



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Sarah Zárate

SUBJECT: SEE BELOW

DATE: April 19, 2024

Approved

Date

4/23/24

**SUBJECT: AMENDMENT TO CITY COUNCIL POLICY 0-12, REQUESTS FOR
POLICY ANALYSIS (COUNCIL REFERRALS)**

RECOMMENDATION

- (a) Adopt a resolution amending Council Policy 0-12, Requests for Policy Analysis (Council Referrals).
- (b) Direct the City Manager to drop select Council Referrals as listed in Attachment B.

SUMMARY AND OUTCOME

Adopting the proposed updated Council Policy 0-12 will align the Council Policy with current City practices, remove outdated language, and make minor technical and conforming adjustments.

Dropping the selected Council Referrals would instruct staff to cease work on those items and refocus staff efforts on higher priority work.

BACKGROUND

Council Policy 0-12 establishes uniform procedures for processing and tracking requests for policy analysis (**Attachment A** - Council Policy 0-12 – Requests for Policy Analysis (Council Referrals)). The policy was first adopted on April 22, 1980 and last updated on June 26, 2001.

Council Policy 0-12 defines Council Referrals (in relevant part) as major studies of “an item of a legislative, service delivery, policy, and/or investment nature” that may require over 40 hours of staff work, fiscal resources, complex policy analyses, City Council action, and/or changes to the San José Municipal Code. The Council Policy’s process is outlined below.

1. The Council Referral initiator submits the Council Referral in writing to the City Clerk's Office.
2. The Council Referral is to be placed on the next available Rules and Open Government Committee agenda by the City Clerk under "Rules Committee Reviews, Recommendations and Approvals." Council Referrals may be made at any time during the year.
3. At the Rules and Open Government Committee meeting, the Committee decides whether to drop or defer the Council Referral or request an Administrative Workload Assessment (completed via Request for Policy Analysis Form). If the Committee decides to drop the referral request, no further action is taken on behalf of staff. If the item is deferred, staff tracks the item and the Clerk's Office presents the referral request to the Rules and Open Government Committee on the date that it was deferred to.
4. If the Committee requests an Administrative Workload Assessment, staff generally has two weeks to respond with the following information:
 - Amount of staff time required to complete the Council Referral or if additional staff is needed;
 - Non-salary or unbudgeted costs to complete the Council Referral;
 - Impact to department's work plan and performance measures;
 - Description of the Council Referral's scope;
 - Realistic timeline; and
 - Other considerations related to the specific Council Referral.
5. The City Clerk's Office schedules the Administrative Workload Assessment on a future Rules and Open Government Committee agenda. (For example, a Councilmember makes a referral request on April 10, 2024; if the Rules and Open Government Committee requests an Administrative Workload Assessment, staff would return to the Rules and Open Government Committee with an assessment on April 24, 2024.)
6. The Administrative Workload Assessment is discussed at the Rules and Open Government Committee, and a recommendation to the full Council is made. At the time that the Administrative Workload Assessment is presented, the Committee may still drop or defer the referral.
7. At the City Council meeting, the full City Council can assign, drop, or defer the Council Referral.

The City Manager ensures Council Referrals are completed by the agreed timeline and regularly provides a summary of outstanding Council Referrals to the City Council through direct correspondence. The City Manager most recently provided a summary of outstanding Council Referrals on February 15, 2024.

On January 10, 2024, the Rules and Open Government Committee approved procedures to bring City practices into general alignment with Council Policy 0-12. The Rules and Open Government Committee further directed the City Manager's Office to return to City Council with an updated version of Council Policy 0-12 Requests for Policy Analysis (Council

Referrals), as well as a recommendation to drop referrals that are no longer aligned with current City Council priorities or are otherwise outdated.

ANALYSIS

To comply with the Rules and Open Government Committee's January 10, 2024 direction, staff prepared an updated version of Council Policy 0-12 Requests for Policy Analysis (Council Referrals) and recommends dropping two existing Council Referrals.

Updated Council Policy 0-12

The proposed update to the Council Policy 0-12 clarifies procedures for the Rules and Open Government Committee to consider when reviewing proposed Council Referrals, omits redundant and outdated terminology, and makes minor technical updates. It also requires the City Manager, or their designee, to bring an annual Council Referral status report to the Rules and Open Government Committee.

