



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lee Wilcox

**SUBJECT: 2020-2021 COUNCIL POLICY
PRIORITY SETTING**

DATE: February 13, 2020

Approved

Date

2/14/2020

RECOMMENDATION

Approve the following elements of the 2020-2021 Council Policy Priority Setting session:

- (a) Remove the following priorities from the 2019-2020 Council Policy Priority List as complete:
 - (1) Priority #3, Disadvantaged Business Enterprises
 - (2) Priority #7, Accessory Dwelling Units and Garage Conversion Ordinance
 - (3) Priority #10, Safe Parking Program
 - (4) Priority #15, Family-Friendly City-Paid Family Leave
 - (5) Priority #18, Sanctioned Encampments
 - (6) Priority #22, Develop Innovative Strategies to Hire Crossing Guards
 - (7) Priority #24, Food & Clothing Distribution at City Parks
 - (8) Priority # 25, Private Property Graffiti Abatement Ordinance
- (b) Combine the following priorities from the 2019-2020 Council Policy Priority List as the work is overlapping and interdependent:
 - (1) Priority #12, Universal Development Fee
 - (2) Priority #21, Impact Fee Deferred Payment Program for Housing
- (c) Remove the following items from the 2019-2020 Council Policy Priority List as the work is multi-year and ongoing in nature:
 - (1) Priority #8, North San José Review
- (d) Approve new items for the 2020-2021 Council Policy Priority List.
- (e) Rank items on the 2020-2021 Council Policy Priority List.

OUTCOME

The City Council will establish an updated, ranked priority list for fiscal year 2020-2021.

BACKGROUND

Since 2011, the City Council has regularly held priority-setting sessions to designate high-priority ordinances and policy initiatives. The goal of the Council Policy Priority Setting process is to allow the Administration to focus limited staff resources on initiatives that Council identifies as the highest priorities. Currently, the 2019-2020 list has 25 items on the Council Policy Priority List (see Attachment A).

On January 31, 2020, the Administration released an information memorandum¹ that initiated the 2020-2021 Council Policy Priority Setting process. It invited the Mayor and Councilmembers to submit new policy nominations for the 2020-2021 Council Policy Priority List by February 14, 2020. Final submissions were still being submitted as this memorandum was required to be posted in accordance with the City's Sunshine Ordinance. The Administration will release a supplemental memorandum with the full list of policy nominations.

The information memorandum also included the third progress report on Council Policy Priority Setting, updating Council and the community about the status of each of the 25 priority items and the work in progress to complete each. The memorandum also evaluated accomplishments and lessons learned, as well as previewed future improvements being assessed for implementation in 2021-2022.

Most significantly, the Administration has made significant progress in the first six months of 2019-2020. Eight priorities have been completed since March 5, 2019. Additionally, staff projects that another eight items can be completed by the end of the fiscal year if there are no significant events or actions that impact staff's ability to get work done. This would represent a 64 percent completion rate, a significant 246 percent improvement over the prior completion rate of 18.5 percent in 2017-2019.

These improvements are the direct result of the adding targeted resources, creating a City Manager's Office-led effort to help guide policy work, and focusing on accountability and completion.

¹ January 31, 2020 Information Memo, Policy Nomination Form, and Progress Report:
<https://www.sanjoseca.gov/home/showdocument?id=51613>

ANALYSIS

In the following sections, this report proposes items for removal from the Council Policy Priority Setting list, outlines the process for reviewing the list of nominated items, sets out the proposed voting and ranking process for the 2020-2021 Council Policy Priority Setting session, and discusses how the Administration will implement the updated priority list.

Changes to the Existing Council Policy Priority List

At the March 5, 2019 session, Council froze the Top 10 priorities, removed three that had not yet been started through a re-nomination process, and added six. The Top 10 stayed in place, and Council voted to prioritize the next 15 priorities. The result was the current 2019-2020 Council Policy Priority List.

In the 2019-2020 Adopted Operating Budget, Council approved the allocation of \$350,000 for implementation of Council Policy Priorities, with \$150,000 to advance policy work in Planning, Building, and Code Enforcement (PBCE) and \$200,000 to the City Manager's Office to support policy development work. In spending the allocated funds, PBCE is primarily using its resources for peak staffing to manage scoping and project management related as well as CEQA consultant work related to Priority #11 (Cannabis Land Use), as well as other CEQA project management. The City Manager's Office conducted an RFP and hired a consultant to conduct the nexus study for Priority #9 (Commercial Linkage Fee) and, in January, brought on a temporary Senior Executive Analyst to work on Council Policy Priorities.

