that includes requirements that are equal to or greater than the state's prevailing wage requirements. This bill would exclude contracts for projects of $25,000 or less for construction work, or projects of $15,000 or less for alteration, demolition, repair, or maintenance work. This bill would require the Director of Industrial Relations to maintain a list of charter cities that may receive and use state funding and financial assistance for their construction projects. As a charter city, Roseville has the authority to pass an ordinance restricting the requirement of paying prevailing wages for projects run by the city. To date, the City has not passed such an ordinance. In fact, the City has made it its business practice to comply with prevailing wage requirements. As such, the payment of prevailing wage requirements is embedded in all of City's construction contracts. It is apparent that the focus of SB 7 is to weaken the authorities prescribed to charter cities by punishing charter cities for exercising their rights under the law. The bill would prevent charter cities that have passed a prevailing wage exclusion ordinance from applying for state funding for projects that are financed solely by city funds. The bill places an affirmative duty on a charter city to adopt an ordinance requiring payment of prevailing wages if the charter city wishes to preserve its ability to receive or use state funding or financial assistance for its construction projects. If enacted, SB 7 would demonstrate a strategy the legislature could employ to potentially circumvent other rights available to charter cities. Aside from its significant financing implications, the aspect of SB 7 has the potential to present the greatest concern for the City (and all charter cities) in future years. Staff continues to recommend "oppose" to this bill. Staff will continue to track this proposed legislation and any amendments made to the bill to understand the outcome of the bill and the implications, if any, the bill would present to the City if it is signed into law. Staff recommends providing an update on the bill to the committee at their next scheduled committee meeting, but requests the committee's input on the bill and direction regarding bringing the bill to the full Council.
(Law & Regulation Committee Communication No. 5385 – File 0103-32).
CONTACT: Mark Wolinski (916) 774-5179 mwolinksi@roseville.ca.us

Government Relations Analyst Mark Wolinski made the presentation to the Committee.

Staff to provide update on bill at next L&R Committee meeting, and Committee consensus to draft correspondence in opposition to legislature impositions on charter cities.

6.2 Overview of Legislation Introduced in 2013 Regarding the California Environmental Quality Act (CEQA)

Memo from Senior Planner Kathy Pease, Environmental Coordinator Mark Morse, Government Relations Analyst Mark Wolinski, and Planning Director Paul Richardson

providing information to the Law & Regulation Committee (L&R) with an updated list of CEQA bills presented to the L&R committee at their May 29th committee meeting. The update provides information on the bills that passed their original house of origin and remain active in the legislative process. At the May 29, 2013 L&R Committee meeting staff provided the committee with an overview of the approximately 26 bills that were introduced regarding CEQA and CEQA reform. The city's working group reviewed the bills and made recommendations based on the city's adopted legislative platform and the potential impact each bill might have on the city or community if it were signed into law. During the presentation it was noted by staff that while the leadership of the legislature had indicated they were interested in CEQA reform, the majority of the introduced bills would expand CEQA and its requirements. Subsequently, staff's recommendation for the majority of the bills was an oppose position. Each year the legislative calendar has specific milestones that each bill must pass to move forward through the legislative process. This year, May 31st was the day that bills were required to pass out of their house of origin. Bills that failed to meet this milestone were no longer a viable bill this legislative session. There are currently nine bills from the CEQA list of bills that met the May 31st milestone and remain on the list of tracked CEQA legislation. The remaining bills are no longer active and staff is contacting the offices of the authors of those bills to understand if the authors intended to make the bills a two-year bill. Staff will add the bills that become two-year bills to the 2014 list of tracked legislation to ensure the city is engaged with any bill that was identified as important to the city. The following is the list of CEQA bills that were presented to the L&R committee at the May 29th meeting by the working group with their recommendations and have moved to the second house for committee hearings. The bills are:

- AB 37 – (Perea) – **Oppose** - Would require that specified projects or upon the request of a project applicant and the consent of a lead agency that the lead agency prepare an administrative record concurrently with preparation of negative declaration, mitigated negative declarations, etc.
- AB 543: CEQA (Campos) – **Oppose** - Requires lead agencies to translate specified project notices if the project is at or near any population of non-English speakers, into their native language. This would require hiring of professional translation services of key CEQA documents and add costs to the overall project. Although 'environmental justice' is important, this is a one-size-fits-all bill and should be focused on parts of the state where this is an issue
- AB 667: CEQA (Hernandez, R.) – **Oppose**
  This bill would, in addition, require a city, county, or city and county, including a charter city, prior to approving or disapproving a proposed development project that would permit the construction of a superstore retailer, as defined, to cause an economic impact report to be prepared, as specified, to be paid for by the project applicant, and that includes specified assessments and projections, including, among other things, an assessment of the effect that the proposed superstore will have on specified designated economic assistance areas, as defined, and an assessment of the effect that the proposed superstore will have on retail operations and employment in the same market area. This bill essentially erodes local control on land use decisions and is the basis for the oppose recommendation.
- SB 633 (Pavley) – **Watch/Possible support**
  Would amend the CEQA guidelines section that requires the submission of a subsequent or supplemental environmental impact report when new information

which was not known and could not have been known at the time of the original report was certified as complete becomes available. Requires the new information that becomes available was not known and could not have been known by the lead agency or any responsible agency at the time the report was certified as complete. This bill could reduce legal challenges designed to delay projects.

- SB 731 (Steinberg) – **Watch**
  This is an intent bill that the author has indicated will be central to the CEQA reform effort. However, in its current form, it appears to provide little CEQA relief for cities such as Roseville. The portions for streamlining appear to only pertain to high density transit priority areas, and in addition, require increased administrative burdens for all jurisdictions. The bill would require the lead agency, in making specified findings, to make those findings available to the public at least 15 days prior to the approval of the proposed project and to provide specified notice of the availability of the findings for public review. The bill would also require the lead agency, at the request of a project applicant for specified projects, to, among other things, prepare a record of proceedings concurrently with the preparation of negative declarations, mitigated negative declarations, EIRs, or other environmental documents for specified projects. Because the bill would require a lead agency to prepare the record of proceedings as provided, and provide increased review and availability of Findings, this bill would impose a state-mandated local program.
- AB 417 (Frazier) – **Support**
  Would exempt from CEQA a bicycle transportation plan for an urbanized area. Requires a local agency that determines that the bicycle transportation plan is exempt under this provision and approves or determines to carry out that project, to file notice of the determination with the Office of Planning and Research and the county clerk.

Staff recommends bringing an updated list back to the committee at their next scheduled committee meeting, but requests input from the committee on any bill(s) that are of particular importance to the committee.
(Law & Regulation Committee Communication No. 5383 – File 0103-32).
CONTACT: Kathy Pease (916) 774-5434 kpease@roseville.ca.us
Mark Morse (916) 774-5499 mmorse@roseville.ca.us
Mark Wolinski (916) 774-5179 mwolinski@roseville.ca.us

Government Relations Analyst Mark Wolinski made the presentation to the Committee.

Environmental Coordinator Mark Morse continued the presentation to the Committee.

An update on the bills will be presented at the next L&R Committee meeting.

