



# Memorandum

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**FROM:** Richard Doyle, City Attorney  
Lee Price MMC, City Clerk  
**SUBJECT:** Council Expenditure and Reimbursement Policy  
**DATE:** August 20, 2007

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## BACKGROUND

On October 3, 2006, the City Council referred the development of a comprehensive Council Expenditure and Reimbursement Policy to the Rules Committee. On January 31, 2007, the City Attorney and the City Clerk provided an overview to the Rules and Open Government Committee of the various categories of Council expenditures, current expenditure practices, and the issues raised by the current practices. The Committee discussed a draft policy and provided direction to staff during five different meetings of the Rules and Open Government Committee — May 2, May 9, May 23, June 13 and June 20, 2007. The Committee directed the City Attorney and City Clerk to bring the draft policy to the full Council in August 2007.

## ANALYSIS

The attached Draft Council Expenditure and Reimbursement Policy provides specific expenditure guidelines for operating expenses associated with the individual Mayor and Council Member offices. Each office receives a single appropriation, subject to amendment during the fiscal year, and the single appropriation is used for both personal services costs and non-personal expenses. Each Council Member has the discretion to decide how best to represent their constituents by allocating more or less of that appropriation for staff costs or for supplies, services and equipment.

Council Office expenditures have always been subject to City policies relating to procurement and staffing, but prior to this time, there have been few detailed policies that specifically govern the elected officials' expenditures to carry out their representative and legislative duties.

The discussion below provides further explanation of the topics in the Draft Policy. Those sections will be referenced below.

## **DISCUSSION**

### **Personnel/Staff/Salaries**

Sections A, B and C document current practices for hiring, salaries, and the use of professional consultants to augment staff resources. This Draft Policy consolidates in one place the authorization for expenditures on Mayor/Council/Staff salaries.

Classified, represented Council staff members are subject to the City's negotiated compensation and benefits packages and are subject to hiring procedures used for similar positions in the City. The annual budget authorizes the number of positions and their classifications.

Unclassified Mayor/Council staff are hired and/or retained at the discretion of each Council Member as authorized by City Charter Section 901. Based on the individual needs of each Office, the Mayor/Council Member determines how many Council Assistants to employ and their salaries, within the City's adopted pay ranges. While the annual appropriation to each Office effectively limits the number of staff, the elected official may choose to hire multiple part-time Assistants, or fewer full-time Assistants to help them best represent their constituents.

### **Office Supplies, Services and Equipment**

Section D documents current practice. The purchase of office supplies, services (such as printing services or use of an interpreter at a community meeting) and office equipment follows the same procedures used by other City offices. The City Clerk, or her representative, provides approval of purchases in conformance with City policies and procedures.

Acquisition of supplies, services and equipment may be processed in different ways, depending on the nature of the purchase. For example, routine office supplies should be ordered through the City's open purchase order with an office supply vendor. In rare instances, a purchase may need to be made directly from another vendor by the Council Member or staff, who can then submit the receipt with an *Employee Reimbursement Form* and subsequently be reimbursed on a regular paycheck.

### **Admission to Events**

Section E specifies that admission to the following types of events are authorized City expenses:

1. City Sponsored Events, which is an event that is either subsidized by the City or Agency; or one that is otherwise so designated by the Council;
2. Fundraising events for the benefit of a civic, cultural, educational or charitable organization that provides services to San Jose residents or businesses; or
3. Conferences, meetings or seminars related to City business.

The Policy would limit the number of admissions that can be purchased for a fundraising event (previously it was at the Member's discretion) and would also authorize purchase of admission for the elected official's spouse/partner or one staff member.

Fundraising events, referenced in item E 2 of the Policy, can cover a broad range of organizations, but admission to events held by political or religious organizations would not be an authorized expenditure. Examples of some of the organizations holding cultural, educational or charitable fundraisers would be: City Year Corps, YWCA, SJPOA Charitable Foundation, KTEH Channel 54, San Jose Stage Company and Silicon Valley Toxics Coalition.