Staff has completed the policy work on the following items. The Administration recommends their removal from the list:

- Priority #3: Disadvantaged Business Enterprises
- Priority #7: Accessory Dwelling Units and Garage Conversion Ordinance
- Priority #10: Safe Parking Program
- Priority #15: Family-Friendly City—Paid Family Leave
- Priority #18: Sanctioned Encampments
- Priority #22: Develop Innovative Strategies to Hire Crossing Guards
- Priority #24: Food & Clothing Distribution at City Parks
- Priority # 25: Private Property Graffiti Abatement Ordinance

The Administration recommends combining the following priorities from the 2019-2020 Council Policy Priority List as the work is overlapping and interdependent:

- Priority #12, Universal Development Fee
- Priority #21, Impact Fee Deferred Payment Program for Housing

Finally, on the recommendation of the Office of Economic Development, the Administration is recommending that the Council consider removing Priority #8, North San José Review, from the 2019-2020 Council Policy Priority List as the work is multi-year and ongoing in nature. North San José is a critical economic engine for the City of San José and this work is part of the Office of Economic Development's ongoing work plan.

Nomination List

The nomination list is the list of policy proposals that the Council will consider adding to the 2020-2021 Council Policy Priority List at the Council Policy Priority Setting session during the Round 1 voting. The 2020-2021 Preliminary Policy Nomination List is provided in Attachment C. As noted below, the final and complete list will be provided in a supplemental memorandum. Items on the list come from three sources:

1. **Yellow Light List:** When a member of the Council proposes a new policy initiative at a City Council or Rules and Open Government Committee meeting, the Administration advises the Council or Committee whether the item is a green light, meaning it can be accommodated within the department's existing work plan, or a yellow light, meaning that it would create a workload impact. While green-lit items can move forward immediately, the Council and Rules Committee typically refer yellow-lit items to the next Council Policy Priority Setting session. Through the year, the Administration tracks yellow-lit items. A preliminary list of yellow-lit items was provided in the January 31, 2020 information memorandum and has been updated in Attachment C.

After further research, the Administration has updated the preliminary list to add the following yellow-lit items:

- **Zoning Code/Emergency Shelters².** The Rules Committee approved staff's workload assessment and recommendation to yellow-light this referral to update the zoning code to allow emergency shelters with 50 beds or fewer in all zoning districts, excluding R-1 and R-2. (Rules, February 12, 2019)
- **Explore Procurement of a Polypropylene Plastic Purification & Recycling Plant³** – The Rules Committee approved staff's workload assessment and recommendation to yellow-light this referral to pursue attraction of a polypropylene plastic purification and recycling plant on land located near the San José-Santa Clara Regional Wastewater Facility. (Rules, February 12, 2019)

² Rules Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=8058808&GUID=F2980F77-A6D8-4E36-B003-CCD3D5399A85>

³ Rules Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=8056472&GUID=1F4D0742-8D30-4A92-AEB0-0425063338C8>

- **Update Council Policy 6-30, Public Outreach Policy⁴.** Council yellow-lit this item when it approved the audit “Development Noticing: Ensuring Outreach Policies Meet Community Expectations” (Council, April 23, 2019)
- **Cost of Development Report/Develop a Site-Specific Building Program Analysis⁵.** The Rules Committee approved staff’s workload assessment and recommendation to yellow-light additional work related developing a site-specific building program in the Cost of Development report. (Rules, December 11, 2019)

The following three items were on the preliminary list of yellow-lit items:

- **A Harm Reduction Approach: Eliminating the “Gun Violence Subsidy”⁶**
Items 2, 3, 4, and 7, as well as a majority of item 5, and a portion of item 6 from the referring memorandum.
This proposal directed staff to return to Council with recommendations for requiring insurance for all gun owners (except sworn employees of law enforcement agencies); considering a fee to fund a public pool to eliminate the public cost of the financial burdens related to gun violence; constructing enforcement misdemeanor sanctions; engage with other jurisdictions on a potential tax on firearms and ammunition; develop City-sponsored legislation to remove barriers to local preemption of an insurance or fee-based approach; and evaluate a consent to search program for juveniles and a gun bounty program. (Rules, August 21, 2019)
- **Flavored Tobacco and E-Cigarettes⁷**
Items 1, 2, and 3 from the referring memorandum.
This proposal would develop ordinances to prohibit sales of certain electronic cigarettes and flavored tobacco products; limit the sale of tobacco products near schools and other youth-related sensitive receptors; limit the concentration of tobacco retailers; and remove the tobacco retail license exemption for retailers that prohibit anyone under 18 from entering the store. (Rules, September 18 and 25, 2019)

