



CITY OF HERCULES

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1269

July 29, 2011

Ms. Linda L. Chew, Foreperson
Contra Costa Grand Jury
P.O. Box 911
Martinez, CA 94553-0091

RE: Response to Grand Jury Report No. 1110

Dear Ms. Chew:

The City Council has reviewed Grand Jury Report No. 1110, "Hercules in Transition". Responses to Findings and Recommendations are provided below and meet the requirements of California Government Code Sections 933.5(a) and 933.05(b).

FINDINGS

Finding No. 1: A challenge facing the City after June election is that there will be at least three Council Members with less than six months experience.

Response: The City Council agrees with this finding.

Finding No. 2: As evidenced in the report, a lack of transparency and openness such as not having public comment at the beginning of Council meetings impeded resident's input, contributed to the political turmoil and stifled the development of policies, priorities and goals.

Response: The City Council agrees somewhat with this finding. As to public comment before closed session, the Mayor has consistently announced the Council's intent to convene into closed session and has requested comment on any Closed Session items before convening into Closed Session. The City Council agenda has consistently provided for Public Communication on items scheduled for open session, however, the agenda did not provide the public an opportunity to comment on items scheduled for Closed Session. In January 2011, the agenda format was revised to include Public Communication for Closed Session items and also provided for more detailed description of items scheduled for Closed Session discussion. In addition, the current Council was aware of past practices regarding items scheduled for the Consent Calendar portion of the agenda and is committed to scheduling and conducting workshops in order to involve the public in discussion of projects and programs.

Finding No. 3: The lack of clearly defined goals and responsibilities for the City Manager and City Attorney hindered the council's ability to hold them accountable for their performance.

Response: The City Council agrees with this finding. However, the executed legal services agreement for the City Attorney defines the role and responsibilities. In November, 2010, an independent review of the performance of the City Manager and City Attorney was conducted. Part of the City Attorney's evaluation included a process for ongoing annual review.

Finding No. 4: The flow of information provided to the council about city operations was managed by the City Manager, limiting the council's decision-making abilities.

Response: The City Council agrees with this finding.

Finding No. 5: Existing conflict of interest, contract bidding and nepotism policies were not comprehensive enough, which resulted in abuses.

Response: The City Council agrees with this finding.

Finding No. 6: The lack of rotating subcommittee assignments limited the opportunity for checks and balances. Additionally, subcommittee meeting minutes were not taken and thus not available for review.

Response: The City Council agrees with this finding.

Finding No. 7: Not changing the City's financial audit firm periodically may have contributed to the financial crisis facing the city.

Response: The City Council agrees with this finding.

Finding No. 8: Failure to fill key City management vacancies promptly may negatively impact the City's ability to operate effectively.

Response: The City Council agrees with this finding.

Finding No. 9: Total compensation provided to Council members is above the average for Contra Costa County cities.

Response: The City Council agrees with this finding.

RECOMMENDATIONS

Recommendation No. 1: The Council should obtain training regarding the role of a City Council and how members successfully interact with one another, the City staff and residents.

Response: This recommendation has been implemented. Council Members elected in November 2010 have participated in new Council Member training offered through the League of California Cities. Council Members elected in June 2011 will be participating in programs offered through the League and/or through the Contra Costa County Mayor's Conference.

Recommendation No. 2: Steps should be taken to solicit residents' participation on major issues, policies and procedures.

Response: This recommendation has been implemented. The City Council has established three committees, Finance Ad Hoc Committee, Citizens Advisory Committee – Legal Issues and the Bayfront/ITC Task Force, comprised of Hercules Residents, to participate and provide input relative to projects, programs, policies and procedures. The City Council also implemented procedures to video tape and prepare meeting minutes for all Ad Hoc Committee and Subcommittee meetings, making those videos available to the public with meeting minutes posted to the City web site. In addition, the Council is committed to conducting town hall meetings to provide information and solicit input from the community on major projects. The ad hoc committees do reserve the right to handle certain matters related to personnel selection in closed session, when appropriate, to protect privacy of applicants and the integrity of the selection process

Recommendation No. 3: Upon selection of a new City Manager and City Attorney, the Council should provide a clear definition of responsibilities, performance goals and the reporting relationship between these positions and the Council.

Response: The recommendation has not yet been implemented. As the City is currently recruiting for a City Manager and City Attorney, it is anticipated that these items will be discussed and implemented upon retention of these individuals. This will occur no later than November 2011.

Recommendation No. 4: The Council should require the City Manager to develop a reporting structure that ensures the Council has information and insight regarding City operations.

Response: This recommendation requires further analysis. Upon retention of a City Manager, the City Council, in concert with the City Manager, will establish and implement a consistent process for providing information to Council Members and for receiving Council direction. This will occur no later than November 2011.

Recommendation No. 5: The Council should review existing conflict of interest, contract bidding and nepotism policies and adopt provisions to address any weaknesses.

Response: This recommendation requires further analysis. The City Council has referred these items to the Citizens Ad hoc Committee – Legal Issues for review and recommendation. It is anticipated that the review and policy approval shall be completed no later than December 2011.

Recommendation No. 6: The Council, in conjunction with the new City Manager, should obtain residents' input when developing policies, goals and priorities for the City.

Response: This recommendation has not yet been implemented. Although citizen advisory committees have been established for this purpose, a more aggressive approach will be implemented. It is anticipated that this should occur no later than November 2011.

Recommendation No. 7: The Council should establish a policy to assure the financial audit firm is changed at least every five years.

Response: This recommendation has not yet been implemented. The preparation of a policy relative to all annual contract renewals and the retention of the financial auditing firm has been assigned to the Citizen's Finance Ad Hoc Committee. Subsequent policy will be presented to the City Council for approval no later than December 2011.

Recommendation No. 8: The Council should fill vacant key City management positions expeditiously.

Response: This recommendation has not yet been implemented. The City is fully aware of the importance of filling these positions and is moving expeditiously to fill both positions of City Manager and City Attorney. . It is anticipated that these positions will be filled no later than October 2011. Upon the City Manager's retention, it will be his/her responsibility to recruit for and make appointments to the various management positions that remain vacant.

Recommendation No. 9: The Council should review compensation for Council Members and take appropriate actions.

Response: This recommendation has been implemented. On July 12, 2011, the City Council reviewed Council Member compensation and benefits. On July 26, 2011, the City Council adopted a Resolution rescinding all health and welfare benefits for all Council Members.

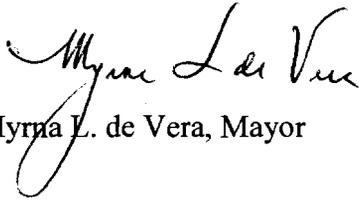
The City of Hercules appreciates the dedicated service of Contra Costa County Civil Grand Jury members. The City is pleased that the Grand Jury has provided additional oversight of the City's activities and offered recommendations that will greatly contribute to the City's success.

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If you have any questions or need additional clarification, please do not hesitate to contact us at (510) 799-8200.

Sincerely,

CITY OF HERCULES

A handwritten signature in cursive script that reads "Myrna L. de Vera". The signature is written in black ink and is positioned above the printed name.

Myrna L. de Vera, Mayor