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Contra Costa Grand Jury Report 1110

HERCULES IN TRANSITION

TO: Hercules City Council

SUMMARY

Over the past year, a great deal of political turmoil in the City of Hercules (City) has resulted in a significant change in the City Council (Council) and City management. The City and its newly elected Council members are faced with a number of challenges that if not addressed will stifle the City's momentum.

The Council will have to come together immediately to address several pressing issues. The City and its newly elected Council need to:

- Enhance its knowledge of a city council's role and expectations.
- Set long term goals and establish priorities.
- Adopt and implement a plan to put the City on sound financial ground.
- Fill key management positions.
- Continue to deliver essential services.
- Adopt procedures to correct and prevent mismanagement and fulfill its fiduciary responsibilities.

All Council and City actions should be done in a transparent and open manner. Residents of Hercules should be encouraged to participate in and kept apprised of the City's progress in meeting established goals and addressing issues.

The Council should change its culture and demonstrate it understands its responsibility to the residents of Hercules. It should reach out to available resources such as the League of Cities, the Contra Costa County Mayors Conference and mentoring from other city councils. The challenge and the solution rest squarely on the Council. This is amplified by the fact that after the June 2011 election at least three and possibly five members will have less than six months' council experience.

BACKGROUND

The 2009-2010 Grand Jury issued a report highlighting the City's lack of competitive bidding, lack of transparency and nepotism in its operations. Since that time there have been significant changes within the City. Most of these changes reflect the citizens' willingness to intervene and assure that their City avoids repeating past mistakes.

The current Grand Jury has monitored these changes by attending Council meetings, reviewing City reports and conducting interviews. A lack of transparency and openness, and reliance on a former City Manager for information contributed to political and financial turmoil. It also stifled the development of policies, priorities and goals. As a result, the Council and residents were not fully informed about issues impacting the City.

The Council is responsible for developing and setting policy and priorities for overall City operation and management. Current conflict of interest, contract bidding and nepotism policies do not prevent family members of the Council and staff from obtaining City loans or contracts. The Council provides oversight for City management, assuring required public services are provided. They have a responsibility to ensure that public funds and facilities are used in accordance with those policies.

In January 2011, the Council hired a firm to undertake a comprehensive review of the City's fiscal condition and financial management practices and to make recommendations. In its report issued in late March, the firm indicated that for Fiscal Year 2010-2011, the City's General Fund faces a \$5.7 million deficit. The City is expected to have an ongoing deficit unless corrective actions recommended in the report are implemented. The City is currently challenged by its existing \$260 million debt, the Redevelopment Agency's inability to repay its loans to the City, as well as adverse economic conditions.

The Grand Jury discovered that the Council relied heavily on the City Manager for information regarding operations. The Council failed to ask pertinent questions and verify information provided by the City Manager and received updates from department heads and commissions infrequently. Most items were placed on the Council's consent agenda and approved without any public discussion.

Recently, the Counsel fired its City Manager, and the Police Chief is now serving as Interim City Manager. It has been announced that the Police Chief will retire in 2011 and that the City Attorney will be resigning. The Council did not set clearly defined performance goals for the City Manager and the City Attorney.

Many residents voiced an interest in providing input on how the City is managed. In January 2011, the Council established a Citizens Advisory Committee to assist in addressing the financial challenges faced by the City and the Redevelopment Agency. To encourage attendance and comments at Council meetings, the Council moved the public comment period to the beginning of the meeting agenda.

Other problematic past practices included:

- Minutes of Council subcommittee meetings were not taken;
- There was little rotation of subcommittee members; and
- The same firm has conducted the City's audits for the past few years.

A survey undertaken by the current Grand Jury indicates that Council members are compensated for both health care and pension costs. Cities are not required to provide either of these benefits. For Fiscal Year 2009-2010, the City spent about \$94,000 for total Council compensation. This amount is the highest for a city the size of Hercules (population 20,000-30,000) and about 20 percent above the average (\$77,800) for all cities in the County.

FINDINGS

1. A challenge facing the City after the June election is that there will be at least three council members with less than six months' experience.
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 residents' input, contributed to the political turmoil and stifled the development of policies, priorities and goals.
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 performances.
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.
5. Existing conflict of interest, contract bidding and nepotism policies were not comprehensive enough, which resulted in abuses.
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.
7. Not changing the City's financial audit firm periodically may have contributed to the financial crisis facing the City.
8. Failure to fill key City management vacancies promptly may negatively impact the City's ability to operate effectively.

9. Total compensation provided to Council members is above the average for Contra Costa County cities.

RECOMMENDATIONS

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.
2. Steps should be taken to solicit residents' participation on major issues, policies and procedures.
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.
4. The Council should require the City Manager to develop a reporting structure that ensures the Council has information and insight regarding City operations.
5. The Council should review existing conflict of interest, contract bidding and nepotism policies and adopt provisions to address any weaknesses.
6. The Council, in conjunction with the new City Manager, should obtain residents' input when developing policies, goals, and priorities for the City.
7. The Council should establish a policy to assure the financial audit firm is changed at least every five years.
8. The Council should fill vacant key City management positions expeditiously.
9. The Council should review compensation for Council members and take appropriate actions.

REQUIRED RESPONSES

Findings and Recommendations

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