TITLE: AB 1234 EXPENSE REIMBURSEMENT REQUIREMENTS FOR ELECTED OFFICIALS

SOURCE: CITY ATTORNEY

COMMENT: Council Member Shelton has made inquiries related to AB 1234 Expense Reimbursement and Reporting requirements of elected officials. Specifically, it is my understanding that Council Member Shelton seeks advice as to whether he can request reimbursement in the total amount of $0.01 for various expenses incurred in performing his official duties as a Council Member (and whether he would be subject to enforcement if he did not), but he has additionally requested, per a Consent Item on the May 1, 2012 Agenda, that the Council consider the requirements under AB 1234, specifically the reimbursement of expenses for elected officials.

With regard to his specific inquiry as to enforcement, we contacted the FPPC advice line, but were advised that the FPPC does not provide advice on AB 1234 expense reporting. However, upon review of AB 1234 and applicable City policies, it is clear that the City must reimburse for actual expenses at the rate established by statute and City policy. Council Members cannot specify the amount of money they want reimbursed (even if only $0.01) and must instead identify the amount of mileage necessarily traveled or other actual expense in the performance of official duties. Council Members are not required to request reimbursement for their expenses, and may simply choose not to submit an expense report.

AB 1234 allows cities to reimburse council members for expenses occurred in the performance of official duties. (Gov. Code § 53232.2(a).) Reimbursement is only allowed if the city adopts a written policy specifying the occurrences that entitle a council member to reimbursement. (Gov. Code § 53232.2(b).) In determining the amount of reimbursement for travel expenses, local agencies shall use the Internal Revenue Service allowances, unless the local agency’s written policy specifies another reasonable rate. (Gov. Code § 53232.2(c).) To receive payment for expenses, council members shall submit expense reports which document that the expenses meet the existing policy and shall include receipts documenting each expense. (Gov. Code § 53232.3(b)-(c).)
Section VIII of the Porterville Council Handbook contains an adopted written reimbursement policy for Council Member expenses that complies with Government Code section 53232.2 and 53232.3. Subsection B indicates that the mileage reimbursement amount is set by the Administrative Policy Manual Section II-E-1. Policy II-E-1, subsection B.2, requires reimbursement at the current IRS approved allowance per mile.

There is no provision in AB 1234, the Council Handbook, or the Administrative Policy Manual allowing reimbursement at any amount other than the current IRS allowance. Since the rate is set by statute and an approved policy, Council Members do not have the authority to seek reimbursement in any other amount, even if the amount is less than the established rate. Reimbursement must be paid at the current IRS mileage allowance.

The purpose of AB 1234 is to ensure that only accurate and necessary compensation is provided. Council Members’ expense reports should indicate that the expense is consistent with existing policy by providing an accurate detail of the mileage necessarily incurred. Even though Members cannot provide receipts for gas expenses necessarily incurred, mileage reimbursements should be made in a form so that staff can verify the accuracy of the mileage traveled (e.g., by using an internet map service).

Of course, there is nothing in AB 1234 or any local rule that requires Council Members to request reimbursement for expenses incurred in the course of performing official duties. It is entirely up to the individual Council Members to request reimbursement, and the Council Members may forego reimbursement for some or all expenses. If Council Members do not desire to be paid for all of a particular expense, then the Council Member should not request reimbursement.

Council Members are required to provide brief reports on meetings attended at the expense of the City. (Gov. Code § 53232.3(d).) If a Council Member attends a meeting but is not reimbursed for any expenses, then there is no requirement to provide a brief report on the meeting.

RECOMMENDATION: That the Council consider the staff report and provide further direction as it deems appropriate.