6.3 Modifications to Government Operated Mortgage Programs
Memo from Government Relations Analyst Mark Wolinski and Public Affairs & Communications Director Megan MacPherson with a report for the L&R committee regarding proposed federal amendments or modifications to government operated mortgage programs. Since the housing and economic downturn of 2008 there has been an assortment of initiatives developed by the government that focused at redefining and re-energizing the national housing market. The programs range from helping

homeowners struggling to retain their homes to reforming the credit rating agencies. Some of the programs and efforts have been successful; some have not. Realizing that the housing market is becoming stronger this is an important time for the city to understand what changes are being contemplated at the federal level by the administration and departments that oversee programs and regulations relating to the housing market. One reason it is important that the City has a clear understanding of changes being proposed is because California is so vulnerable to modifications the government makes to the mortgage programs it offers or regulates. Any restrictions made to the programs that are currently offered by the government have the potential to negatively impact the current upward trend in the housing market, which would have similar impacts to the City. If the City does not have a clear, comprehensive understanding of changes being considered at the federal level it becomes more difficult to plan effectively for the future. Having a comprehensive understanding of the direction the government is taking with these types of programs will allow the City to be in a proactive rather than a reactive position to fluctuations or sustained changes in the housing market. Staff will review the information once it is collected and will bring a more detailed report to the committee for its consideration and comment.
(Law & Regulation Committee Communication No. 5386 – File 0103-32).
CONTACT: Mark Wolinski 774-5179 mwolinski@roseville.ca.us

Government Relations Analyst Mark Wolinski made the presentation to the Committee.

An update to the item will be brought back to the L&R Committee in the future.

6.4 Roseville's List of Priority Legislation for 2013
Memo from Government Relations Analyst Mark Wolinski and Public Affairs & Communications Director Megan MacPherson with information for the Law & Regulation Committee (L&R) regarding a working list of priority legislation comprised of bills that are of particular importance to the city. The current list contains more than 80 bills. The following is a summary of the types of bills that on the list of priority legislation and how they relate to the City's adopted legislative platform. The three primary principles defined by the legislative platform are:

- The City of Roseville believes in local control and the ability of the City Council to make decisions that address the needs of residents and businesses within the local jurisdiction they directly serve. In general, the City of Roseville will oppose legislation that erodes local control and will support legislation that increases control at the local level.
- The City of Roseville also believes in fiscal responsibility and requires financial flexibility to carry out its mission and objectives for the community. The City will oppose legislation that hinders financial flexibility and will support legislation that encourages financial flexibility.
- Oppose legislation that requires the City to provide a service or benefit without appropriate and full funding.

The review of the list of priority bills resulted in the following summary of how the 85 bills related to the principles outlined in the City's legislative platform:

- Local Control - 40 bills
- Financial Flexibility - 18 bills
- Service or Benefit Without Funding – 12 bills; and,
- Other Areas of Interest - 15

The following bills are a representation of the types of legislation contained on the City's initial priority bill list that relate to the City's legislative platform.

- AB 325 (Alejo) – (**Local Control**) Land Use and Planning: Cause of Actions: Time Limits – **(Oppose)** The Planning and Zoning Law requires an action or proceeding against local zoning and planning decisions of a legislative body to be commenced and the legislative body to be served within a year of accrual of the cause of action, if it meets certain requirements. Where the action or proceeding is brought in support of or to encourage or facilitate the development of housing that would increase the community's supply of affordable housing, a cause of action accrues 60 days after notice is filed or the legislative body takes a final action in response to the notice, whichever occurs first. This bill would authorize the notice to be filed any time within 3 years after a specified action pursuant to existing law. The bill would declare the intent of the Legislature that its provisions modify a specified court opinion. The bill would also provide that in that specified action or proceeding, no remedy pursuant to specified provisions of law abrogate, impair, or otherwise interfere with the full exercise of the rights and protections granted to a tentative map application or a developer, as prescribed.
- SB 1 (Steinberg) – (**Financial flexibility**) Sustainable Communities Investment Authorities – **(Support):** This bill would authorize certain public entities of a Sustainable Communities Investment Area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would require the authority to adopt a Sustainable Communities Investment Plan for a Sustainable Communities Investment Area and authorize the authority to include in that plan a provision for the receipt of tax increment funds provided that certain economic development and planning requirements are met. The bill would authorize the legislative body of a city or county forming an authority to dedicate any portion of its net available revenue, as defined, to the authority through its Sustainable Communities Investment Plan. The bill would require the authority to contract for an independent financial and performance audit every 5 years.
- AB 562 (Williams) – (**Requirement Without Benefit**) Economic Development Subsidies: Local Agency Review – **(Oppose):** Relates to economic development activities by state and local agencies. Requires each local agency to provide information to the public before approving an economic development subsidy, and to hold hearings, and report on those subsidies at specified intervals.
- AB 39 (Skinner) (**Other**) – Proposition 39 Implementation – **(Watch):** Requires that of the revenues deposited into the Clean Energy Job Creation Fund, a percentage of those revenues be provided to eligible institutions for grants for eligible projects; requires the State Department of Education to administer a percentage of those revenues for local educational agencies for the purposes of eligible projects; provides moneys for job training, workforce development and public-private partnerships to be available from the Clean Energy Job Creation Fund.

The bills highlighted above are part of the attached list of priority bills and have been placed on the list because of the impacts, either positive or negative; they would have on the City or the community if they were signed into law. For example, AB 325 would extend the time from one to three years for groups to file actions against a city, county or agency for zoning or planning actions. This bill would impact the City's local control and would legislate how a city or county conducts its business adding to the erosion of the

City's ability to maintain local control. The bill would also increase the risk of having a lawsuit filed against the City. SB 1 would authorize certain public entities to form a Sustainable Communities Investment Authority and to carry out the Community Redevelopment Law in a specified manner. The bill would provide cities with a funding mechanism that would help finance infrastructure and other improvements within defined areas within the city. AB 562 would require local agencies to provide information to the public before approving an economic development subsidy, and to hold hearings, and report on those subsidies at specified intervals. The bill would place a financial burden on the City to conduct public hearings and provide reports with no financial assistance or a demonstrated need for the change. Finally, AB 39 would require that the revenues deposited into the Clean Energy Job Creation Fund and other related programs. The City is watching this bill to understand how the community might benefit from the bill and how the bill might impact the City's departments. Staff recommends bringing a revised priority list back to the committee at each L&R Committee meeting during the legislative session, but requests input at this meeting from the L&R Committee on any bill(s) that are of particular importance to the committee.
(Law & Regulation Committee Communication No. 5384 – File 0103-32).
CONTACT: Mark Wolinski (916) 774-5179 mwolinski@roseville.ca.us

Government Relations Analyst Mark Wolinski made the presentation to the Committee.

Consensus to forward zero bills for consideration to City Council, and the revised priority list will be brought back the L&R Committee during the legislative session.

7. REPORTS/COMMENTS/COMMITTEE/STAFF

Councilmember Gore and Mayor Rohan expressed appreciation.

8. ADJOURNMENT

Meeting adjourned at 6:12 p.m.

SUSAN ROHAN, MAYOR/COMMITTEE CHAIR

AUDREY BYRNES
ASSISTANT CITY CLERK

CITY OF ROSEVILLE CALIFORNIA

CITY COUNCIL
Law & Regulation Committee

5493
City Clerk Use Only

DATE: July 30, 2013

TITLE: Overview of Proposed Modifications to Federal Government-Operated Mortgage Programs

CONTACT: Mark Wolinski, Government Relations Analyst: mwolinski@roseville.ca.us

Meeting Date: August 14, 2013

SUMMARY RECOMMENDATION

Staff recommends bringing continual updates on mortgage reform measures to the committee as new information develops on topic, but requests the committee's input on any of the items presented in this staff report.

