



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle, City Attorney
Lee Price MMC, City Clerk

SUBJECT: FINAL APPROVAL OF THE
COUNCIL EXPENDITURE AND
REIMBURSEMENT POLICY

DATE: October 4, 2007

RECOMMENDATION

Adoption of a resolution approving the Council Expenditure and Reimbursement Policy.

OUTCOME

Adoption of the Council Expenditure and Reimbursement Policy will establish guidelines regarding proper expenditures and reimbursements for Members of the City Council and their offices.

BACKGROUND

At the September 11, 2007 City Council meeting, the Council reviewed and approved, in concept, a comprehensive Council Expenditure and Reimbursement Policy. Feedback was provided to staff and the Policy has been amended to reflect Council's input. The Council also directed staff to come back with an analysis of the implications of eliminating Office Holder accounts and a plan to do so. We anticipate bringing that analysis to the Council in November.

ANALYSIS

The draft policy (see Attachment #1) has been revised as follows:

1. Section D - Office Supplies, Services and Equipment: The section has been augmented with language that reflects recent revisions to Council Policy 2-4, Council Office Space Acquisition and Modification Expenditures. This section relates to space acquisition or modifications of Council members' offices.
2. Section F - Membership Dues: This section has been revised to clarify that membership dues for committees, caucuses and constituent groups of the League of California Cities, the National League of Cities and the National Conference of Mayors are also authorized expenditures.

3. Section J – Employee Recognition: The authorized maximum amount that may be spent on Council Office employees attending recognition events has been increased from \$15 to \$50 per employee per fiscal year.
4. Sections K and N – Grants and Contributions to Certain Organizations – The threshold for requiring a grant agreement for a donation to a nonprofit organization providing services to San Jose residents or businesses has been raised from \$250 to \$500. Furthermore, these two sections have each been amended to include the following four provisions:
 - In no event shall grants be authorized for religious or political purposes.
 - Any acknowledgement of the contribution by the recipient organization shall attribute the City of San Jose as the source of the funding.

Any contribution to an organization proposed by a Council member who is a member of that organization must be approved in advance by the City Council. (Staff has developed a Council Memorandum Template to the Rules and Open Government Committee for this kind of disclosure – see Attachment #2).

It should be noted that this is a different procedure than what Council directed at the meeting, which was to disclose that relationship to the Rules and Open Government Committee under the Public Record. However, in subsequent discussions with the Attorney General’s Office, we were advised that the most prudent course would be to have the entire Council approve the agreement in a public meeting.

 - Council members are prohibited from proposing contributions to organizations on which they serve as Boardmembers.
5. Section M –Food and Beverage: This provision has been modified to add the hosting of meals for recipients of commendations immediately prior to or after the Council or Agency Board meeting at which they were honored.

EVALUATION AND FOLLOW-UP

In response to Council direction regarding establishing “mini-grants” (grants or contributions to non-profit organizations that meet special criteria, a *City Council Contribution Request Form* has been developed for purposes of streamlining City Council grants that are less than \$500 from either Council Office funds or HP Pavilion funds. (See Attachment #3) The “mini-grant” form is in lieu of a grant agreement and eliminates some additional steps in the current process to award grants to non-profits who meet the established criteria. The City Clerk will coordinate training with Council Office staff in the next few weeks and will endeavor to monitor and track the effectiveness of this new tool.

Additionally, the City Clerk and City Manager are collaborating to develop additional advertising guidelines for Council Offices and will make a visual presentation at the Council meeting on October 16th.

Finally, the City Clerk, City Attorney and the Finance Department will provide training on the new Policy provisions to ensure understanding and compliance. The City Clerk will present to the Rules and Open Government Committee a status report in six months on progress.



Lee Price, MMC
City Clerk


for

Richard Doyle
City Attorney

For questions please contact Clerk Lee Price at (408) 535-1252.

DRAFT CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY

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 ~~expense~~expenditures 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 ~~expense~~expenditures incurred while performing official business of the City when such ~~expense~~expenditures 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 ~~expense~~expenditures. 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~~expenditure.

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.

Expenditures for space acquisition or modifications of Council members' offices are subject to the provisions of Council Policy 2-4, Council Office Space Acquisition and Modification.

E. ADMISSION TO EVENTS

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

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 expenseexpenditure. Admission to an event attended by a Council staff person in lieu of the Mayor or Councilmember is also an allowable expenseexpenditure. Additionally, admission to an event for any City required security detail is an allowable expenseexpenditure.
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 California Cities, the National League of Cities and the National Conference of Mayors, and committees, caucuses and constituent groups of those associations.

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). However, the maximum amount that may be spent on Council office employees attending recognition events is \$50 per employee per fiscal year.

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~~500.00; 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.
4. In no event shall grants be authorized for religious or political purposes.
5. Any acknowledgement of the contribution by the recipient organization shall attribute the City of San Jose as the source of the funding.
6. Any contribution to an organization proposed by a Council member who is a member of that organization must be approved in advance by the City Council.
7. Council members are prohibited from proposing contributions to organizations on which they serve as Boardmembers.

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 ~~food and beverages~~ at meetings or other events with constituents which are open to the public.
3. Hosting meals for recipients of City or Agency commendations immediately prior to or after the Council/Board meeting at which they are honored.