### **Membership Dues and Publication Subscriptions**

Section F would prohibit the use of City funds to pay membership dues for individual Council Members in various organizations. The City belongs to a number of governmental organizations, such as Association of Bay Area Governments and U.S. Conference of Mayors and payment of the City's dues to those organizations is authorized by the City Council as part of the annual budget process.

Section G authorizes City payment for subscriptions by Council Members to certain types of publications. Examples of some of the publications referred to in Item G 2 might include: 1) For a Council Member who sits on one of the City's Retirement Boards, subscription to the Wall Street Journal or Forbes Magazine; 2) For a Member who sits on the County Recycling and Waste Reduction Commission, subscription to Mother Earth News.

### **Advertisements**

Section H limits Council expenditures on advertisements to announcements of City Sponsored Events, as defined above, and for staff recruitment. The Rules and Open Government Committee discussed that even though these advertisements do not technically fall under the state law restrictions regarding mass mailings that the underlying concept of not using public funds to bolster an elected official's name recognition or public stature applies in this situation. Therefore the Committee recommended that the mass mailing restrictions should also apply to advertisements with a few minor variations allowed. The Committee was also concerned that the City be properly attributed in all such advertisements by including the City logo.

### **Constituent Outreach**

Section I provides examples of expenditures which would be appropriate for communicating with constituents and Item I 2 outlines instances when gifts to constituents may be an allowable expense.

Under the draft policy, if a proposed expenditure does not fit within the list of authorized expenditures, it could still be authorized by Council action as long as it is not on the list of prohibited expenditures.

### **Employee Recognition**

Section J references City Policy Manual Section 4.1.4, which limits the amount that can be spent on food and beverage at recognition events to \$15 per employee each year. Policy approval will apply the same limits to Mayor and City Council employee recognition/appreciation events.

### **Grants**

Section K authorizes cash contributions to certain entities as long as 1) the amount of the contribution is at least \$250.00, 2) the contribution is in the form of a grant agreement, and the 3) the entity is a nonprofit, unincorporated association or government entity providing services to San Jose residents or businesses. (See also Section N). Council Members may use either Arena Community Funds (currently referred to as "HP Grants") or they may use their Office budget.

### **Travel**

Section L references Council Policies 9-5 and 0-4; however those are being updated and will be presented to Council for discussion and approval at a later date.

### **Food and Beverage**

Section M references City Policy Manual Section 5.1.5 and makes it applicable to Council Members, with the addition of authorization for Members to provide refreshments for attendees at a public meeting or event.

### **Contributions to Certain Organizations**

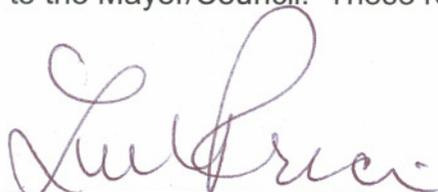
Section N 2 sets out a procedure for contributions to organizations that are less than \$250, and therefore not covered under Section K. Council contributions to organizations that meet the same criteria specified in Section K may be made by elected officials from funds available in their Office budget. If approved, staff will develop a form to simplify processing payment. A grant agreement will not be necessary. The Elected Official will certify that the recipient organization is eligible, the City Clerk will authorize the contribution and the Finance Department will process it for payment as expeditiously as possible.

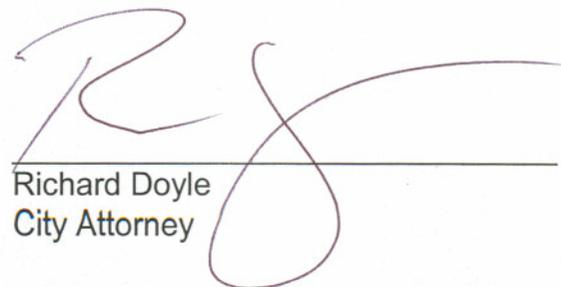
### **Unauthorized Expenditure of Public Funds**

The general rule is that use of public funds should be for a public purpose or public benefit. Section O lists certain expenditures that should never be paid for from public funds.

### **CONCLUSION**

The Council Expenditure and Reimbursement Policy, if approved, will become effective immediately. The City Clerk and City Attorney will provide training for all employees in the Mayor/Council Offices. The City Clerk will continue to provide regular expenditure reports to the Mayor/Council. Those reports are available to the public.