BACKGROUND

At the June 26th L&R Committee meeting, the committee requested that staff bring regular updates back to the committee on actions taking place regarding modifications to government-operated mortgage programs.

Staff initiated a process to understand what changes, if any, the administration, federal departments and Congress might be contemplating regarding housing-related programs. The latest information from the process is as follows:

- Staff is requesting assistance from Congressman McClintock to survey federal departments on changes they might be proposing to mortgage programs overseen by their departments and anticpates a response from the congressman by Aug. 12. If approved, staff expects the letter to be distributed that week.

- The following is the list and current status of current legislation the City is tracking that would make changes to mortgage related programs or policies:
  - H.R. 101-Conyers (D) – 1/25/2013 – In HOUSE Committee on Judiciary: Referred to Subcommittee on Regulatory Reform, Commercial and Antitrust Law
  - H.R. 189-Kaptur (D) 1/04/2013 – To HOUSE Committee on Financial Services
  - H.R. 234-Kaptur (D) 1/04/2013 – To HOUSE Committee on Financial Services
  - H.R. 736-Welch (D) 2/14/2013 – To HOUSE Committee on Financial Services
  - H.R. 941-Capuano (D) 03/04/2013 – To HOUSE Committee on Financial Services
  - H.R. 1145-Waters (D) 03/13/2013 – To HOUSE Committee on Financial Services
  - S. 563-Corker (R) 03/14/2013 – To SENATE Committee on Banking, Housing and Urban Affairs

- U.S. bank regulators are moving cautiously in developing new rules to prevent reckless underwriting and other mortgage-market abuses. Since the 2010 Dodd-Frank financial reform law, regulators have been concerned about the impact of potential changes on the fragile housing market, including those raised by an uncommon alliance of both lenders and consumer groups questioning rules that are overly aggressive which could hamper credit availability.

Routing Approval

_____ASD _____ACM _____ATTY

AGENDA ITEM
6.1

Recently, officials from six agencies that oversee housing indicated they might ease a proposal requiring lenders to keep a portion of securitized mortgages on their books. Consumer groups and lenders alike have supported such a change.

The Federal Reserve and other agencies have also decided against requiring banks to raise more capital to fund their residential mortgage lending. An unexpectedly cooperative relationship has developed between banks and the newly created Consumer Financial Protection Bureau (CFPB), which has broad authority to regulate mortgage lending. The Director of Housing Policy for the Consumer Federation of America recently indicated that everyone involved in housing related programs is working to ensure the housing market is well-positioned and does not lead the country into another deep recession.

Indications from recent discussions between regulators and congressional committees are that regulators recognize that they walk a fine line regarding reform. There is a growing belief that lending practices should remain fairly conservative, but also an awareness that too much leniency could prompt a return to shoddy lending practices. An analyst who tracks financial policy for advocacy group Public Citizen, called the dilemma a "very important and dangerous issue."

The greatest conflicts over revising lending procedures involved the Consumer Bureau, which was charged with implementing key provisions of Dodd-Frank and was criticized as overly powerful by lenders and by Republicans in Congress. Consumer groups and lenders said the bureau struck a balance with its first major mortgage rules, released in January, including a requirement that lenders be able to verify that borrowers could repay loans. Since then, bank lobbyists say bureau officials remain familiar with their concerns about complying with the many new rules. In some cases, the bureau has even revisited final rules and amended technical aspects in response to banks' comments. The bureau hired a former (?) Fannie Mae official to help implement its rules, which also include requirements for mortgage servicers, and a (former?) Freddie Mac official to reach out to businesses.

The next big challenge facing lenders will come when the Fed, the Federal Deposit Insurance Corp and other agencies distribute the rules requiring lenders to keep a stake in securitized loans. Many consumer advocates and banks say they want this group, which does not include the CFPB, to follow the consumer bureau's even-handed approach. The regulators are expected to revisit the risk-retention rules soon.

- Tax Reform - The two leaders of the Senate Finance Committee, Senate Finance Committee chairman Max Baucus, D-Mont., and ranking Republican member Orrin Hatch, R-Utah, have offered to take a "blank slate" approach as a starting point for tax reform, in which there would be virtually no tax breaks available, and called on their Senate colleagues to provide suggestions on which tax provisions need to be added back and improved in a reformed tax code. Over the past three years, the Finance Committee has been working hard on tax reform on a bipartisan basis. The committee has held more than 30 hearings and heard from hundreds of experts on reforming the tax code. The committee is now asking Senator's for their input and partnership to move tax reform forward. Baucus and Hatch emphasized that any tax provisions should be added back only if they help grow the economy, make the tax code fairer, or effectively promote other important policy objectives. Senators had until July 26 to submit their proposals to the committee.

- SAVE Act - On June 6, 2013, Senators Bennet (D-CO) and Isakson (R-GA) introduced S. 1106, the "Sensible Accounting to Value Energy (SAVE) Act" (Attachment A). The bill is an attempt to develop standards for valuing energy efficiency in the appraisal and mortgage-underwriting processes. The bill recognizes that an energy-efficient home can save a homeowner hundreds of dollars a year in lower utility bills while improving comfort and helping the environment. It is believed that many homeowners are willing to pay the small up-front cost for energy-efficiency upgrades and they could afford to pay fo the upgrades out of their energy savings. But current federal mortgage-underwriting and appraisal rules do not recognize the real value of energy efficiency, and thus mortgages often cannot cover the initial cost. The Sensible Accounting to Value Energy (SAVE Act) seeks to fix this by including the energy efficiency of homes in calculations used to determine mortgage eligibility. The Act would direct the

Department of Housing and Urban Development (HUD) to update its underwriting and appraisal guidelines to ensure that any home loan backed by Fannie Mae, Freddie Mac, the FHA, or other federal agencies and entities would account for the home's energy costs. As Fannie Mae and Freddie Mac guarantee around 90percent of home mortgages in the United States, any such regulatory change would likely be adopted as standard practice by most domestic residential mortgage lenders. The home energy-efficiency rating could be established by a Home Energy Rating System (HERS) rating or other approved, independent energy-efficiency rating. If no such rating is available, the energy use would be estimated from home size and average regional costs.

Home Value Cap (Loan-to-Value Adjustment) - Conventional home appraisals do not normally account for the energy efficiency of a home or the added value of energy-efficiency improvements. Although better insulation or a high-efficiency heating and air conditioning system is likely to reduce the energy costs for a home buyer, and studies show buyers recognize this value, under the current system independent appraisers generally have no way of fairly valuing energy efficiency and every incentive to make a quick appraisal rather than an in-depth examination.

Mortgage amounts are capped at a set percentage of the appraised home value ("loan-to-value ratio"), often 80percent. The SAVE Act would adjust the home value used to cap the mortgage (or, in theory, any property lien-based loan). As long as the appraiser did not already consider energy efficiency, it would add the present value of projected energy savings compared to a typical home (that is, the value of future savings would be discounted based on the mortgage interest rate) to the appraised value when calculating how much of a loan would be allowed relative to the value of a home. For a home that uses 30percent less energy than an average home, the added value would be over $10,000.

