



# CITY OF OXNARD

## MEMORANDUM

July 1, 1976

BRIEFING REPORT

**To:** City Council

**From:** City Manager

**SUBJECT:** Proposed Expense Reimbursement Policy Statement

Attached is a proposed "Expense Reimbursement" policy statement prepared in response to the concerns expressed during budget/salary discussions.

Attached to the proposed policy is a copy of the opinion of the Assistant City Attorney citing the pertinent case law on the subject.

I have broadened the policy statement to include "staff spouses", since there are occasional situations where staff members are also expected to include their spouse. We will place the proposed policy statement on Council's clipboard and ask Council members for their approval or comments at next Tuesday's meeting.

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Paul E. Wolven  
City Manager

PEW:dmt  
Attachments

CITY COUNCIL

SUBJECT: Reimbursement of Expenses for Councilmanic and Staff Spouses

Members of the City Council and City staff frequently must attend business meetings, training sessions, and other functions in the exercise of their official duties. On some occasions, the spouses of Councilpersons and staff are invited and expected to attend these programs. In some other instances, the attendance by spouses will result in benefits to the City. Expenses are imposed upon Councilpersons and staff as a consequence of their official duties when their spouses attend such programs. The City will reimburse Councilpersons and staff for these spousal expenses in those instances when a determination is made by the City Manager prior to the program that:

1. The spouse is invited and expected to attend a program where the Councilperson or staff member has a duty to attend in the performance of his or her official responsibilities; or,
2. The spouse's attendance at a program will result in benefits to the City and, thereby, is in the municipal interest.

July 1976



# CITY OF OXNARD

## MEMORANDUM

June 25, 1976

**To:** City Attorney

**From:** Assistant City Attorney

**SUBJECT:** Reimbursement of Councilmanic Spousal Expenses

We have been asked whether the City Council can adopt a policy that would permit a councilperson to be reimbursed by the City for expenses of his spouse incurred in accompanying the councilperson to meetings. We are advised that there would be articulable "City benefits" and the meetings involved would probably include functions of VCAG, the Channel Islands Division of the League and other official gatherings to which a councilperson is expected to bring his spouse.

I believe the spousal expenses for meeting attendance could be reimbursed by the City if they were expenditures imposed upon the councilperson by reason of his office or if the Council were to determine the expense reimbursement involved municipal expenditures for a public purpose.

As you know Government Code Section 36514.5 permits the City to reimburse Councilpersons for actual and necessary expenses incurred in the performance of official duties. Compare Government Code Sections 11009 (State board members) and 24058 (County officers). These sections restate the general rule: it is a proper exercise of legislative authority to provide for an officer's reimbursement for actual and necessary expenses imposed upon the officer in performance of the duties of his office. Collins v Riley (1944) 24 C2d 912.

I have been unable to find any case or other authority directly in point. McQuillin (Vol 4, §12.190, pp 64 et seq.) states that municipal expenditures must be for a public purpose, and that reimbursement of an official's expenses is permitted under any one of these conditions: the expenditure is to reimburse expenses --

1. required in connection with official duties, without fault or neglect on the part of the official;
2. that relate to a municipal interest or affect municipal rights; or



Reimbursement of Councilmanic Spousal Expense

June 25, 1976

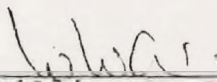
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3. from which municipal benefit results or related to situations in which the welfare of the community is involved.

We are advised that City benefits would result from the spouse's attendance; and I believe the Council could find that a Councilperson's attendance at an official function was a duty imposed by reason of his office. If the Councilperson's spouse were expected to attend the official function with him, this obligation would be imposed upon him by reason of his office. The municipal purpose of the attendant expenditures could be found to be reasonably related to improving inter-governmental relations of the City or to improving the administration of municipal affairs. See Roseville v Tulley (1943) 131 P2d 395, 399.

It would probably be permissible to divorce the spousal expense from that of the Councilperson and treat the expenditure for the spouse as a direct municipal expenditure for services. If the City benefits derived from spousal attendance were of the sort the City is authorized to procure, then the benefits would subserve the public purpose doctrine; and the fact that incidental benefit was accorded to the spouse would not constitute the expenditure as a gift of public funds. Central Basin MWD v Fossette (1965) 45 CR 651; 28 Ops Cal Atty Gen 282; 30 Ops Cal Atty Gen 63.

Whether the disbursement is to be treated as reimbursement for expenditures imposed by reason of the Councilmanic office or as expenditure for services, Albright v South San Francisco ((1975) 118 CR 901) indicates that the Council should authorize payment thereof in advance of the official function; the Council action should find a reasonable connection between the spousal attendance and the City benefits or the duty imposed upon the Councilperson by reason of his office, or both. Roseville, supra. The authorization and finding should insulate the Council (from all but public criticism) because the Council's determination of "public purpose" will not be disturbed by the Courts so long as the determination has a reasonable basis. Bd of Sup of San Francisco (1975) 119 CR 347. This type of legislative function proceeds on the basis that the matter concerning which it acts is one affecting the public interest; this assumption is conclusive on the courts, who will not substitute their judgment, unless the legislative act is clearly an abuse of discretion.

  
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William W. Armstrong