  
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City Clerk

  
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City Attorney

DRAFT

*City of San José, California***COUNCIL POLICY**

<b>TITLE</b> CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	<b>PAGE</b> 1 of 9	<b>POLICY NUMBER</b> 0-37
<b>EFFECTIVE DATE</b>	<b>REVISED DATE</b>	
<b>APPROVED BY COUNCIL ACTION</b>		

**PURPOSE**

The purpose of this policy is to clarify and establish guidelines regarding proper expenditures and reimbursements for Members of the City Council and their offices.

The Mayor and Councilmembers must be reimbursed for expenses incurred in the performance of their duties or functions of office. (Charter Section 408) The office staff to the Members of the City Council must also be reimbursed for actual and necessary expenses incurred while performing official business of the City when such expenses are authorized or approved. (Charter Section 902)

The City Clerk will perform all administrative functions on behalf of the Mayor's Office and each Council Office, including the review and approval of expenditures and requests for reimbursement made consistent with this Policy, and the negotiation and execution of contracts made consistent with this and all other City policies regarding contracts. The City Clerk is only authorized to approve expenditures to the extent adequate funds have been appropriated by Council for such expenditure. The City Clerk may authorize a designee to perform these functions.

**SCOPE**

This comprehensive policy clarifies the authorized use of City funds to pay for all Mayor and Council Office expenses. This policy incorporates by reference existing expenditure and reimbursement policies that apply to the Mayor, Councilmembers, and their office staff, and establishes the parameters for other expenditures and reimbursements unique to public office.

In determining whether an expenditure is appropriate to be paid from City funds, the Council finds that the following activities by the Mayor, Councilmembers and their staffs, provide benefit to the City:

1. Meeting or otherwise communicating with constituents regarding City operations, services, projects, programs and policies; matters pending before the City Council or other governmental agencies; and other issues raised by constituents.
2. Meeting with state and federal officials regarding issues that impact City operations, services, projects, programs and policies, or the community;
3. Participating in local, regional, state, and national organizations whose activities impact City operations, services, projects, programs and policies;
4. Attending educational seminars or conferences to better inform public officials regarding issues that impact City operations, services, projects, programs and policies, or to improve their skills; and
5. Recognizing and promoting public service in the community.

## **DEFINITIONS**

For the purposes of this Policy, the following terms shall be defined as specified:

### **Advertising**

“Advertising” or “advertisement” means the payment for the placement of a message in any newspaper, magazine, or on any broadcast system, or electronic medium. “Advertisement” does not include the listing of contributors, or any other form of acknowledgement, in an event program.

### **City Sponsored Event**

“City Sponsored Event” means either: an event to which the City or Redevelopment Agency has contributed funding or in-kind services in addition to the funding provided by the Mayor or Councilmember; or an event designated by the City Council.

### **Constituent**

“Constituent” means residents of, and businesses, civic, cultural, and educational institutions within, the City of San Jose.

### **Constituent Outreach**

“Constituent Outreach” means communications with constituents to promote civic involvement and public awareness of City operations, services, programs, policies, and matters pending before the City Council and to elicit input from constituents regarding such matters.

**Consultant**

“Consultant” means an independent contractor, in compliance with the federal Internal Revenue Service Guidelines, hired by the City to provide professional services to the Mayor or a Councilmember.

**Gift**

“Gift” means the voluntary transfer of any thing, service, payment or value, paid for with City or Redevelopment Agency funds without the City or Agency receiving a benefit in return.

**EXPENDITURES AND REIMBURSEMENTS****A. MAYOR AND COUNCILMEMBER COMPENSATION**

Councilmember compensation is an authorized City expense.

The Mayor and Councilmembers receive a salary and benefits which include medical insurance, dental insurance, life insurance, retirement benefits and car allowance. The salaries and benefits are established by ordinance, after the Salary Setting Commission has made its recommendation to the Council.

Since the car allowance is intended to cover vehicle wear and tear and fuel costs, mileage reimbursement is not an authorized expenditure for the Mayor and Councilmembers.