Affordability Cap (PITI Adjustment) - Mortgage underwriting also fails to account for the reduced utility costs in an energy-efficient home. Yet a home buyer moving into an efficient home with low energy bills will have a greater ability to make mortgage payments than one moving into an inefficient home. While estimated property tax and insurance costs are factored into lenders' determination of what potential homes buyers can afford in a mortgage, utility costs are not. Besides more accurately valuing, and thus enabling, energy efficiency upgrades, directly including energy costs may reduce foreclosures by ensuring buyers can afford very large homes with high expected utility costs.

When calculating how much of a mortgage a home buyer may be eligible for, lenders add together principal of the mortgage, interest on the mortgage, property taxes, and insurance costs (PITI, or **P**rincipal, **I**nterest, **T**axes, and **I**nsurance); they may also include condo fees, homeowners' association fees, and the like as appropriate. These housing costs are compared to income in the "debt-to-income" ratio. The formula does not, however, account for home energy costs, which on average are the second largest expense of owning a home, larger than either property taxes or homeowners' insurance. The SAVE Act would add energy costs to this calculation (adjusting the allowable ratio accordingly), based on a qualified energy rating of the home or average costs. For a home that uses 30percent less energy than average, costs would be reduced by more than $700 per year.

The authors of the bill believe that the SAVE Act would spur millions of dollars in investment in energy efficiency with no new government mandate and no subsidy, simply by fixing current banking rules that create an artificial barrier.

- Housing Finance Reform and Taxpayer Protection Act - On June 25, 2013, a group of bipartisan senators led by Senators Mark Warner (D-Va.) and Bob Corker (R-Tenn.) introduced legislation to address wholesale reform of housing mortgage giants Fannie Mae and Freddie Mac. The two government-sponsored enterprises (GSEs) were nationalized in 2008 to prevent their collapse. The bill, The Housing Finance Reform and Taxpayer Protection Act (S. 1217), aims to wind down Fannie Mae and Freddie Mac over five years, replacing them with a single housing finance system that promises to better protect taxpayers from potential loss, relies more heavily on diverse private capital, continues to keep the mortgage market competitive and liquid and preserves a government guarantee

to encourage investment in housing finance. The bill also supports dedicated capital to fund loans and grants for affordable housing activities.

At the heart of the new system would be the Federal Mortgage Insurance Corporation (FMIC), a government corporation that would oversee mortgage lending activities; capture and report market information with greater transparency; establish and monitor compliance with mortgage requirements; and guarantee and insure a con-forming mortgage segment. In addition, the FMIC would fulfill a role in the mortgage finance industry similar to that of the Federal Deposit Insurance Corporation (FDIC) in banking, overseeing an insurance fund that would further protect the taxpayer in the event of losses.

Conclusion
Staff will continue to monitor the items discussed above and will remain informed on new bills or policy proposals relevant to mortgage programs overseen by the federal government. Congress recently began its summer recess, but it is anticipated that activities around mortgage reform will resume when congress returns from recess the second week of September. Staff will continue to provide updates to the committee as new information is available.

FISCAL IMPACT
The costs of these activities are contained within the City's current budget.

ECONOMIC DEVELOPMENT/JOBS CREATED
The activities detained in this report will not result in job development or creation.

ENVIRONMENTAL REVIEW
The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §1506(b) (3). The interactions with the SWRCB or meetings with the US EPA does not include the potential for a significant environmental effect, therefore is not subject to CEQA.

Respectfully submitted,

Mark Wolinski,
Government Relations Analyst,
Public Affairs & Communications Department

Megan MacPherson, Director,
For Public Affairs & Communications Department

APPROVED:

Ray Kerridge,
City Manager

Attachments: Attachment A

Attachment A

113TH CONGRESS
1ST SESSION

S. 1106

To improve the accuracy of mortgage underwriting used by Federal mortgage agencies by ensuring that energy costs are included in the underwriting process, to reduce the amount of energy consumed by homes, to facilitate the creation of energy efficiency retrofit and construction jobs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2013

Mr. BENNET (for himself and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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A BILL

To improve the accuracy of mortgage underwriting used by Federal mortgage agencies by ensuring that energy costs are included in the underwriting process, to reduce the amount of energy consumed by homes, to facilitate the creation of energy efficiency retrofit and construction jobs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sensible Accounting to Value Energy Act of 2013".

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions shall apply:

3 (1) COVERED AGENCY.—The term "covered
4 agency"—

5 (A) means—

6 (i) an executive agency, as that term
7 is defined in section 102 of title 31, United
8 States Code; and

9 (ii) any other agency of the Federal
10 Government; and

11 (B) includes any enterprise, as that term is
12 defined under section 1303 of the Federal
13 Housing Enterprises Financial Safety and
14 Soundness Act of 1992 (12 U.S.C. 4502).

15 (2) COVERED LOAN.—The term "covered loan"
16 means a loan secured by a home that is issued, in-
17 sured, purchased, or securitized by a covered agency.

18 (3) HOMEOWNER.—The term "homeowner"
19 means the mortgagor under a covered loan.

20 (4) MORTGAGEE.—The term "mortgagee"
21 means—

22 (A) an original lender under a covered loan
23 or the holder of a covered loan at the time at
24 which that mortgage transaction is con-
25 summated;

(B) any affiliate, agent, subsidiary, successor, or assignee of an original lender under a covered loan or the holder of a covered loan at the time at which that mortgage transaction is consummated;

(C) any servicer of a covered loan; and

(D) any subsequent purchaser, trustee, or transferee of any covered loan issued by an original lender.

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(6) SERVICER.—The term "servicer" means the person or entity responsible for the servicing of a covered loan, including the person or entity who makes or holds a covered loan if that person or entity also services the covered loan.

(7) SERVICING.—The term "servicing" has the meaning given the term in section 6(i) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)).

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) energy costs for homeowners are a significant and increasing portion of their household budgets;

(2) household energy use can vary substantially depending on the efficiency and characteristics of the house;

(3) expected energy cost savings are important to the value of the house;

(4) the current test for loan affordability used by most covered agencies, commonly known as the "debt-to-income" test, is inadequate because it does not take into account the expected energy cost savings for the homeowner of an energy efficient home; and

(5) another loan limitation, commonly known as the "loan-to-value" test, is tied to the appraisal, which often does not adjust for efficiency features of houses.

(b) PURPOSES.—The purposes of this Act are to—

(1) improve the accuracy of mortgage underwriting by Federal mortgage agencies by ensuring that energy cost savings are included in the underwriting process as described below, and thus to reduce the amount of energy consumed by homes and to facilitate the creation of energy efficiency retrofit and construction jobs;

(2) require a covered agency to include the expected energy cost savings of a homeowner as a reg-

1 ular expense in the tests, such as the debt-to-income
2 test, used to determine the ability of the loan appli-
3 cant to afford the cost of homeownership for all loan
4 programs; and
5 (3) require a covered agency to include the
6 value home buyers place on the energy efficiency of
7 a house in tests used to compare the mortgage
8 amount to home value, taking precautions to avoid
9 double-counting and to support safe and sound lend-
10 ing.

