



# Agenda Item

## City Council

Item #: 9.1.

7/13/2021

File #: 20-350

**TO:** Honorable Mayor and Members of the City Council

**THRU:** Rick Otto, City Manager

**FROM:** Gary A. Sheatz, City Attorney

### 1. SUBJECT

Introduction and First Reading of three separate Ordinances relating to City Council reimbursement, City Council compensation, and health and welfare benefits for City Councilmembers.

### 2. SUMMARY

The proposed ordinances provide for City Council members to: 1) receive reimbursement for actual and necessary expenses incurred in the performance of their official duties, as provided for in state law; 2) receive salary compensation in the amount of \$600 per month, as determined by state law; and 3) receive \$2,115 per month for health and welfare benefits, commensurate with those offered to the Executive Management employees of the City. These ordinances are presented individually for City Council discussion and consideration.

### 3. RECOMMENDED ACTION

A separate motion to introduce and conduct First Reading of each ordinance is required.

1. Ordinance No. 09-21. An Ordinance of the City Council of the City of Orange amending Title 2 of the Orange Municipal Code adding Chapter 2.07, relating to City Council reimbursement for actual and necessary expenses incurred in the performance of their official duties.
2. Ordinance No. 10-21. An Ordinance of the City Council of the City of Orange amending Title 2, Chapter 2.08 of the Orange Municipal Code relating to City Council compensation.
3. Ordinance No. 11-21. An Ordinance of the City Council of the City of Orange amending Title 2 of the Orange Municipal Code by adding Chapter 2.09, relating to Health and Welfare Benefits for City Council Members.

### 4. FISCAL IMPACT

The fiscal impact from Ordinance No. 09-21 would only occur on an as needed basis, depending on the location and duration of City business conducted out of County. Any expenditures will be funded through General Fund (100).

Assuming all seven Councilmembers accept the salary benefit, the total expenditure for Ordinance No. 10-21 is \$50,400 the first year, potentially increasing by 5% per year thereafter, if amended by ordinance, and will be funded through General Fund (100).

Assuming all seven Councilmembers accept health and welfare benefits, the total expenditure for

Ordinance No. 11-21 is \$177,660 annually, and will be funded through General Fund (100).

## 5. STRATEGIC PLAN GOALS

Goal 4: Provide Outstanding Public Service

e: Attract, retain and develop quality employees dedicated to public service.

## 6. DISCUSSION AND BACKGROUND

Three ordinances are proposed for City Council consideration addressing reimbursement for expenses incurred while performing official duties, the ability to receive monthly salary compensation, and the ability to receive health and welfare benefits equivalent to those offered to the Executive Management employees.

The ordinances for City Council consideration are summarized as follows:

### 1. Add Chapter 2.07 to the Orange Municipal Code.

In November, 2011, the City Council adopted an ordinance eliminating reimbursement for the Mayor and City Council members for actual and necessary expenses incurred in the performance of official duties, or to otherwise have such actual and necessary expenses paid for by the City. Since the adoption of that ordinance, no Mayor or City Council member has been able to receive reimbursement for City related travel, nor have they been able to have the City pay for travel expenses incurred in the performance of official City business. This ordinance has significantly hindered the City's ability to have representation of elected officials participate in any hearings or attend any meetings outside Orange County.

A recent example was the need for a City representative to appear before a Senate Policy Committee in Sacramento to answer questions related to the City's desire to acquire the Hart and Handy Park properties from Cal-Trans. Additionally, with catastrophic events such as the COVID-19 pandemic and civil unrest, there may be a need for elected officials to attend meetings or hearings for legislative purposes outside of Orange County. This ordinance would allow reimbursement of travel related expenses subject to provisions of the Government Code.

If adopted, the ordinance would allow the City Council members to follow the City's travel and reimbursement policy currently applicable to City employees. In addition, it would require City Council members to produce written documentation and an expense report detailing all expenditures, and require those receiving reimbursement to provide a brief report to the City Council of all legislative advocacy meetings attended on behalf of the City. Finally, before becoming effective, the travel and reimbursement policy to reflect the inclusion of the City Council, would return to the City Council for adoption by resolution. Should a City Council member decline reimbursement from the City the provisions of this ordinance would not apply.

### 2. Delete Orange Municipal Code Chapter 2.08. in its entirety and adopt new Chapter 2.08.

As part of the November, 2011, action referenced above, the City Council eliminated salary and retirement benefits for the Mayor and City Council members. This action applied prospectively to all Council members elected after the date of the adoption of the ordinance.

Most citizens are likely unaware that their elected officials served without any form of compensation whatsoever. In Orange County, only elected officials in the cities of Orange and Villa Park serve without compensation.

As part of the transition from an at-large electoral system to a by-district electoral system, questions often arose regarding City Council compensation. When citizens were informed that no compensation was provided to the Mayor or City Council members, several members of the public indicated that the lack of compensation could be a significant financial barrier to serving as an elected official.

The proposed ordinance would provide salary compensation for the Mayor and City Council members. The amount of salary is determined by the Government Code. In cities with a population between 75,000 and 150,000, like Orange, salary is set by statute at \$600 per month. This amount may increase by 5% each year, however, an ordinance amendment reflecting the new salary amount must be adopted by City Council. If approved, salary compensation would be offered to the Mayor and City Council members following the November 8, 2022 general municipal election. It should be noted that a council member may waive any or all compensation permitted by this ordinance.

If approved the monthly salary compensation would not be subject to benefits from the California Public Employees' Retirement System (CALPERS). Should the City Council desire to enroll in CALPERS a separate action, amending the contract between CALPERS and the City, would be required.

### **3. Add Chapter 2.09 to the Orange Municipal Code.**

The last ordinance proposes to reinstate health and welfare benefits for City Council members commensurate with those received by the City's Executive Management employees. Currently that amount is \$2,115 per month. Under this plan City Council members may use the money to purchase various optional health plans, dental plans, vision plans, or life insurance that is offered to the Executive Management employees. Pursuant to the Resolution governing the flexible benefits plan for Executive Management employees, employees who waive medical benefits or fail to use the entire amount of the benefit offered are limited to receiving a cash payout of \$750 per month, with any remainder over that amount being forfeited. However, due to restrictions in State law, a Council member may not accept cash in lieu of purchasing one of the aforementioned plans. As such, any unused money, up to \$750, may be placed in a deferred compensation retirement account for the benefit of the Council member after they leave public service. Another alternative is for the Council member to waive any excess benefit above and beyond what is purchased from the benefits offered.

## **7. ATTACHMENTS**

- Ordinance No. 09-21
- Ordinance No. 10-21
- Ordinance No. 11-21