**B. MAYOR AND COUNCIL OFFICE STAFF COMPENSATION**

The salaries and benefits of the Mayor and City Council support staff are authorized expenditures as long as the staff is hired and compensated pursuant to the City’s policies and procedures.

**C. RETENTION OF CONSULTANTS**

The Mayor and Councilmembers may retain a Consultant to provide services to assist in the conduct of City business, including but not limited to the following services:

1. Event planning for City Sponsored Events;
2. Web site design for the Councilmember’s official City website; and
3. Research on specific City or redevelopment issues.

The Mayor or Councilmember must provide a description of the scope of services for the Consultant to the Office of the City Clerk, and, if the request is for a

Consultant to provide research on specific City or redevelopment issues, with a copy to the City Manager or Agency Executive Director. The City Clerk is authorized to execute all consultant agreements on behalf of the Mayor or Councilmembers following all applicable City contracting policies and procedures.

**D. OFFICE SUPPLIES, SERVICES AND EQUIPMENT**

Acquisition of office supplies, services and equipment used solely for the conduct of City business by the Mayor and Council members is an authorized expenditure, subject to the review and approval of the City Clerk, and consistent with all City contracting policies and procedures.

Expenditures for cell phones, or cell phone usage on City business are subject to the City's Cellular Telephone Policy found at City Administrative Policy 1.7.4

**E. ADMISSION TO EVENTS**

Admission to the following events for the Mayor and Councilmembers and their staffs are authorized expenses:

1. City Sponsored Events.
2. Fundraising events where the proceeds of the event benefit a civic, cultural, educational, or charitable organization providing services to San Jose residents or businesses. In addition to the admission price for the Mayor or Councilmember, admission for one staff person or partner of the Mayor or Councilmember, to attend with the Mayor or Councilmember, is also an allowable expense. Admission to an event attended by a Council staff person in lieu of the Mayor or Councilmember is also an allowable expense. Additionally, admission to an event for any City required security detail is an allowable expense.
3. Conferences, meetings or seminars germane to city government, economic development, land use, public safety, parks and recreation services or any other area of municipal governance that the City undertakes.

Payment or reimbursement by the City for admission to events which are not authorized above must be approved by the Council in advance of the payment or reimbursement. At the end of each fiscal year, the City Clerk will report to the Council the total City expenditures for these events by the Office of the Mayor and each Council office.

**F. MEMBERSHIP DUES**

Membership dues are not an authorized expenditure except for memberships in those governmental associations in which the City's membership extends to its officials, such as the California League of Cities, the National League of Cities and the National Conference of Mayors.

**G. PUBLICATION SUBSCRIPTIONS**

Subscriptions to the following types of publications are authorized expenditures:

1. A publication included as part of membership in an organization set forth in Section F, above; or
2. A publication specific to government, land use, municipal finance, economics, public safety, parks and recreation services; or any other area of municipal governance that the City undertakes; or
3. A local publication containing information of general interest to the community.

**H. ADVERTISING**

The cost of advertising is an authorized expenditure if the advertising relates to the following:

1. A City Sponsored Event.
2. Recruitment of office staff for the office of the Mayor or a Councilmember.

Any advertisements paid for from public funds must properly attribute the City by including the City's logo in the advertisement. The design of such advertisements should conform to the state law restrictions regulating mass mailings, except that the advertisement may contain both the Councilmember's name and District designation, and slight variations in font size for clarification purposes may be allowed. The design of such advertisements should also conform to adopted City guidelines regarding the use of the City logo and the City of San Jose Communications Guide.

**I. CONSTITUENT OUTREACH**

1. Costs incurred by the Mayor or any Councilmember in conducting the following constituent outreach activities are authorized expenditures:

- a. Communicating with constituents within the state law restrictions regulating mass mailings.
- b. Conducting informal surveys limited to eliciting constituent priorities or needs, except that the City will not pay for any such surveys within 12 months of any election in which the requesting official may run. Furthermore, in no event shall the City pay for any polling activities related to any person or issue that is or is expected to be the subject of a political campaign.
- c. Special events for the purpose of providing information to constituents on City services and programs, pursuant to City Council Policy No. \_\_\_\_.