11 **SEC. 4. ENHANCED ENERGY EFFICIENCY UNDERWRITING**
12 **CRITERIA.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of enactment of this Act, the Secretary shall, in con-
15 sultation with the advisory group established in section
16 7(b), develop and issue guidelines for a covered agency to
17 implement enhanced loan eligibility requirements, for use
18 when testing the ability of a loan applicant to repay a cov-
19 ered loan, that account for the expected energy cost sav-
20 ings for a loan applicant at a subject property, in the man-
21 ner set forth in subsections (b) and (c).
22 (b) REQUIREMENTS TO ACCOUNT FOR ENERGY COST
23 SAVINGS.—The enhanced loan eligibility requirements
24 under subsection (a) shall require that, for all covered
25 loans for which an energy efficiency report is voluntarily

1 provided to the mortgagee by the mortgagor, the covered
2 agency and the mortgagee shall take into consideration the
3 estimated energy cost savings expected for the owner of
4 the subject property in determining whether the loan ap-
5 plicant has sufficient income to service the mortgage debt
6 plus other regular expenses. To the extent that a covered
7 agency uses a test such as a debt-to-income test that in-
8 cludes certain regular expenses, such as hazard insurance
9 and property taxes, the expected energy cost savings shall
10 be included as an offset to these expenses. Energy costs
11 to be assessed include the cost of electricity, natural gas,
12 oil, and any other fuel regularly used to supply energy to
13 the subject property.

14 (c) DETERMINATION OF ESTIMATED ENERGY COST
15 SAVINGS.—

16 (1) IN GENERAL.—The guidelines to be issued
17 under subsection (a) shall include instructions for
18 the covered agency to calculate estimated energy
19 cost savings using—

20 (A) the energy efficiency report;

21 (B) an estimate of baseline average energy
22 costs; and

23 (C) additional sources of information as
24 determined by the Secretary.

1 (2) REPORT REQUIREMENTS.—For the pur-
2 poses of paragraph (1), an energy efficiency report
3 shall—
4 (A) estimate the expected energy cost sav-
5 ings specific to the subject property, based on
6 specific information about the property;
7 (B) be prepared in accordance with the
8 guidelines to be issued under subsection (a);
9 and
10 (C) be prepared—
11 (i) in accordance with the Residential
12 Energy Service Network's Home Energy
13 Rating System (commonly known as
14 "HERS") by an individual certified by the
15 Residential Energy Service Network, un-
16 less the Secretary finds that the use of
17 HERS does not further the purposes of
18 this Act; or
19 (ii) by other methods approved by the
20 Secretary, in consultation with the Sec-
21 retary of Energy and the advisory group
22 established in section 7(b), for use under
23 this Act, which shall include a third-party
24 quality assurance procedure.

1 (3) USE BY APPRAISER.—If an energy effi-
2 ciency report is used under subsection (b), the en-
3 ergy efficiency report shall be provided to the ap-
4 praiser to estimate the energy efficiency of the sub-
5 ject property and for potential adjustments for en-
6 ergy efficiency.
7 (d) REQUIRED DISCLOSURE TO CONSUMER FOR A
8 HOME WITH AN ENERGY EFFICIENCY REPORT.—If an
9 energy efficiency report is used under subsection (b), the
10 guidelines to be issued under subsection (a) shall require
11 the mortgagee to—
12 (1) inform the loan applicant of the expected
13 energy costs as estimated in the energy efficiency re-
14 port, in a manner and at a time as prescribed by the
15 Secretary, and if practicable, in the documents deliv-
16 ered at the time of loan application; and
17 (2) include the energy efficiency report in the
18 documentation for the loan provided to the borrower.
19 (e) REQUIRED DISCLOSURE TO CONSUMER FOR A
20 HOME WITHOUT AN ENERGY EFFICIENCY REPORT.—If
21 an energy efficiency report is not used under subsection
22 (b), the guidelines to be issued under subsection (a) shall
23 require the mortgagee to inform the loan applicant in a
24 manner and at a time as prescribed by the Secretary, and

1 if practicable, in the documents delivered at the time of
2 loan application of—
3 (1) typical energy cost savings that would be
4 possible from a cost-effective energy upgrade of a
5 home of the size and in the region of the subject
6 property;
7 (2) the impact the typical energy cost savings
8 would have on monthly ownership costs of a typical
9 home;
10 (3) the impact on the size of a mortgage that
11 could be obtained if the typical energy cost savings
12 were reflected in an energy efficiency report; and
13 (4) resources for improving the energy effi-
14 ciency of a home.
15 (f) LIMITATIONS.—A covered agency shall not—
16 (1) modify existing underwriting criteria or
17 adopt new underwriting criteria that intentionally
18 negate or reduce the impact of the requirements or
19 resulting benefits that are set forth or otherwise de-
20 rived from the enhanced loan eligibility requirements
21 required under this section; or
22 (2) impose greater buy back requirements, cred-
23 it overlays, insurance requirements, including private
24 mortgage insurance, or any other material costs, im-
25 pediments, or penalties on covered loans merely be-

1 cause the loan uses an energy efficiency report or
2 the enhanced loan eligibility requirements required
3 under this section.

4 (g) APPLICABILITY AND IMPLEMENTATION DATE.—
5 Not later than 3 years after the date of enactment of this
6 Act, and before December 31, 2016, the enhanced loan
7 eligibility requirements required under this section shall
8 be implemented by each covered agency to—

9 (1) apply to any covered loan for the sale, or
10 refinancing of any loan for the sale, of any home;

11 (2) be available on any residential real property
12 (including individual units of condominiums and co-
13 operatives) that qualifies for a covered loan; and

14 (3) provide prospective mortgagees with suffi-
15 cient guidance and applicable tools to implement the
16 required underwriting methods.

17 **SEC. 5. ENHANCED ENERGY EFFICIENCY UNDERWRITING**
18 **VALUATION GUIDELINES.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of enactment of this Act, the Secretary shall—

21 (1) in consultation with the Federal Financial
22 Institutions Examination Council and the advisory
23 group established in section 7(b), develop and issue
24 guidelines for a covered agency to determine the
25 maximum permitted loan amount based on the value

1 of the property for all covered loans made on prop-
2 erties with an energy efficiency report that meets the
3 requirements of section 4(c)(2); and
4 (2) in consultation with the Secretary of En-
5 ergy, issue guidelines for a covered agency to deter-
6 mine the estimated energy savings under subsection
7 (c) for properties with an energy efficiency report.
8 (b) REQUIREMENTS.—The enhanced energy effi-
9 ciency underwriting valuation guidelines required under
10 subsection (a) shall include—
11 (1) a requirement that if an energy efficiency
12 report that meets the requirements of section 4(c)(2)
13 is voluntarily provided to the mortgagee, such report
14 shall be used by the mortgagee or covered agency to
15 determine the estimated energy savings of the sub-
16 ject property; and
17 (2) a requirement that the estimated energy
18 savings of the subject property be added to the ap-
19 praised value of the subject property by a mortgagee
20 or covered agency for the purpose of determining the
21 loan-to-value ratio of the subject property, unless the
22 appraisal includes the value of the overall energy ef-
23 ficiency of the subject property, using methods to be
24 established under the guidelines issued under sub-
25 section (a).