⁴ Audit: <https://www.sanjoseca.gov/Home/ShowDocument?id=38455>

⁵ Rules Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=7949145&GUID=4E530AAD-66A9-4AAC-9017-F11781675DF8>

⁶ Rules Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=7594475&GUID=44A49B30-5790-403B-B6C5-9BA716C222DF>

⁷ Rules Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=7703318&GUID=B4E21BAB-1E85-40C0-9299-55DD3B135836>

- **Public Safety Power Shutoffs: Making San José Grid Resilient⁸**

Item 5b regarding bond financing.

This proposal would have staff conduct the analysis of what would go into bond financing to develop renewable energy storage and generation facilities—such as microgrids—that could insulate critical city facilities or participating neighborhoods to improve energy resilience, reliability, and costs. The analysis would be used to develop a potential ballot measure for bond financing. (Rules, October 23, 2019)

The Administration is referring one item from the preliminary list to the 2020-2021 Budget Process, based on the approved workload analysis presented to the Rules Committee:

- **“Yes, in my Backyard” (YIMBY) Affordable Housing Program,⁹** Item 7. This item provides direction to staff to work with business, advocacy, and philanthropic organizations around promoting and financing the construction of Accessory Dwelling Units (ADUs). Upon further review, the work required by the Housing Department and Department of Planning, Building and Code Enforcement is programmatic in nature and requires staffing, rather than policy work, so should be reviewed through the budget process. (Rules, May 22, 2019)

2. **Council Nominations:** As part of the 2020-2021 Council Policy Priority Setting process, Councilmembers have had the opportunity to nominate new policy proposals for consideration as Council Policy Priorities. Most Council items are typically placed on the nomination list. However, in some cases a proposal may complement or overlap with work already occurring in a department, and that proposal can be added to an existing work plan. Any such items will be given a green light during the Administration’s review of nominations and added to departmental work plans in 2020-2021.

In other cases, a nomination may recommend work that is more programmatic in nature. Such work will be referred to the 2020-2021 budget process, and the Administration will issue a Manager’s Budget Addendum to provide cost estimates. Finally, nominations with overlapping or complementary policy goals may be combined.

As the nomination deadline coincides with the Sunshine Ordinance deadline for posting this memorandum, a supplemental memorandum will be issued with the full nomination list no later than February 20, 2020.

⁸ Rules Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=7819405&GUID=B845F92B-F7E3-4A00-A78B-B1F9890A74EA>

⁹ Rules Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=7230200&GUID=3632C924-B011-48C9-BAC6-43AA473B1EF4>

3. **Administration Recommendations:** The Administration is bringing forward the following policy proposals for Council consideration during the 2020-2021 Council Policy Priority Setting process.
- **Update Council Policy 6-10, Criteria for Review of Drive Through Uses**¹⁰ (Planning, Building and Code Enforcement)
 - **Update Council Policy 6-25, Guidelines for Designation of City Historic Landmarks**¹¹ (PBCE)
 - **Update Council Policy 6-27, Evaluation of 24-Hour Uses**¹² (PBCE)

Voting Process

This section describes the Administration's recommended voting process for the 2020-2021 Council Policy Priority Setting session. It follows the process used at the last session on March 5, 2019. Voting will occur in two rounds: The first round will determine which items are added to the 2020-2021 Council Policy Priority List; the second round will determine how items are ranked on the list.

Round 1: Vote on Nominations

In this round, Councilmembers will vote on nominated items to determine which items are added to the 2020-2021 Council Policy Priority List. The Administration recommends voting be conducted according to the following rules:

4. **Number of votes:** Each Councilmember will be given $n/3$ votes, where n equals the total number of items on the nomination list, including yellow-lit items, Council nominations, and Administration recommendations.
5. **No vote clustering:** Each Councilmember may only assign one vote per selected priority.
6. **Vote thresholds:** Any item on the nomination list that receives six or more votes will be eligible to be added to the 2020-2021 Council Policy Priority List. The six-vote threshold has been required as a Council majority is needed to approve most new or amended policy items or ordinances.
7. **Maximum number of new items:** Given the complexity of the remaining items on the 2019-2020 Council Policy Priority List and the Administration's desire to improve the completion rate beyond the 64 percent projected for 2019-2020, the Administration may evaluate the new nominations and potentially recommend capping the number of new items to be added to the 2020-2021 Council Policy Priority List.