2. City funds may not be used to provide gifts to constituents except as follows:

- a. The gift is valued at less than \$50.00, is ceremonial or commemorative in nature, (i.e. flowers, balloons, plants, books, or City merchandise), and is given as a token of appreciation for the Constituent's service to the City or Redevelopment Agency; or
- b. The gift is approved in advance by the City Council.

**J. EMPLOYEE RECOGNITION**

Costs incurred by the Mayor or Council members in recognition of employee performance or service are authorized expenditures as long as such expenditures are consistent with the City's Employee Recognition Policy (City Policy Manual Section 4.1.4).

**K. GRANTS**

Councilmember or Mayor directed monetary contributions to certain organizations are authorized expenditures only if the following criteria are met:

- 1. The amount of the contribution is at least \$250.00; and
- 2. The contribution is given through a written grant agreement; and

3. The grantee is either:

- a. A nonprofit organization, unincorporated association, or government entity providing services to San Jose residents or businesses, and the grant is for educational, cultural, or recreational purposes, if the funding is from the Arena Community Fund; or
- b. A nonprofit organization, unincorporated association, or a government entity which provides services to San Jose residents or businesses, if the funding is from the General Fund.

In no event shall grants be authorized for religious or political purposes.

**L. TRAVEL**

Costs incurred related to official travel by the Mayor, each Councilmember, and their staff, pursuant to City Council Policies No. 9-5 and 0-4 are authorized expenditures.

**M. FOOD AND BEVERAGE**

Costs incurred by the Mayor and Council for the purchase of food and beverages under the following circumstances are authorized expenditures:

1. Pursuant to the City's Food and Beverage Expenditure Policy (City Policy Manual Section 5.1.5)
2. Providing refreshments at meetings or other events with constituents which are open to the public.

The purchase of alcoholic beverages is not an authorized expenditure.

**N. CONTRIBUTIONS TO CERTAIN ORGANIZATIONS**

1. Cash contributions to organizations in the amount of \$250.000 and above made by individual Council offices are subject to the provisions of Paragraph K above.
2. Cash contributions under \$250.00 to organizations made by individual Council offices are only authorized if the following conditions are met:

- a. The contribution is to a nonprofit organization, unincorporated association, or a government entity which provides services to San Jose residents or businesses; and
  - b. The Mayor or Councilmember certifies, using a form supplied by the City Clerk, that the recipient's type of organization and the purpose of the contribution is in compliance with this Policy.
3. In kind contributions of City staff time, or use of City equipment, are only authorized if all of the following conditions are met:
- a. The organization is a nonprofit corporation, an unincorporated association, or a government entity;
  - b. The organization provides services to San Jose residents; and
  - c. The organization acknowledges the City of San Jose as the donor.

#### **O. UNAUTHORIZED EXPENDITURE OF PUBLIC FUNDS**

Unless otherwise specifically allowed under this Policy, the following costs incurred by the Mayor or City Council are not authorized expenditures and will not be paid for by the City:

1. The personal portion of any trip;
2. Political or religious contributions or events;
3. Family expenses, including a partner's expenses when accompanying official on City -related business, as well as child-related, or pet-related expenses;
4. Entertainment expenses, sporting events (including gym, massage and/or golf related expenses), or other cultural events; provided however, that expenses incurred in the use of the City's box at the Arena, subject to the provisions of City Council Policy 9.11 are authorized expenditures;
5. Personal automobile expenses, including repairs, traffic citations, insurance, or gasoline; and
6. Personal losses incurred while on City business, such as losses due to theft, accident or gambling.

Any questions regarding the propriety of a particular type of expense should be resolved by the by the City Clerk before the expenses is incurred.

#### **PROCESS FOR PAYMENT AND REIMBURSEMENT AND REVIEW**

All requests for reimbursements and processing of payments must be submitted to the City Clerk. The City Clerk will process requests pursuant to the applicable Section of the City Policy Manual and the Finance Administrative Manual.

All other expenses allowed by this Policy, but not covered by the City Policy Manual or the Finance Administrative Manual must be submitted to the City Clerk for processing and reimbursement using the Expense Reimbursement Form available on the Finance Department Intranet.

The City Clerk is only authorized to approve expenditures to the extent adequate funds have been appropriated by Council for such expenditure.