Following action taken on January 10, 2024, the current Rules and Open Government Committee processes are already in alignment with the updated Council Policy. An expanded explanation of these processes is available in the staff memorandum to the Rules and Open Government Committee dated January 5, 2024.¹

Council Referrals – Proposed Drops and Deferrals

Over the last few months, City departments reviewed existing Council Referrals to identify items suitable to recommend to drop and/or defer. Departments screened existing Council Referrals to determine whether: (1) continued action was impossible or impractical; (2) the Council Referral was not in alignment with existing City Council Focus Areas; and/or (3) dropping or deferring action on the Council Referral would allow staff to refocus resources on higher priority work.

Using these principals, City staff reviewed over 160 existing outstanding Council Referrals. Through this process, two Council Referrals were identified to recommend dropping. These referrals are listed in **Attachment B** - List of Council Referrals Recommended to Drop. Staff is not recommending deferring any existing Council Referrals.

EVALUATION AND FOLLOW-UP

The City Manager's Office will bring forward an annual report on Council Referral statuses to the Rules and Open Government Committee in fall 2024.

¹ 1/10/2024 C.1 Rules and Open Government Committee staff memorandum

HONORABLE MAYOR AND CITY COUNCIL

April 19, 2024

Subject: Amendment to City Council Policy 0-12, Requests for Policy Analysis (Council Referrals)

Page 4

COORDINATION

This memorandum and updated Council Policy were coordinated with the City Attorney's Office, the City Clerk's Office, and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the May 7, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

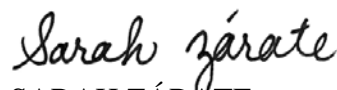
No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.



SARAH ZÁRATE

Director, City Manager's Office of
Administration, Policy and
Intergovernmental Relations

For questions, please contact Tom Westphal, Deputy Director, City Manager's Office of Administration, Policy, and Intergovernmental Relations, at thomas.westphal@sanjoseca.gov.

ATTACHMENT A: Council Policy 0-12 – Requests for Policy Analysis (Council Referrals)

ATTACHMENT B: List of Council Referrals Recommended to Drop

City of San José, California

COUNCIL POLICY

TITLE REQUESTS FOR POLICY ANALYSIS (COUNCIL REFERRALS)	PAGE 1 of 4	POLICY NUMBER 0-12
EFFECTIVE DATE April 22, 1980	REVISED DATE June 26, 2001	
APPROVED BY COUNCIL ACTION		4/22/80, Item 9f; 4/2/91, Item 7b(6); 6/26/01, Item 2.70c

BACKGROUND

In the past, requests for information and/or research from the City Council to the City Administration have been processed without formal guidelines. In some cases this has resulted in duplication of effort, inadequate responses, or excessive effort expended by City Departments and Council Appointee Offices in complying with such requests. Effective and timely responses are best provided through a uniform procedure and tracking system.

PURPOSE

It is the purpose of this Policy Statement to establish uniform procedures that will provide for prompt and effective responses to policy referrals and/or major studies made by the City Council to the City Administration and other Council Appointees so that:

1. Council information needs are effectively met; and
2. City Service Area and Council Appointee Business Plans and budgeted workloads are not severely disrupted by the volume of such requests.

Council, at any time, may make requests for information through the Rules Committee, Council Meetings, or informally.

DEFINITIONS

1. **Council Referral** — A policy referral or a major study of an item of a legislative, service delivery, policy and/or investment nature that may require:
 - Fiscal resources;
 - Complex policy analysis;
 - Changes/adjustments to performance measures results;
 - Over 40 hours of staff work, exception is in the event of a hiring freeze, which would trigger a Department-by Department basis dependent upon the impact of the freeze on a particular Department;
 - Addition to a CSA One-Year Action Plan; and,
 - Potential amendments to the municipal code and/or Council action.

The initiator of the referral is to follow up his/her request in writing and forward the request to the Rules Committee for action. A referral will not be considered formal until the Rules Committee has taken action on it.

2. **Requests For Information** — A formal or informal request from a Councilmember to a Council Appointee for existing information (i.e., brief verbal information or copies of reports already prepared and ready for distribution, or written information that requires minor staff time that is consistent with the

TITLE	PAGE	POLICY NUMBER
REQUESTS FOR POLICY ANALYSIS (COUNCIL REFERRALS)	2 of 4	0-12

City Service Area Business Plan) or some other request that does not fall into the category of Council Referral. When a request for information is made to the City Manager or other Council Appointee, it is the responsibility of the Manager and his/her staff, or other Council Appointee and their respective staffs, to determine the scope of the request and to advise the Council through the Rules Committee if a Council Referral will be required.

