

RESOLUTION R2006 37

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA,
STATE OF CALIFORNIA, ADOPTING AN EXPENSE
REIMBURSEMENT POLICY

WHEREAS, recent State legislation (Assembly Bill No. 1234, Chapter 700, effective January 1, 2006, and codified at Government Code sections 53232 and 53232.1 through 53232.4) requires cities, among other things, to adopt a written policy regarding expense reimbursements paid to elected and appointed City officials; and

WHEREAS, on January 17, 2006, the City Council adopted an interim expense reimbursement policy, based on direction provided by Council to City staff during the Council meeting, and based on information contained in the City staff report, including attachments of pre-existing City policies related to expense reimbursements; and

WHEREAS, during the meeting of January 17, 2006, City Council also directed City staff to refine the interim expense reimbursement policy based on comments provided, and return to Council with a recommended expense reimbursement policy for formal adoption; and

WHEREAS, in accordance with Council direction, staff has prepared the "Expense Reimbursement Policy," attached hereto as Exhibit "A", and incorporated herein by reference; and

WHEREAS, the City of Napa, as a charter city, has been granted plenary "home rule" authority over local "municipal affairs" pursuant to California Constitution article XI, section 5, and the City exercises this home rule authority over issues related to the method of compensating City officers and employees; and

WHEREAS, the State legislature has indicated its intent to apply the provisions of Assembly Bill No. 1234 to charter cities (Government Code section 53232(c)); and

WHEREAS, the City finds that the interim expense reimbursement policy, and the "Expense Reimbursement Policy," each satisfy the requirements of Assembly Bill No. 1234, in the event that those requirements could be constitutionally applied to charter cities; and

WHEREAS, the City Council has considered all information related to this matter, as presented for the public meeting of the City Council identified below, including any supporting report by City staff, and any information provided during the public meeting.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Napa, State of California as follows:

1. The City Council hereby finds that the facts set forth in the recitals to this resolution are true and correct, and establish the factual basis for the City Council's adoption of this resolution.
2. The City hereby adopts the Expense Reimbursement Policy, attached hereto as Exhibit "A", and incorporated herein by reference.
3. This resolution is adopted pursuant to the City's constitutional home rule authority over its municipal affairs related to the compensation of City officials and employees.
4. This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 21st day of February, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST: *Datt O'Rourke*
CITY CLERK OF THE CITY OF NAPA

CITY OF NAPA
EXPENSE REIMBURSEMENT POLICY
Resolution R2006 37 (Exhibit "A"), February 21, 2006

1. Purpose and Scope of Expense Reimbursement Policy.

- 1.1. The purpose of this Expense Reimbursement Policy is to document the parameters by which the City will reimburse specified City officials for actual and necessary expenses incurred in the performance of official City duties.
- 1.2. This "Expense Reimbursement Policy" may be referred to herein as the "Policy."
- 1.3. This Policy applies to any "member" of a "legislative body" as defined by the Brown Act.¹ Thus, this Policy applies to each member of the City Council. Additionally, this Policy applies to each member of a body appointed by the City Council, such as the Planning Commission; provided, however, this Policy applies to a member of an appointed body only to the extent that prior approval for a particular expense reimbursement has been separately approved by the City Council.
- 1.4. For ease of reference, this Policy will use the term "Council member" to refer to the Mayor and each member of City Council. Additionally, to the extent City Council has separately approved reimbursement to any member of an appointed body for a particular expense reimbursement (pursuant to Subsection 1.3), that member shall be entitled to reimbursement for expenses in the same manner as a "Council member."

2. Statement of General Rule: A Council member is entitled to reimbursement for any actual and necessary expenses incurred in the performance of official duties of the Council member, provided that the amount of the expenses does not exceed the reasonable reimbursement rates set forth in this Policy, and provided that the amount of the expenses does not exceed the amount budgeted for such expenses.