1 (c) DETERMINATION OF ESTIMATED ENERGY SAV-
2 INGS.—
3 (1) AMOUNT OF ENERGY SAVINGS.—The
4 amount of estimated energy savings shall be deter-
5 mined by calculating the difference between the esti-
6 mated energy costs for the average comparable
7 houses, as determined in guidelines to be issued
8 under subsection (a), and the estimated energy costs
9 for the subject property based upon the energy effi-
10 ciency report.
11 (2) DURATION OF ENERGY SAVINGS.—The du-
12 ration of the estimated energy savings shall be based
13 upon the estimated life of the applicable equipment,
14 consistent with the rating system used to produce
15 the energy efficiency report.
16 (3) PRESENT VALUE OF ENERGY SAVINGS.—
17 The present value of the future savings shall be dis-
18 counted using the average interest rate on conven-
19 tional 30-year mortgages, in the manner directed by
20 guidelines issued under subsection (a).
21 (d) ENSURING CONSIDERATION OF ENERGY EFFI-
22 CIENT FEATURES.—Section 1110 of the Financial Institu-
23 tions Reform, Recovery, and Enforcement Act of 1989 (12
24 U.S.C. 3339) is amended—

1 (1) in paragraph (2), by striking "; and" and
2 inserting a semicolon; and
3 (2) in paragraph (3), by striking the period at
4 the end and inserting "; and" and inserting after
5 paragraph (3) the following:
6 "(4) that State certified and licensed appraisers
7 have timely access, whenever practicable, to informa-
8 tion from the property owner and the lender that
9 may be relevant in developing an opinion of value re-
10 garding the energy- and water-saving improvements
11 or features of a property, such as—
12 "(A) labels or ratings of buildings;
13 "(B) installed appliances, measures, sys-
14 tems or technologies;
15 "(C) blueprints;
16 "(D) construction costs;
17 "(E) financial or other incentives regard-
18 ing energy- and water-efficient components and
19 systems installed in a property;
20 "(F) utility bills;
21 "(G) energy consumption and benchmark-
22 ing data; and
23 "(H) third-party verifications or represen-
24 tations of energy and water efficiency perform-
25 ance of a property, observing all financial pri-

1 vacy requirements adhered to by certified and
2 licensed appraisers, including section 501 of the
3 Gramm-Leach-Bliley Act (15 U.S.C. 6801).
4 Unless a property owner consents to a lender, an ap-
5 praiser, in carrying out the requirements of para-
6 graph (4), shall not have access to the commercial
7 or financial information of the owner that is privi-
8 leged or confidential.".
9 (e) TRANSACTIONS REQUIRING STATE CERTIFIED
10 APPRAISERS.—Section 1113 of the Financial Institutions
11 Reform, Recovery, and Enforcement Act of 1989 (12
12 U.S.C. 3342) is amended—
13 (1) in paragraph (1), by inserting before the
14 semicolon the following: ", or any real property on
15 which the appraiser makes adjustments using an en-
16 ergy efficiency report"; and
17 (2) in paragraph (2), by inserting after "atypi-
18 cal" the following: ", or an appraisal on which the
19 appraiser makes adjustments using an energy effi-
20 ciency report.".
21 (f) PROTECTIONS.—
22 (1) AUTHORITY TO IMPOSE LIMITATIONS.—The
23 guidelines to be issued under subsection (a) shall in-
24 clude such limitations and conditions as determined
25 by the Secretary to be necessary to protect against

1 meaningful under or over valuation of energy cost
2 savings or duplicative counting of energy efficiency
3 features or energy cost savings in the valuation of
4 any subject property that is used to determine a
5 loan amount.

6 (2) ADDITIONAL AUTHORITY.—At the end of
7 the 7-year period following the implementation of
8 enhanced eligibility and underwriting valuation re-
9 quirements under this Act, the Secretary may mod-
10 ify or apply additional exceptions to the approach
11 described in subsection (b), where the Secretary
12 finds that the unadjusted appraisal will reflect an
13 accurate market value of the efficiency of the subject
14 property or that a modified approach will better re-
15 flect an accurate market value.

16 (g) APPLICABILITY AND IMPLEMENTATION DATE.—
17 Not later than 3 years after the date of enactment of this
18 Act, and before December 31, 2016, each covered agency
19 shall implement the guidelines required under this section,
20 which shall—

21 (1) apply to any covered loan for the sale, or
22 refinancing of any loan for the sale, of any home;
23 and

1 (2) be available on any residential real property,
2 including individual units of condominiums and co-
3 operatives, that qualifies for a covered loan.

4 **SEC. 6. MONITORING.**

5 Not later than 1 year after the date on which the
6 enhanced eligibility and underwriting valuation require-
7 ments are implemented under this Act, and every year
8 thereafter, each covered agency with relevant activity shall
9 issue and make available to the public a report that—

10 (1) enumerates the number of covered loans of
11 the agency for which there was an energy efficiency
12 report, and that used energy efficiency appraisal
13 guidelines and enhanced loan eligibility require-
14 ments; and

15 (2) includes the default rates and rates of fore-
16 closures for each category of loans.

17 **SEC. 7. RULEMAKING.**

18 (a) IN GENERAL.—The Secretary shall prescribe reg-
19 ulations to carry out this Act, in consultation with the Sec-
20 retary of Energy and the advisory group established in
21 subsection (b), which may contain such classifications, dif-
22 ferentiations, or other provisions, and may provide for
23 such proper implementation and appropriate treatment of
24 different types of transactions, as the Secretary deter-
25 mines are necessary or proper to effectuate the purposes

1 of this Act, to prevent circumvention or evasion thereof,
2 or to facilitate compliance therewith.
3 (b) ADVISORY GROUP.—To assist in carrying out this
4 Act, the Secretary shall establish an advisory group, con-
5 sisting of individuals representing the interests of—
6 (1) mortgage lenders;
7 (2) appraisers;
8 (3) energy raters and residential energy con-
9 sumption experts;
10 (4) energy efficiency organizations;
11 (5) real estate agents;
12 (6) home builders and remodelers;
13 (7) State energy officials; and
14 (8) others as determined by the Secretary.
15 **SEC. 8. ADDITIONAL STUDY.**
16 (a) IN GENERAL.—Not later than 18 months after
17 the date of enactment of this Act, the Secretary shall re-
18 convene the advisory group established in section 7(b), in
19 addition to water and locational efficiency experts, to ad-
20 vise the Secretary on the implementation of the enhanced
21 energy efficiency underwriting criteria established in sec-
22 tions 4 and 5.
23 (b) RECOMMENDATIONS.—The advisory group estab-
24 lished in section 7(b) shall provide recommendations to the
25 Secretary on any revisions or additions to the enhanced

1 energy efficiency underwriting criteria deemed necessary
2 by the group, which may include alternate methods to bet-
3 ter account for home energy costs and additional factors
4 to account for substantial and regular costs of homeowner-
5 ship such as location-based transportation costs and water
6 costs. The Secretary shall forward any legislative rec-
7 ommendations from the advisory group to Congress for
8 its consideration.

○

CITY COUNCIL
Law & Regulation Committee

5492
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DATE:	**July 31, 2013**
TITLE:	**Overview of Federal Tax Reform: "Blank Slate" Proposal**
CONTACT:	**Mark Wolinski, Government Relations Analyst: mwolinski@roseville.ca.us**

Meeting Date: August 14, 2013

SUMMARY RECOMMENDATION

Senate Finance Committee Chairman Max Baucus and Ranking Member Orrin Hatch recently proposed a "blank slate" approach to tax reform that would eliminate all tax breaks. Staff recommends bringing updates back to the committee on the matter, but requests the committee's input and direction regarding bringing the information to the full Council.

BACKGROUND

In 1986, Congress overhauled the federal tax code, purging it of various exemptions, deductions and credits and using the savings to reduce marginal rates on both individuals and firms. It was a significant change, but over the years Congress and presidents of both parties have proceeded to undo the changes by tweaking the tax code 15,000 times over the last quarter-century. Special breaks, large and small, have crept back into the code during this time.