3. **Summary Of Outstanding Council Referrals** — A quarterly report, issued to the Rules Committee by the Council Liaison, listing items previously referred by the Council to the City Administration or other Council Appointee for which responses or actions requested by the Council have not yet been provided.
4. **Assign** — A recommendation to Assign a Council Referral means that staff is formally instructed to begin work on the policy.
5. **Drop** — A recommendation to Drop a Council Referral means that no further action will be taken on the referral by the Rules Committee and staff.
6. **Defer** — A recommendation to Defer a Council Referral means that action by the Rules Committee is being delayed until the date designated/specified. The Rules Committee may defer a Council Referral to a specific date or to the annual October Policy Priority Session.
7. **Workload Assessment Report** — A report from staff that outlines the policy issues, workload impacts, cost implications and other pertinent information associated with completing/addressing the Council Referral. The Rules Committee may request this report prior to taking formal action on whether to assign, drop or defer a Council Referral.

POLICY/COUNCIL REFERRAL PROCEDURES

It is the policy of the City Council that all Council Referrals directed to Council Appointees by the City Council, individual Council Members, or by private citizens or citizen groups or organizations, approved by the Rules Committee, adhere to the following provisions:

Below is a step-by-step outline of the Council Referral Process:

1. The Council Referral initiator submits the Council Referral in writing to the City Clerk's Office.
2. The Council Referral is to be placed on the next available Rules Committee agenda by the City Clerk under "Council Referrals for Assignment to Appropriate Committee, Administration or Council Appointee." Council Referrals may be made at any time during the year.
3. At the Rules Committee meeting, the Committee decides whether to Drop or Defer the Council Referral or request an Administrative Workload Assessment. If the Committee decides to Drop the referral request, no further action is taken on behalf of staff. If the item is Deferred, staff tracks the item and the Clerk's Office presents the referral request to the Rules Committee on the date that it was deferred to. Note: A new feature of this process will be to defer items to the annual October Policy Priority Session.
4. If the Committee requests an Administrative Workload Assessment, staff generally has two weeks to respond with the following information:
 - Amount of staff time required to complete request/study or if additional staff is needed;
 - Non-salary or unbudgeted costs to complete request/study;
 - Impact to department's work plan and performance measure results;
 - Description of the scope of study;
 - Realistic timeline; and,
 - Other considerations related to the specific referral.

TITLE REQUESTS FOR POLICY ANALYSIS (COUNCIL REFERRALS)	PAGE 3 of 4	POLICY NUMBER 0-12
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5. The City Clerk's Office schedules the Administrative Workload Assessment on a future Rules Committee agenda. (For example, a Councilmember makes a referral request on April 4, 2001 and if the Rules Committee requests an Administrative Workload Assessment, staff would return to the Rules Committee with an assessment on April 18, 2001.)
6. The Workload Assessment is discussed at the Rules Committee, and a recommendation to the full Council, as to the appropriate handling of the item, is made. At the time that the Administrative Workload Assessment is presented, the Committee may still Drop or Defer the referral.
7. At the Council meeting, the Rules Committee Chair reviews the Rules Committee report and reviews the actions taken on Council Referrals. If the full Council is not in agreement with the Committee's action, a formal motion can change the Rules Committee recommendation (which may include Assign, Drop or Defer the referral).
8. Once the full Council takes action, the Council Referral is or is not issued.

At his/her discretion, the City Manager or other Council Appointee may at any time indicate to the Council that outstanding Council Referrals and/or requests assigned to a specific Department or Departments or Council Appointees represent a workload sufficiently large enough to disrupt the on-going, planned work, for which the Department is responsible. In this case, the City Manager or other Council Appointee will propose to the Council through the Rules Committee a priority order of outstanding referrals and indicate those for which responses would have to be deferred in order to alleviate the Department's work load burden. Quarterly the Council Liaison will present the Rules Committee with a summary of outstanding Council Referrals by City Service Area. The Rules Committee will determine whether:

1. Re-prioritizing of referrals is required;
2. Any referrals need to be deleted from the list;
3. The referral necessitates a change in scope; and/or
4. There should be a new completion date for referrals.

REQUESTS FOR INFORMATION

At any time, formally or informally, Councilmembers may request information from Council Appointees. When a request for information is made to the City Manager or other Council Appointee, it is the responsibility of the Manager and his/her staff, or other Council Appointee and their respective staffs, to determine the scope of the request and to advise the Council through the Rules Committee if a Council Referral will be required.