2.1. Elements of the General Rule: Each element of the general rule is described in the following sections of this Policy:

- 2.1.1. Section 3: "Official Duties"
- 2.1.2. Section 4: "Actual and Necessary Expenses"
- 2.1.3. Section 5: "Reasonable Reimbursement Rates"
- 2.1.4. Section 6: "Budgeted Amounts"
- 2.1.5. Section 7: "Documentation of Actual Costs"

2.2. Procedures:

- 2.2.1. Each Council member is encouraged to contact the City Manager, the City Attorney, or the Finance Director if there are any questions regarding the implementation of this Policy. In particular, it is important to know whether a particular cost is reimbursable before the cost is incurred. Thus, it is important to understand how each element of the general rule applies to any potential request for reimbursement.
- 2.2.2. The City Council shall approve budgeted amounts available for specified categories of reimbursements (see Section 6 "Budgeted Amounts").

¹ See, California Government Code sections 53232.1 and 54952.

- 2.2.3.** The Finance Director, in coordination with the City Manager and the City Attorney, will develop standard forms and guidelines to implement this Policy. Each Council member will be kept updated regarding any changes to the standard forms and guidelines.
- 2.2.4.** Council members will submit reimbursement requests to the Finance Director on standard "Expense Report Forms," along with the documentation described in Section 7 (Documentation of Actual Costs).
- (a)** If the Finance Director determines that the request is made in accordance with this Policy, then reimbursement will be made accordingly.
 - (b)** If the Finance Director determines that all or some portion of the request does not comply with this Policy, the Finance Director shall notify the Council member of the basis for the determination, and:
 - 2.2.4.b.1.** If the Council member is able to provide additional information or documentation such that the Finance Director determines that the request is made in accordance with this Policy, then reimbursement will be made accordingly.
 - 2.2.4.b.2.** If the Finance Director does not determine that the request is made in accordance with this Policy (per Subsection 2.2.4.b.1), then the Council member may request a meeting with the City Manager, the City Attorney, and the Finance Director to determine if the request has been made in accordance with this Policy.
 - 2.2.4.b.3.** If a meeting requested under Subsection 2.2.4.b.2 does not result in a determination satisfactory to the Council member, the Council member may submit the request to the City Council to determine whether the reimbursement will be made to the Council member.
- 2.2.5.** If a Council member has any comment (question or concern) regarding the implementation of this Policy, the comment may be submitted to the Finance Director, the City Manager, or the City Attorney.
- 2.2.6.** If a Council member has any proposed change to this Policy, the proposed change may be submitted to the City Council for consideration.
- 3. Official Duties:** A Council member is entitled to reimbursements only for costs incurred in the performance of "official duties," including the following:
- 3.1.** Expenses incurred by the City official for which there is a reasonable connection with a City-adopted policy position, purpose, or goal.
 - 3.2.** Attending meetings or events at the direction or request of the City Council; for example, as a member of an advisory committee of the City Council. (Government Code section 54952.)
 - 3.3.** Communicating with representatives of local, regional, state, and national government on policy positions adopted by the City.
 - 3.4.** Communicating with representatives of business or community interests at the local, regional, state, and national level on policy positions adopted by the City.
 - 3.5.** Participating in local, regional, state, and national organizations whose activities affect the City's interests. Such organizations include, but are not limited to, local civic organizations such as Chamber of Commerce, Rotary, or Sierra Club.
 - 3.6.** Attending events for which the City is a sponsor or participant.
 - 3.7.** Implementing a City-approved strategy for attracting or retaining business to the City.

