



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Lee Price, MMC

SUBJECT: SEE BELOW

DATE: May 29, 2009

SUBJECT: PROPOSED REVISIONS TO CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY 0-38

RECOMMENDATION

Recommend to the City Council the adoption of a resolution approving revisions to the Council Expenditure and Reimbursement Policy and refer the matter to the full City Council on June 9, 2009.

BACKGROUND

The City Council approved the Council Expenditure and Reimbursement Policy on October 16, 2007, Item 3.5. Since that time, the Offices of the City Clerk, City Attorney, and Finance Department have conducted several trainings with Council staff on the policy and procedures to assure compliance. Over the past twenty months, numerous questions have arisen regarding application of the policy in particular circumstances. These issues have been noted and the proposed revisions attempt to clarify the policy and resolve these issues.

ANALYSIS

The following items are proposed for revision (*items proposed for change are in bold italics*):

1. **Definition of City Sponsored Event (Page 2):** The proposal adds language to the policy to reference an event approved by the City Council under the proposed Special Events Policy is defined as a city-sponsored event.
2. **Section E. Admission to Events (Page 3):** Clarifies that the Mayor or Councilmembers may purchase up to two tickets to attend fundraising events, which benefit a civic, cultural, educational, or charitable organization, which provides services to San Jose residents or businesses. The second ticket may be used by the Councilmember for their spouse or partner or a staff member to attend the event with the Councilmember.

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3. **Section H. Advertising (Page 4):** The proposed revision makes the purchase of an advertisement from a non-profit entity providing services to San Jose residents and businesses for fundraising purposes of the non-profit in an event program or directory of the organization. The advertisement would need to attribute the advertisement to the City, include the City's logo, conform to the City's guidelines regarding the use of the logo, conform to State mass mailing regulations, and be approved by the Office of the City Clerk prior to release and publication of the advertisement.
4. **Section I. Constituent Outreach (Page 5):** The proposed revision adds a sub-section 2 b, which permits the Mayor and Councilmembers to purchase and provide tickets valued at \$50 or less to constituents to attend and participate in city-sponsored events such as the State of the City. The tickets may be given to recipients of awards presented at the event or for the recognition of the constituent's service to the City or District. In addition, the Mayor may purchase and provide tickets for economic development purposes to persons or entities that have or are interested in locating their business in the City or in providing service to San Jose residents.
5. **Section J, Employee Recognition (Page 5):** The proposed revision clarifies the limits for employee recognition events is \$50 per employee per fiscal year. Additionally, consistent with City Policy Manual Section 4.1.4, a Councilmember may provide cash awards to an employee up to \$150 per fiscal year. Cash awards are taxable income to the recipient.
6. **Section L, Travel (Page 6):** The proposed revision clarifies procedures for Councilmembers whose travel is paid for by another entity that is related to an assignment representing the City with the other entity. In those situations, the travel is subject to the travel procedures and guidelines of the paying entity. In cases where the Councilmember's travel expenses are split between the City and another entity, or are paid for by a City department, the procedures under Council Travel Policy 9-5 prevail. Lastly, when Councilmembers' travel expenses are being paid for by another entity and no City funds are authorized, a City procurement card should not be used for those expenses.
7. **Section N, Contributions to Certain Organizations (Page 7):** Sub-section 2a is added and clarifies that the "mini-grants" under \$500.00, which are funded through the Arena Community Fund (HP Grants), should qualify as a civic, cultural, or recreational purpose consistent with the Naming Rights Agreement. In addition, under sub-section 3c, clarification that contributions of City staff time, equipment is authorized subject to the approval of the City Manager or designee.

EVALUATION AND FOLLOW-UP

The City Clerk will continue to provide training to Council staff on the policy and will periodically report to the City Council with any further suggested revisions.

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PUBLIC OUTREACH/INTEREST

This action does not meet the criteria set below; however, the Office of the City Clerk will post the item on the City's Website.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council, or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum does not meet any of the above criteria; however, it will be posted on the City's website for the June 24, 2008 Council Agenda.

COORDINATION

This memorandum and proposed revisions to the policy have been coordinated with the Office of the City Attorney and Finance Department.

CEQA

Not a project.


Lee Price, MMC
City Clerk

For questions, please contact Dennis Hawkins, Assistant City Clerk, at (408) 535-1275.

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COUNCIL POLICY

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY (REVISED)	PAGE 1 of 7	POLICY NUMBER 0-38
EFFECTIVE DATE October 16, 2007	REVISED DATE June 2009	
APPROVED BY COUNCIL ACTION		10/16/2007: Item 3.5, Res. No. 74056

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

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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 event program, or on any broadcast system, or electronic medium. However, "Advertisement" does not include the listing of contributors 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; ***an event approved by the City Council under the Special Events Policy***, Council Policy 0-xx; 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 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.

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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 expenditures:

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 the spouse or partner of the Mayor or Councilmember**, to attend with the Mayor or Councilmember, is also an allowable expenditure. Admission to an event attended by a Council staff person in lieu of the Mayor or Councilmember is also an allowable expenditure. Additionally, admission to an event for any City required security detail is an allowable expenditure

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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, 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.
3. ***Purchase of an advertisement from a non-profit entity providing services to San Jose residents or businesses for fundraising purposes of the non-profit in an event program or directory of the organization.***

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. All advertising must be approved by the Office of the City Clerk prior to release and publication.

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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. 0-XX.
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. ***Tickets to City-sponsored events such as State of the City valued at \$50.00 or less per ticket for recipients of awards or for the recognition of the constituent for service to the City and/or District. In addition, the Mayor may also purchase and provide tickets for economic development purposes to persons or organizations who have or are interested in locating their business operations in the City or in providing service to City of San Jose residents.***
 - c. The gift is approved in advance by the City Council.

J. EMPLOYEE RECOGNITION

1. Costs incurred by the Mayor or Council members in recognition of employee performance or service are authorized expenditures provided that such expenditures are consistent with the City's Employee Recognition Policy (City Policy Manual Section 4.1.4). However, the amount a Council member can spend on employee recognition events per fiscal year per employee is \$50. ***Additionally, consistent with City Policy Manual Section 4.1.4, a Councilmember may provide cash awards to an employee up to \$150 per fiscal year. Cash awards are taxable income to the recipient.***

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 over \$500.00; and
2. The contribution is given through a written grant agreement; and

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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 Policy No. 9-5 are authorized expenditures.

- 1. Authorized travel by Councilmembers which is fully paid by another agency and which is related to the Councilmember's representation of the City as a member of a City Board or Commission (such as the City's Retirement Boards), or another governmental entity (such as the Valley Transportation Authority, Metropolitan Transportation Agency, Association of Bay Area Governments, etc.) is subject to the travel and reimbursement policies and procedures of the entity which is paying for the travel.***
- 2. Authorized travel by Councilmembers which is paid for through another City department is subject to provisions of Council Policy 9-5.***
- 3. Authorized travel by Councilmembers for which expenses are split between another entity and the City is subject to the provisions of Council Policy 9-5.***
- 4. Councilmembers should not use a City procurement card or other City payment methods for expenses incurred related to travel funded through another entity.***

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)

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2. Providing 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 an amount over \$500,000 made by individual Council offices are subject to the provisions of Paragraph K above.
2. Cash contributions of \$500.00 or less 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 contribution is for educational, cultural, or recreational purposes, if the funding is from the Arena Community Fund; or***
 - c. 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.
 - c. ***The City Manager or designee has approved the contribution.***
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.

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