For the past three years the Senate Finance Committee, under Chairman Max Baucus (D-Mont.), has been assessing the issue, poring over the code in hearings and private meetings, with the goal of writing the first major tax-reform bill since 1986 before the 113th Congress ends and Mr. Baucus retires. Many believe the effort will collapse under the typical polarization that besets Washington.

The two leaders of the Senate Finance Committee have approached tax reform with a "blank slate" methodology as a starting point for tax reform. The approach would begin with a tax code where virtually no tax breaks would be available. The Senators called on their Senate colleagues to provide suggestions on which tax provisions need to be added back and improved in a reformed tax code (Attachment A). Senators Baucus and Hatch emphasized that any tax provisions should be added back only if they help grow the economy, make the tax code fairer, or effectively promote other important policy objectives. Senators had until July 26 to submit their proposals.

The Senators have indicated that the "blank-slate" is not the end of the discussion. Rather, they both believe that some existing tax expenditures should be preserved in some form. But the tax code is also littered with preferences for special interests. To help inform submissions, the Senators had the nonpartisan Joint Committee on Taxation (JCT) and their staffs analyze the relationship between tax expenditures and the current tax rates if the current level of progressivity is roughly maintained. The amount of rate reduction would depend on how much revenue was reserved for deficit reduction, if any, and from which income groups.

Tax Reform Concerns

Policymakers from across the political spectrum from President Obama to Senator Orrin Hatch, and from Treasury Secretary Jacob J. Lew to Ohio GOP Senator Rob Portman have called for fundamental changes to

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AGENDA ITEM
6.2

our tax rules to ensure that the United States remains competitive with the rest of the world. However, tax reform could have significant implications to the City particularly if changes are made to the tax-exempt status of municipal bonds and/or Home Mortgage Interest Deductions.

Tax-exempt municipal bonds
In two recent letters to Senators Feinstein and Boxer (Attachments B & C) the Mayor requested the Senators' continued support for the tax-exempt status of municipal bonds. State and local governments have used tax-exempt municipal bonds to build public infrastructure for more than 200 years. It is the key feature that enables state and local governments to access necessary private investments for critical infrastructure projects, such as the construction or improvement of streets, highways, hospitals, bridges, water and sewer systems, playgrounds, public parks, and other public works. In fact, 75 percent of all national infrastructure projects have been completed using this low-cost, market-driven financing tool. Over the last decade, municipal bonds were used to finance $1.65 trillion in state and local infrastructure investments.

Home Mortgage Interest Deduction (HMID) and property taxes
A possible repeal of the HMID and real property-tax deduction would affect the finances of nearly every American and would have uncertain, potentially dangerous, impacts on an already volatile housing market. Deductions for mortgage interest have been in place for more than a century as a means of encouraging home ownership. Local communities directly benefit from homeownership, as homeowners are active in the civic and political organizations of the community and more likely to work with local officials to solve problems facing the community. Homeownership also promotes stability in the community, which creates positive social benefits and more desirable communities that retain and attract businesses and residents.

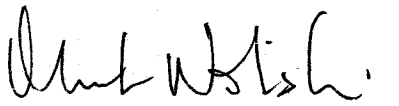
Conclusion
While tax reform is a laudable undertaking, there could be serious implications to the City if changes were made to these two deductions in particular. Reductions in the availability of tax-exempt financing to municipal governments, or increases in the cost of issuing tax-exempt bonds, could impose significant fiscal injury on the City. Changes to HMID could have a devastating effect on the fragile recovery of the housing market, for starters, which would likewise severely impact the City. Subsequently, staff recommends continuing to update the committee on tax reform matters and to remain actively engaged with the City's congressional delegation to ensure they are aware of the implications changes to the tax code could have on the City.

FISCAL IMPACT
The costs of these activities are contained within the City's current budget.

ECONOMIC DEVELOPMENT/JOBS CREATED
The activities detained in this report will not result in job development or creation.

ENVIRONMENTAL REVIEW
The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §1506(b) (3). The action of reviewing proposed CEQA legislation does not include the potential for a significant environmental effect, therefore is not subject to CEQA.

Respectfully submitted,



Mark Wolinski,
Government Relations Analyst,
Public Affairs & Communications Department

Megan MacPherson,
For Director,
Public Affairs & Communications Department

APPROVED:

Ray Kerridge,
City Manager

Attachment A

Next Steps on Tax Reform

Chairman Max Baucus and Ranking Member Orrin Hatch
U.S. Senate Committee on Finance

June 27, 2013

Dear Colleague,

We write today to ask you for your input as the Finance Committee moves forward with comprehensive tax reform.

America's tax code is broken. The last major reform of the tax code was the Tax Reform Act of 1986, which is considered by many as the gold standard for tax reform. However, since then, the economy has changed dramatically and Congress has made more than 15,000 changes to the tax code. The result is a tax base riddled with exclusions, deductions and credits. In addition, each year, it costs individuals and businesses more than $160 billion to comply with the tax code. The complexity, inefficiency and unfairness of the tax code are acting as a brake on our economy. We cannot afford to be complacent.

Over the past three years, the Finance Committee has been working on tax reform on a bipartisan basis. We have held more than 30 hearings and have heard from hundreds of experts on reforming the code—how to make it simpler for families and businesses and spark a more prosperous and competitive economy. In addition, over the past three months, we have issued ten bipartisan options papers totaling more than 160 pages that detail reform proposals we are considering in every area of the tax code. The full Committee has met on a weekly basis to discuss these options papers and how to put plans into action. We are now entering the home stretch.

Colleagues, now it is your turn. We need your ideas and partnership to get tax reform over the finish line. In order to make sure that we end up with a simpler, more efficient and fairer tax code, we believe it is important to start with a "blank slate"—that is, a tax code without all of the special provisions in the form of exclusions, deductions and credits and other preferences that some refer to as "tax expenditures."[1] This blank slate is not, of course, the end product, nor the end of the discussion. Some of the special provisions serve important

[1] A complete list of these special tax provisions as defined by the non-partisan Joint Committee on Taxation can be found at https://www.jct.gov/publications.html?func=select&id=5.

objectives. Indeed, we both believe that some existing tax expenditures should be preserved in some form. But the tax code is also littered with preferences for special interests. To make sure that we clear out all the unproductive provisions and simplify in tax reform, we plan to operate from an assumption that all special provisions are out unless there is clear evidence that they: (1) help grow the economy, (2) make the tax code fairer, or (3) effectively promote other important policy objectives.

Today, we write to ask you to formally submit legislative language or detailed proposals for what tax expenditures meet these tests and should be included in a reformed tax code, as well as other provisions that should be added, repealed or reformed as part of tax reform. In order to give your proposals full consideration as we work to craft a bill, we request these submissions by July 26, 2013. We will give special attention to proposals that are bipartisan.

To help inform your submissions, we asked the nonpartisan Joint Committee on Taxation and Finance Committee tax staff to estimate the relationship between tax expenditures and the current tax rates if the current level of progressivity is maintained. While Members of the Senate have different views on whether the revenue raised from eliminating tax expenditure or other reforms should be used to lower tax rates, reduce the deficit, or some combination of the two, we believe that everyone should understand the trade-offs involved when adding tax expenditures back to the tax code.