¹⁰ Council Policy 6-10: <https://www.sanjoseca.gov/home/showdocument?id=12781>

¹¹ Council Policy 6-25: <https://www.sanjoseca.gov/home/showdocument?id=12795>

¹² Council Policy 6-27: <https://www.sanjoseca.gov/home/showdocument?id=12789>

Voting will be conducted with paper ballots. Because staff will need time to tabulate the results of the vote, the Council either hear an item on the agenda between Round 1 and Round 2 or take a brief recess.

Round 2: Prioritization

In this round, Councilmembers will rank the list that they established in Round 1. Items will be ranked on the list according to how many votes they receive. The Administration recommends that voting be conducted according to the following rules:

- **Freeze the top 10 items on the current Council Policy Priority List.** After removing the completed items, as well as combining and removing items as recommended, the remaining top 10 items have staff work well underway. Given the amount of staff time invested in these items already, the Administration proposes that the Council not re-rank these items in Round 2. Instead, these items would remain in their current order, and potentially move up the list as the old items are removed. Leaving these items at the top of the list will allow staff to continue the work already in progress and bring them to completion. Attachment B shows the top 10 that would be frozen, assuming Council accepts staff's recommendations for removing items from the list.
- **Number of votes:** Each Councilmember will be given $n/3$ votes, where n equals the total number of items to be prioritized. Since we cannot know ahead of time how many items will be added to list in Round 1, the number of votes in Round 2 will be determined after the Round 1 results are tabulated.
- **No vote clustering:** Each Councilmember may only assign one vote to each priority.

After voting is complete, staff will count how many votes each item received and re-rank the list accordingly.

Next Steps

Following the February 25, 2020 Council Policy Priority Setting Session, the Administration will:

- Issue an informational memorandum capturing the actions taken at the session, including issuing a new ranked list of priorities for 2020-2021;
- Continue working to complete the 2019-2020 Council Priority List, including reporting to appropriate Council Committees and issuing a progress report at the close of the fiscal year;
- Develop budget recommendations, as appropriate, regarding implementation of the 2020-2021 Council Policy Priority List;

- Continue to evaluate the successes and challenges of implementation of the 2020-2021 Council Policy Priority List, including reporting to Committees and issuing twice-yearly progress reports; and
- Make recommendations for improvements in 2021, which will be the tenth year of Council Policy Priority Setting.

CONCLUSION

The 2020-2021 Council Policy Priority Setting Session is scheduled to take place on Tuesday, February 25, 2020. This memorandum provides a list of items recommended for removal from the Council Policy Priority List due to being completed, combined, or added to ongoing departmental work plans. This memorandum includes yellow-lit items, and possible Administrative considerations, and outlines the voting and ranking process for developing the 2020-2021 Council Policy Priority List. The Administration will release a supplemental memorandum with all Council Policy Nominations.

EVALUATION AND FOLLOW-UP

Once the final 2020-2021 Council Policy Priority List is ranked, the Administration will develop a workplan, timeline, and budget proposal if needed to complete the list in the next fiscal year. Through June 30, 2020, the Administration will focus on the existing priority items, with a goal of completing as many as possible before the end of the fiscal year. The next Council Policy Priority Progress Report covering January to July of 2020 will be issued in August of 2020.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the February 25, 2020 Council Meeting. The Administration released an information memorandum notifying Council of the 2020-2021 Council Policy Priority Setting session and calling for policy nominations on January 31, 2020.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/
LEE WILCOX
Chief of Staff, Department

For questions, please contact Lee Wilcox, Chief of Staff, at (408) 535-4873, or Michelle McGurk, Assistant to the City Manager, at (408) 535-8254.