- 3.8. Attending educational seminars designed to improve the official's skill and information levels related to City business.
- 3.9. Recognizing service to the City (for example, attending a celebration thanking a longtime employee or active member of the community).
4. **Actual and Necessary Expenses:** A Council member is entitled to reimbursements only for "actual and necessary" expenses incurred in the performance of official duties, including the following:
- 4.1. **General Rule:** "Actual and necessary" expenses are those expenses for which there is a "practical need" based on costs normally incurred in prevailing business practices to conduct the "official duties."
- 4.1.1. Actual and necessary expenses generally include those costs related to travel, lodging, meals, and incidental expenses as outlined in Section 5 (Reasonable Reimbursement Rates).
- 4.1.2. Actual and necessary expenses may include miscellaneous expenses not specifically identified in Section 5; provided, however, a Council member requesting reimbursement for miscellaneous expenses not specifically identified in Section 5 shall have the burden of establishing the "practical need" for incurring the expense in order to conduct "official duties." An example of an "actual and necessary" miscellaneous expense could be the cost of child care needed to allow a Council member to attend a Council meeting.
- 4.2. "Actual and necessary" expenses shall not include any costs related to gifts to any third-party.
- 4.3. "Actual and necessary" expenses shall not include any costs related to the personal portion of any City-business trip, entertainment or recreation (including theater, movies, sporting events, gym, or massage), political campaign activities, or charitable contributions.
5. **Reasonable Reimbursement Rates:** In determining whether a Council member's actual and necessary expenses are "reasonable," the Council member may rely on this Policy or rates established by the Internal Revenue Service.

5.1. **Transportation:**

5.1.1. **General.**

- (a) The Council member shall make reasonable efforts to ensure that the most economical (cost-effective and time-efficient) mode and class of transportation is used, considering the possibility of car pooling and ride sharing (particularly for out of town car rentals or taxis) compared to other forms of transit.
- (b) The Council member shall make reasonable efforts to inquire into the availability of government and group rates (such as those available through the League of California Cities Enhanced Local Government Airfare Program, the California State Association of Counties, and the State of California). The Council member shall be entitled to reimbursement for expenses to the extent equal to or less than any reasonably available government or group rate. In any event, a Council member shall not be entitled to reimbursement for any expenses to the extent they exceed the cost generally available to the public.

5.1.2. **Automobile Allowance.**

- (a) Each Council member shall be entitled to an automobile allowance in the amount budgeted pursuant to Section 6.1, based on the justification provided by the Finance Director pursuant to Section 7.5.²

² The automobile allowance is authorized by Government Code section 1223, and *Citizen Advocates Inc. v. Board of Supervisors of Stanislaus County* (1983) 146 Cal.App.3d 171.

- (b) Each Council member shall maximize the use of personal automobiles for which the City provides an automobile allowance. In particular, each Council member shall maximize the use of personal automobiles for travel to official duties within a 50 mile radius of the City, including Sacramento and San Francisco.
- (c) To the extent a Council member uses his or her personal automobile for travel to official duties, that Council member's sole entitlement to reimbursement for transportation costs shall be limited to the automobile allowance; provided, however, if a Council member uses his or her personal automobile for travel to official duties outside the 50 mile radius of the City, the Council member shall be entitled to reimbursement in an amount equal to the lesser of: (1) the Internal Revenue Service rate for mileage reimbursement³ based on the number of round trip mile to and from the official duties, less 100 miles; or (2) the amount of roundtrip air fare pursuant to Section 5.1.3.

5.1.3. Airfare. In the event that airfare is determined to be the most economical mode of transportation for official duties, the Council member shall make reasonable efforts to obtain the most economical airfares. When traveling by air, reimbursement shall be authorized for reasonable and actual costs and/or reasonable gratuities for baggage handling.

5.1.4. Car Rental. In the event that car rental is determined to be the most economical mode of transportation for official duties, the Council member shall make reasonable efforts to obtain the most economical car rental rates. When using a rental car, reimbursement shall be authorized for the actual cost of physical damage insurance coverage purchased from the rental agency. When using a rental car, reimbursement shall be authorized for reasonable actual costs of gasoline, parking, and tolls.

5.1.5. Taxis / Shuttles / Transit. In the event that transit (taxis, shuttles, or other transit) is determined to be the most economical mode of transportation for official duties, the Council member shall make reasonable efforts to obtain the most economical rates for the transit. When using taxis or shuttles, reimbursement shall be authorized for reasonable actual costs of gratuities, not to exceed 15 percent per fare.

