



DATE: July 15, 2024

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Mia Bartschi, Legal Intern
Eric Danly, City Attorney

SUBJECT: Resolution Adopting the City's Expense Reimbursement Policy for City Councilmembers Pursuant to Cal. Gov. Code § 53232 through § 53232.4 and training pursuant to AB 1234 and Repealing and Replacing Resolution No. 2003-045 N.C.S.

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution Adopting the City's Expense Reimbursement Policy for City Councilmembers Pursuant to Cal. Gov. Code § 53232 through § 53232.4 and training pursuant to AB 1234 and Repealing and Replacing Resolution No. 2003-045 N.C.S.

BACKGROUND

It is important that elected officials remain informed and trained in issues affecting the affairs of the city and that attendance at institutes, hearings, meetings, conferences, or other gatherings is of value to the City and its community members. The benefits include:

- a. The opportunity to discuss the community's concerns with local, state and federal officials;
- b. Participation in regional, state, local, and national organizations whose activities affect the City; and
- c. Attending educational seminars improve officials' skill and information levels.

Compensating elected officials for their actual and necessary expenses for their work as Councilmembers is also important as it may result in more diverse candidates with unique voices running for City Council. Ratifying the attached Expense Reimbursement Policy for City Councilmembers ("Policy") will ensure that Councilmembers are reimbursed for their expenses in attending City business functions.

Article IV, Section 19 of the Petaluma City Charter compensates the Mayor \$10.00 for every meeting of the council that the mayor attends and each Councilmember \$5.00 for every meeting that the Councilmember attends. California Government Code Section 36514.6 permits City

Councilmembers to be reimbursed for actual and necessary expenses incurred in the performance of their official duties. However, Assembly Bill 1234 requires local agencies which provide reimbursements to Councilmembers for performing their official duties to adopt a written policy that details what official duties qualify for reimbursement, what items will be reimbursable, and the amount of reimbursements. The proposed Policy, attached to the resolution as Exhibit A, satisfies this requirement.

The current reimbursement policy for City Councilmembers was adopted in March 2003 with Resolution 2003-045 N.C.S, attached hereto as Exhibit 2. Since 2003, the legislature enacted and updated Cal. Gov. Code § 53232 through § 53232.4. The proposed Policy meets updated legal requirements and provides greater flexibility for Council in reimbursing Council for their expenses in representing the City on official City business.

DISCUSSION

The proposed Policy, attached as Exhibit A to Attachment 1, is intended to provide guidance to Councilmembers on the use and expenditure of City resources. In summary, the provisions of the proposed Policy are as follows:

- Expenses subject to Councilmember reimbursement in connection include the following types of activities:
 - o Communicating with representatives of regional, state and national government on policies that may impact the City;
 - o Attending educational seminars designed to improve officials' skill and information levels; and
 - o Participating in regional, state and national organizations whose activities affect the city's interests.
- Transportation-related expenses, like airfare or taxis, can be reimbursed for attending conferences or meetings that are of such distance that it is more economical to take commercial transportation; government and group rates must be used when available.
- Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay.
- Meal expenses may be reimbursed when performing official duties.
- Reimbursement for miscellaneous expenses, such as telephone, airport parking, etc. as well as criteria regarding cash advances, are addressed.
- Expenses not eligible for reimbursement include the personal portion of any trip, political or charitable contributions or events, family expenses, entertainment expenses, alcohol, and tobacco.
- The proposed Policy cites to United States General Services Administration per diem rates

which are updated annually and differ depending on location. This will allow the Policy to be flexible and for Councilmembers to receive the rates dependent on the location of the expense which will ensure accurate reimbursements.

- If a Councilmember wants to seek reimbursement for levels of expenses not expressly authorized under the Policy, then the Councilmember may seek prior approval for such reimbursement from the governing body (before incurring the expense).
- Requirements for expense report content and deadlines for submitting the reports and a requirement that each official briefly report on meetings attended at City expense.
- The Policy makes clear that expenditures are subject to reporting under the Political Reform Act and other laws, the reports are public records, and misuse of public resources or falsifying expense reports are subject to penalties.
- The ethics law training and maintaining records of these trainings and the procedure for handling policy violations are addressed.

The proposed policy would satisfy the requirements of AB 1234 and California Government Code Sections 53232.2 and 53233.3.

If adopted, the proposed Policy repeals and replaces any prior Council actions regarding expenses, such as Resolution No. 2003-045 N.C.S. The proposed Policy is preferable to Resolution No. 2003-045 N.C.S. as:

1. Provides greater flexibility. The current reimbursement policy sets a fixed number for set items like a daily per diem for meals and lodging. The proposed Policy relies on the Federal Government, specifically the IRS and General Services Administration's expense reimbursements per diem rates, which are updated annually and differ depending on the location of the meals or lodging.
2. More clarity. The current policy did not have defined terms. The proposed Policy defines terms like "Official City Business" or "Actual and Necessary Expenses" to offer Council more guidance on what items are reimbursable and even provides examples of reimbursable expenses. The proposed Policy also provides the potential for other subordinate bodies to receive reimbursable expenses if Council so desires.
3. More transparency. The proposed Policy requires Council to discuss the meetings and conferences that they attend and are reimbursable. Provides a process for Council to get reimbursed for their expenses and consequences for violating the proposed Policy.
4. Is compliant with AB 1234 and California Government Code Sections 53232 through and 53233.4.

AB 1234 also requires Councilmembers that seek reimbursement to file expense reports and complete ethics training (two hours every two years)—both which are available and provided by the City.

PUBLIC OUTREACH

This agenda item was noticed in compliance with the California Brown Act.

ENVIRONMENTAL REVIEW

The proposed action is exempt from the requirements of the California Environmental Quality Act (“CEQA”) in accordance with CEQA Guidelines Section 15378(b), in that ratifying the attached reimbursement Policy does not meet CEQA's definition of a “project,” because the action does not have the potential for resulting either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because this is a fiscal action and personnel-related action that constitutes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

FINANCIAL IMPACTS

All anticipated conferences, conventions and professional meetings are generally budgeted in the current operating budget thus there is no fiscal impact as a result of the adoption of the proposed Policy.

ALTERNATIVES

Not approving the resolution will result in Resolution 2003-045 N.C.S. still being in effect.

ATTACHMENTS

1. Resolution adopting the Expense Reimbursement Policy
 - A. Proposed Expense Reimbursement Policy
 - B. Proposed Expense Form
2. Resolution 2003-045 N.C.S.
 - A. Current Reimbursement Policy