The blank slate approach would allow significant deficit reduction or rate reduction, while maintaining the current level of progressivity. The amount of rate reduction would of course depend on how much revenue was reserved for deficit reduction, if any, and from which income groups. However, as shown in the chart below, every $2 trillion of individual tax expenditures that are added back to the blank slate would, on average, raise each of the seven individual income tax brackets by between 1.3 and 2.2 percentage points from what they would be under the blank slate. Likewise, every $200 billion of corporate tax expenditures that are added back to the blank slate would, on average, raise the top corporate income tax rate by 1.5 percentage points from what they would be under the blank slate. These estimates demonstrate that the more tax expenditures we allow in the tax code, the less we will be able to reduce tax rates or reduce the deficit. As we work to craft a tax reform bill, we will bear these trade-offs in mind.

While we believe that taking a hard look at every income tax expenditure is an essential part of tax reform, we also encourage you to examine other aspects of the tax code. For example, many provisions of the income tax that are not considered tax expenditures could be greatly simplified. In addition, almost half of federal tax revenues come from sources other than

income taxes. The tax reform process will therefore involve much more than just income tax expenditures.

Our tax code is bloated and outdated. The income tax was established a century ago, in 1913. And it has been a generation since our last tax reform in 1986. As Chairman and Ranking Member of the Finance Committee, we are determined to complete tax reform this Congress. We look forward to your ideas and to working together to accomplish this historic goal.

Average Effect on Tax Brackets of Adding Back Tax Expenditures, Maintaining the Current Level of Progressivity[2]

Income Range for Current Tax Brackets	Average Effect on Tax Rate of Adding Back $2T in Individual and $200B in Corporate Tax Expenditures over 10 Years
Individual	
Under $18,000	1.3 percentage points
$18,000-73,000	1.5 percentage points
$73,000-146,000	1.9 percentage points
$146,000-223,000	2.2 percentage points
$223,000-398,000	1.3 percentage points
$398,000-450,000	1.4 percentage points
Over $450,000	1.5 percentage points
Corporate	
All	1.5 percentage points

[2] These estimates represent an average effect because the effect on tax rates of adding back, for example, $1 trillion in individual tax expenditures is not as large as the effect of adding back a second $1 trillion in tax expenditures. Put differently, it becomes increasingly costly to lower the tax rates as the tax rates go down through base broadening. The current level of progressivity means the level of progressivity in 2017. Certain tax expenditures are excluded from the analysis where doing so is necessary to maintain the current level of progressivity. The income ranges for the current tax brackets are for married taxpayers filing jointly.

CITY OF ROSEVILLE CALIFORNIA

City Council
311 Vernon Street
Roseville, California 95678

Attachment B

VIA EMAIL AND FAX

July 16, 2013

The Honorable Dianne Feinstein
U.S. Senate
331 Hart Senate Office Building
Washington, D.C. 20510

RE: Preserving Tax-Exempt Financing: In Response to "Blank Slate" Proposal from the Senate Finance Committee

Dear Senator Feinstein:
As the Mayor of Roseville I am deeply concerned by the Senate Finance Committee's "blank slate" proposal to tax reform. As you know, on July 27, the leaders of the Senate Finance Committee sent a "Dear Colleague" letter, announcing their decision to start the debate on comprehensive tax reform with a "blank slate," thus assuming that nearly all the existing tax exclusions, adjustments, credits, or other tax preferences would be eliminated from the tax code.

Whether specific provisions would be added back into the tax code or not would depend on Senators demonstrating to the Finance Committee leaders that each provision would meet at least one of three specific tests:

- It helps the economy grow.
- It makes the tax code fairer.
- It effectively promotes other important policy objectives.

I am writing to you today to remind you of the critical importance of tax-exempt financing to the financial health of local communities in California. As you know, tax-exempt bonds are the basic tool used by states, cities, counties, towns, universities, school districts, and other governmental entities to fund public purpose projects necessary to provide needed infrastructure and services. The ability of these governmental entities to issue tax-exempt bonds so that they are attractive to investors is essential to the daily life of hundreds of millions of Americans – not only from the standpoint of providing needed services and infrastructure, but also from the substantial jobs and investment created and supported by such projects.

Because of these job-creation and overall economic development benefits, tax-exempt bonds clearly meet the first test established by Senators Baucus and Hatch. As such, I urge you to weigh in with the leaders of the Finance Committee to oppose any effort to reduce or eliminate the ability of local governments like Roseville to issue tax-exempt bonds to finance needed infrastructure.

The elimination of tax-exempt financing could have a grave effect on the City of Roseville and its ability to meet the growing needs and demands of our community. Roseville is a full-service city that operates our own publicly-owned electric utility and our own water department. The operation of the utilities allows us to provide the residents and businesses within our community with exceptional power and water services and products. Roseville and its utility departments, like all state and local governments and publicly-owned utilities, rely on tax-exempt bonds to finance infrastructure improvements. The City cannot look to shareholders to raise capital, and we are not eligible for tax incentives available to private entities. As a result, the elimination of

tax exempt financing would severely reduce the ability for our City and our utilities to finance infrastructure investments.

A loss of the tax-exempt status for municipal bonds would have far-reaching negative impacts for the City as it would require increased utility rates to offset debt service costs for current and future projects. In addition, future infrastructure projects would be delayed due to higher costs, which would result in a loss of jobs and further slowing of the economic recovery. The loss of projects would also negatively impact income tax revenue for both the state and federal governments and could impact sales and property tax revenues for local agencies. The loss of the tax-exempt status would also increase the risks that current valuations of municipal bonds would suffer (decline in value), which would impact many retirement portfolios.

Retaining the current tax treatment of municipal bonds is essential to support the long-standing division of responsibility between the federal government and state and local entities. Under this reciprocal exemption, interest on municipal bonds is exempt from federal taxation, and states and localities similarly exempt Treasury bonds (and federal property) from taxation. This long-held policy recognizes the shared responsibility of all levels of government. Altering the tax treatment of municipal bonds would simply transfer the federal budget and deficit problems to state and local budgets -- while simultaneously rescinding the key tool used to finance infrastructure and service.

Reductions in the availability of tax-exempt financing to municipal governments, or increases in the cost of issuing tax-exempt bonds, could impose significant fiscal injury on local governments such as ours and seriously impair our ability to finance critical infrastructure and maintain essential safety and services for our citizens. Consequently, this could increase pressure on municipalities to raise taxes and utility rates, which – if too high – can act to discourage homeownership, business retention, and other private investment in a community.

Tax-exempt bonds have played a critical role in our community, helping to finance our local utility's power and water supply. I appreciate the difficult choices you face, but I am asking that you make clear that eliminating or restricting tax-exempt bonds is not an acceptable choice. I urge you to contact the leaders of the Senate Finance Committee before July 26 and to sign-on to any joint Senate letters supporting tax-exempt financing to reinforce the need to preserve this essential tax provision.

I respectfully request a response to this letter indicating your position on this critical issue to our community, its citizen, and your constituents.

Sincerely,

Susan Rohan

Susan Rohan,
Mayor

Cc: Honorable Barbara Boxer, U.S. Senate

CITY OF ROSEVILLE CALIFORNIA

City Council
311 Vernon Street
Roseville, California 95678

Attachment C

VIA EMAIL AND FAX

July 16, 2013

The Honorable Barbara Boxer
U.S. Senate
112 Hart Senate Office Building
Washington, D.C. 20510

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Sincerely,

Susan Rohan

Susan Rohan,
Mayor

Cc: Honorable Dianne Feinstein, U.S. Senate