Attachment A: 2019-2020 Council Policy Priority List (current)
Attachment B: Proposed 2020-2021 Top 10 Frozen Priorities
Attachment C: 2020-2021 Preliminary Policy Nomination List

ATTACHMENT A

2019-2020 Council Policy Priority List			
Priority Number	Policy/Ordinance Name	Lead Department	Status
1	Local Hiring/Local Business/Apprentice Utilization Program	Public Works	In Progress
2	Mobile Home Conversions	PBCE	In Progress
3	Disadvantaged Business Enterprises	Public Works	Complete
4	Electronic Billboards	PBCE/OED	In Progress
5	Downtown and/or Citywide Parks Operations and Maintenance Financing District	PRNS	In Progress
6	Development of a Soft-Story Retrofit Program	PBCE	In Progress
7	Accessory Dwelling Units & Garage Conversion Ordinance	PBCE	Complete
8	North San José Policy Review	PBCE/OED	Recommend Removal
9	Commercial Linkage Fee for Affordable Housing	CMO/OED/ Housing	In Progress
10	Safe Parking Program	PBCE	Complete
11	Review of Cannabis Land Use and Regulatory Provisions (Combined)	PBCE	In Progress
12	Universal Development Fee	OED	Combine with #21
13	Cannabis: Equity Applicant Program	OED	In Progress
14	Childcare & Early Education	Library/PRNS	In Progress
15	Family Friendly City- Paid Family Leave	OER	Complete
16	Update the Council's Wage Theft Prevention Policy	Public Works	In Progress
17	Anti-Displacement Preference Ordinance	Housing	In Progress
18	Sanctioned Encampments	Housing	Complete
19	Update Urban Design Guidelines	PBCE	In Progress
20	Downtown Zoning Code Update	PBCE	In Progress
21	Impact Fee Deferred Payment Program for Housing	PBCE/OED	Combine with #12
22	Develop Innovative Strategies to Hire Crossing Guards	Police	Complete
23	Smoke-Free Housing	PBCE	In Progress
24	Food and Clothing Distribution at City Parks	PRNS	Complete
25	Private Property Graffiti Abatement Ordinance	PRNS	Complete

ATTACHMENT B

Proposed 2020-2021 Frozen Top 10 List Council Policy Priority List			
Priority Number (former rank)	Policy/Ordinance Name	Lead Department	Status
1	Local Hiring/Local Business/Apprentice Utilization Program	Public Works	In Progress
2	Mobile Home Conversions	PBCE	In Progress
3 (4)	Electronic Billboards	PBCE/OED	In Progress
4 (5)	Downtown and/or Citywide Parks Operations and Maintenance Financing District	PRNS	In Progress
5 (6)	Development of a Soft-Story Retrofit Program	PBCE	In Progress
6 (9)	Commercial Linkage Fee for Affordable Housing	CMO/OED/ Housing	In Progress
7 (11)	Review of Cannabis Land Use and Regulatory Provisions (Combined)	PBCE	In Progress
8 (12)	Universal Development Fee (12) & Impact Fee Deferred Payment Program for Housing (21)	OED	Combine with #21
9 (13)	Cannabis: Equity Applicant Program	OED	In Progress
10 (14)	Childcare & Early Education	Library/PRNS	In Progress

ATTACHMENT C

2020-2021 Preliminary Nominations <i>(Includes Yellow-Lit Items and Administration Nominations. Council Policy Nominations to be added after February 14, 2020 deadline.)</i>			
Date Nominated	Nominated Policy/Ordinance Name	Nomination/ Referral From	Category
2/12/20	Zoning Code/Emergency Shelters	Rules	Yellow Light List
2/12/20	Explore Procurement of a Polypropylene Plastic Purification Plant	Rules	Yellow Light List
12/11/19	Cost of Development Report/Develop a Site-Specific Building Program Analysis	Rules	Yellow Light List
10/23/19	Public Safety Power Shutoffs: Making San José Grid Resilient	Rules	Yellow Light List
9/18/19 & 9/25/19	Flavored Tobacco and E-Cigarettes, Items 1, 2, and 3	Rules	Yellow Light List
8/21/19	A Harm Reduction Approach: Eliminating the “Gun Violence Subsidy,” Items 2, 3, 4, and 7, as well as a majority of Item 5 and a portion of Item 6	Rules	Yellow Light List
4/13/19	Update Council Policy 6-30, Public Outreach Policy	Council	Yellow Light List
2/12/20	Update Council Policy 6-10, Criteria for Review of Drive Through Uses	PBCE	Administration Recommendation
2/12/20	Update Council Policy 6-25, Guidelines for Designation of City Historic Landmarks	PBCE	Administration Recommendation
2/12/20	Update Council Policy 6-27, Evaluation of 24-Hour Uses	PBCE	Administration Recommendation