5.2. Lodging:

5.2.1. General.

- (a) The Council member shall make reasonable efforts to ensure that the most economical (cost-effective and time-efficient based on location) mode and class of lodging is used.
- (b) The Council member shall make reasonable efforts to inquire into the availability of government and group rates (such as those available through the League of California Cities, the California State Association of Counties, and the State of California). The Council member shall be entitled to reimbursement for expenses to the extent equal to or less than any reasonably available government or group rate. In any event, a Council member shall not be entitled to reimbursement for any expenses to the extent they exceed the cost generally available to the public.

5.2.2. The actual and reasonable costs of lodging for out of town "official duty" events are reimbursable from the night preceding the beginning of the event, through the night preceding the close of the event. The Council member shall be entitled to reimbursement for meals, pursuant to Section 5.3, from the beginning of travel through the end of travel.

5.3. Meals: Meals and associated gratuities will be reimbursed based on actual costs, in an amount not to exceed the following rates:

³ For 2006, the rate is 44.5 cents per mile.

- 5.3.1. Breakfast: \$14
- 5.3.2. Lunch: \$19
- 5.3.3. Dinner: \$30

5.4. **Miscellaneous Expenses:** To the extent that actual costs incurred in the performance of official duties are defined as "actual and necessary" (pursuant to Section 4), but the reasonable costs are not otherwise defined in this section 5, the Council member shall be entitled to reimbursement for expenses to the extent equal to or less than any reasonably available government or group rate. In any event, a Council member shall not be entitled to reimbursement for any expenses to the extent they exceed the cost generally available to the public.

6. **Budgeted Amounts:** It is City policy that the adopted budget for each fiscal year shall include expense reimbursements to the Mayor and each member of City Council (pursuant to the parameters of the Expense Reimbursement Policy) in the following amounts:

6.1. The Mayor and each member of City Council shall be entitled to reimbursement for actual and necessary travel expenses, by means of an automobile allowance of \$475.00 per month.

6.2. The Mayor and each member of City Council shall be entitled to reimbursement for actual and necessary expenses incurred in the conduct of events separately approved by City Council. These events typically include educational trainings conducted out of town by public associations of government officials, such as the League of California Cities, or the National League of Cities. The budget shall identify the amount available for reimbursements for this category of expenses.

6.3. The Mayor shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in an amount not to exceed \$9,000 per fiscal year, and in an amount not to exceed \$1,500 per calendar month.

6.4. Each member of City Council shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in an amount not to exceed \$7,800 per fiscal year, and in an amount not to exceed \$1,300 per calendar month.

7. **Documentation of Actual Costs:** Each Council member shall submit requests for reimbursement to the Finance Director, using an "Expense Report Form" established by the Finance Director, to identify information sufficient to document compliance with the requirements of this Policy. A sample "Expense Report Form" is set forth on "Attachment 1."

7.1. Council members shall promptly submit reimbursement requests to the Finance Director.

7.2. At a minimum, the documentation of actual costs shall include an identification of the "official duty," the type of expense (based on the categories of reasonable reimbursement rates identified in Section 5), the actual amount of expenses, and the date each expense was incurred, along with a certification by the Council member that the expenses set forth on the Expense Report Form represent actual and necessary expenses incurred in the performance of the Council member's official duties.

7.3. Adequate documentation of the actual costs shall be submitted with the Expense Report Form. Adequate documentation may include receipts from the vendor, credit card receipts, cancelled checks, or any other documentation in a form satisfactory to the Finance Director to reasonably document the expense based on particular circumstances.

- 7.4. If a Council member is reimbursed for a “meeting” as defined by the Brown Act,⁴ the Council member is required to “briefly report” on the meeting at the next regular City Council meeting.
- 7.5. Documentation of the actual costs of the automobile allowance portion of a request for reimbursement shall be prepared by the Finance Director. The amount of the automobile allowance shall be based on the estimated costs that the City will save (using the estimated cost of providing alternative transportation to Council members through the operation and maintenance of City fleet vehicles). Any updates in the amount of reimbursement subject to approval by the City Council.

⁴ California Government Code section 54952.2(a) defines “meeting” as “any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or agency to which it pertains.”