All requests of City Departments (not other Council Appointees) by the Council for brief reports or information items that will take longer than four or five hours and must be written and compiled, should be directed to the City Manager in order that staff work may be properly coordinated. A request for brief verbal information or for copies of reports already prepared and ready for distribution may be made directly to the appropriate staff member. This does not prevent an individual Council Member from calling a Department Head for written information that may require minor staff time or is already consistent with a Department's work program or normal work process. This allows the City Manager's Office to ensure timely response.

Citizen Information Request: A Request for Information made by a private citizen to City Administration or Council Appointee shall be satisfied promptly whenever such requests can be readily satisfied. Requests directed to Council Members shall be referred, when appropriate, to the City Administration. The Administration or Council Appointee will provide responses directly to the citizen for all requests which are operational or administrative in nature, including complaints, and will prioritize and respond to all requests in the order received or as the City Manager or Council Appointee directs.

TITLE	REQUESTS FOR POLICY ANALYSIS (COUNCIL REFERRALS)	PAGE	POLICY NUMBER
		4 of 4	0-12

REQUESTS FOR MAJOR STUDY

A Request for Major Study by an individual Council Member must be placed on the agenda of a Rules Committee meeting. If approved by a majority of the Rules Committee, the guidelines for the study shall be stated. Requests for Major Study will be processed exactly like Council Referrals and the Rules Committee will have the same options of whether to assign, drop, defer or request a workload assessment report of staff. Evaluation of the request shall take place at the Rules Committee meeting using the following criteria:

1. The informational value of the study,
2. The parameters of the study,
3. The staff time to be involved in completing the study,
4. The estimated cost of the study, and
5. The general feasibility of the study.

If a Request for Information made to the City Administration or Council Appointee by an individual Council Member falls under the category of a Request for Major Study, the request shall be referred to the Rules Committee by the City Manager or Council Appointee. At the Rules Committee, the City Manager or Council Appointee will recommend courses of action which consider performance measure results, budgeted workloads, and City Service Area Business Plans as well as evaluative criteria cited in the foregoing paragraph.

Attachment B - List of Council Referrals Recommended to Drop

Title	Referral Description	Justification for "Drop" Recommendation	Referral Source	Referral Date	Agenda Item #	Lead Dept.
Urban Confluence Silicon Valley Breeze of Innovation Project	<p>Direction:</p> <p>(1) Recommend options to honor the legacy of Cesar Chavez at the Plaza, such as commissioning a potential bust or statue of the great Civil Rights leader.</p> <p>(2) Explore the need for traffic studies to consider lane reductions on Market Street to create a safer, more pedestrian-friendly environment for park users, and expand the footprint of the park.</p> <p>With the following additions:</p> <p>1. Direct staff to prioritize exploring upgrades to Plaza de Cesar Chavez including, but not limited to:</p> <p>a. Expanding the park area by reducing traffic lanes and/or parking</p> <p>b. Installing permanent or semi-permanent event infrastructure</p> <p>c. Expanding and upgrading the outdoor stage/amphitheater</p> <p>2. Direct staff to explore establishing a park conservancy charged with development and active use of Plaza de Cesar Chavez.</p> <p>3. Direct staff to continue to ensure the San José Light Tower Corporation reimburses the city for all staff time associated with project delivery.</p>	<p>This project is no longer ripe for staff involvement. This effort has been in the early planning stages by creator and sponsors (Urban Confluence Silicon Valley and the Light Tower Corporation) for over four years. The City and Urban Confluence previously entered into an agreement that—among other things—ensured Urban Confluence would reimburse the City for time staff spent working on this project. That agreement has now expired. Staff recommend dropping this Referral to allow staff to prioritize projects that are ready for staff engagement.</p>	City Council Meeting	4/18/23	7.2	Parks, Recreation, and Neighborhood Services
Planned Development Rezoning, Planned Development Permit, and a Vesting Tentative Map for Certain Real Property Located at 1655 Berryessa Road	<p>1. Direct staff to return to Council with a proposal on how the Mayor and Council offices can prereview projects in their design phase to ensure that appropriateness of density can be evaluated earlier in the process.</p> <p>2. Direct staff to return to Council with a plan to prioritize housing density in our urban villages, especially those that are well served by transit including fixed rail and frequent bus lines</p>	<p>This item is already covered by the General Plan and Urban Villages policies and is therefore not necessary. City Council-approved Urban Village Plans already prioritize density in Urban Villages, particularly adjacent to high quality transit. Staff already recommend prioritizing density in these transit rich locations as part of the on-going process to prepare new Urban Village Plans for Council consideration.</p>	City Council Meeting	6/13/23	10.2	Planning, Building, and Code Enforcement