The purchase of alcoholic beverages is not an authorized expenditure.

N. CONTRIBUTIONS TO CERTAIN ORGANIZATIONS

1. Cash contributions to organizations in the amount of ~~\$500~~250.000 and above made by individual Council offices are subject to the provisions of Paragraph K above.
2. Cash contributions under ~~\$500~~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, is only authorized if all of the following conditions are met:
 - a. The organization is a nonprofit corporation, an unincorporated association, or a government entity; and
 - b. The organization provides services to San Jose residents; ~~and~~
 - c. ~~The organization acknowledges the City of San Jose as the donor.~~
4. In no event shall grants be authorized for religious or political purposes.
5. Any acknowledgement of the contribution by the recipient organization shall attribute the City of San Jose as the source of the funding.

6. Any contribution to an organization proposed by a Council member who is a member of that organization must be approved in advance by the City Council.
7. Council members are prohibited from proposing contributions to organizations on which they serve as Boardmembers.

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 expenseexpenditures, including a partner's expenseexpenditures when accompanying official on City -related business, as well as child-related, or pet-related expenseexpenditures;
4. Entertainment expenseexpenditures, sporting events (including gym, massage and/or golf related expenseexpenditures), or other cultural events; provided however, that expenseexpenditures 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 expenseexpenditures, 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 expenseexpenditure should be resolved by the by the City Clerk before the expenseexpenditures 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 expenseexpenditures 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-Expenditure 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.



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Lee Price
City Clerk

SUBJECT: Direction to Agendize
Approval of Grant

DATE: October 3, 2007

DRAFT

Recommendation:

Direction to agendize for approval a grant agreement with _____ in the amount of \$_____, and disclosing that councilmember _____ is an uncompensated member of the nonprofit corporation.

Background:

This is to inform you that on [insert date] the Office of the City Clerk received a recommendation from Councilmember [insert Councilmember's last name] that the City enter into a grant agreement with [identify organization], a nonprofit corporation, to [explain the purpose of the grant]. The amount of the grant is \$[insert dollar amount]. Attached is a copy of the request form submitted by Councilmember [insert Councilmember's last name] which identifies Councilmember [insert Councilmember's last name] as an uncompensated member of the nonprofit corporation.

Lee Price, MMC
City Clerk

Attachment
cc Councilmember

CITY COUNCIL CONTRIBUTION REQUEST FORM

(For Grants \$500 or less)

Council District:	Contact Person:	Phone:
Grantee Name:		
Grantee Taxpayer ID:	Charitable Trust (CT) #	
Grantee Contact:	Title:	
Phone:	Fax:	
Email:		
Address:		
City	State	Zip
Mailing Address for check:		
City	State	Zip
GRANTEE TYPE		
<input type="checkbox"/> Non-profit corporation registered with the State of California	<input type="checkbox"/> School District	
<input type="checkbox"/> Unincorporated Association	<input type="checkbox"/> City of San José Department	
<input type="checkbox"/> Political Subdivision of the State of California	<input type="checkbox"/> Other: _____	
TYPE OF SERVICES PROVIDED		
Please describe the type of services provided to San Jose residents or businesses: _____		
Is the grantee requesting Council grants from other Council Districts at this time? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Has the grantee received any other Council grants within the past 12 months? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Has the grantee received any other City of San José Grants within the past 12 months? <input type="checkbox"/> Yes <input type="checkbox"/> No		
<input type="checkbox"/> BEST \$ _____	<input type="checkbox"/> CDBG \$ _____	<input type="checkbox"/> HNVF \$ _____
<input type="checkbox"/> Other \$ _____		
GRANT PURPOSE		
<input type="checkbox"/> Educational	<input type="checkbox"/> Cultural	<input type="checkbox"/> Recreational
<input type="checkbox"/> EVENT	<input type="checkbox"/> PROGRAM	<input type="checkbox"/> ACTIVITY
<input type="checkbox"/> ORGANIZATIONAL SUPPORT	<input type="checkbox"/> OTHER: _____	
SOURCE OF FUNDS		
<input type="checkbox"/> Council Grant: I understand it will be funded by my Council District Office appropriation. Amount: \$ _____		
<input type="checkbox"/> HP Pavilion at San José District Funds: I understand it will be funded by the Arena Community Fund City-wide appropriation, and that my district is allocated \$25,000 per year.		

CITY COUNCIL CONTRIBUTION REQUEST FORM

(For Grants \$500 or less)

Amount: \$ _____

Is the councilmember or his/her spouse or domestic partner affiliated with the grantee in any way? (For example, a paid or unpaid member, director, officer, or advisor to the grantee.)

No. Yes.

If yes, please explain: _____

Dated: _____

Councilmember's Signature

FOR CITY COUNCIL GRANTS LESS THAN \$500

Grantee hereby agrees to use the grant proceeds only for the purposes identified above and cannot be used for any political or religious purpose.

Dated: _____

By _____
(Signature)

(Print Name)

(Title)

Dated: _____

Lee Price, MMC
City Clerk

FOR OFFICE OF THE CITY CLERK USE

Visible Code: _____

Date check received from Finance: _____ Check Number: _____ Distribution date: _____

Revised: 09/25/07