



REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of January 26, 2021

TO: Mayor Kelley and Members of the City Council

SUBMITTED BY: J. Patrick Tang, City Attorney

SUBJECT: Annual Update Regarding the Following Matters:
1) Anti-Nepotism and Anti-Cronyism Ordinance;
2) Hercules Ethics Policy.

RECOMMENDED ACTION:

Accept report; provide direction to staff if any.

COMMISSION/SUBCOMMITTEE ACTION AND RECOMMENDATION:

The measures discussed in this report stem from recommendations made by the Citizen's Legal Advisory Committee (also referred to as the Legal Ad Hoc Committee), which served the City from 2011 to 2013.

FISCAL IMPACT OF RECOMMENDATION:

None.

SUMMARY:

The City Council has directed that staff report to the Council annually regarding compliance with the Anti-Nepotism and Anti-Cronyism Ordinance and the Hercules Ethics Policy.

As reported to you in prior annual reports, since its enactment and for the period since the last report to Council up to now, there have been no known violations of the Anti-Nepotism and Anti-Cronyism Policy. Likewise, there have been no known violations of the Hercules Ethics Policy. Staff has fully incorporated the reporting requirements contained within the two respective policies.

BACKGROUND:

With the election of reform minded council members starting in November 2010, Hercules public officials have attempted to close loopholes in state conflict of interest laws, and to make local government more transparent and accountable. The Citizen's Legal Advisory Committee (also

referred to as the Legal Ad Hoc Committee), which served the City from 2011 to 2013, was tasked by the new City Council to study and propose local measures to increase transparency and accountability in local government. The matters discussed in this report stem in large part from the recommendations of this Citizen's Committee.

DISCUSSION:

1. Anti-Nepotism and Anti-Cronyism Ordinance.

Initially adopted by the City Council by resolution on June 19, 2012, and then finally by ordinance on April 28, 2015, this measure is intended to prevent the hiring and employment of, and the award of contracts to, individuals related by blood or marriage to public officials. It also prohibits employment or contracting with individuals or firms who have a "crony" relationship with public officials. The provisions are codified in the Hercules Municipal Code, Title 2, Chapter 3, Article 4, entitled, "***Prevention of Nepotism and Cronyism in Employment and Contracting.***"

Since the passage of the original measure in June of 2012 to now, there have been no instances in the City of Hercules involving the employment of, or contracting with, prohibited individuals or businesses. Public officials are required annually to sign an acknowledgment confirming that they have reviewed the requirements of the ordinance. Contractors are required to submit as part of their bid package and/or contracting documents that they are not in violation of the requirements. These acknowledgment and reporting requirements have been fully implemented since the adoption of the final ordinance and are being tracked by the City Clerk and those members of city staff who are responsible for putting together contract documents.

2. Hercules Ethics Policy.

Upon the recommendation of the Citizen's Legal Advisory Committee, and after discussion and due consideration, the City Council on May 28, 2013, passed by a unanimous vote Resolution No. 13-051 establishing the City of Hercules Ethics Policy.

The Ethics Policy sets forth a number of ethical expectations for elected officials and appointed members of the City's boards and commissions ("Members"). The five-page policy enumerates the basic and broad requirements that Members shall comply with all laws pertaining to their public duties (Sec. 2). It requires that Members conduct the public's business without even the appearance of impropriety, and refrain from abusive conduct (Sec. 3). Members must respect the public process and rules of order (Sec. 4), and make decisions based on merit (Sec. 6). Members should share with the public information they obtained from sources outside the public decision-making process (Sec. 7). Members should abide by conflict of interest laws and financial disclosure laws and shall not participate in a matter even when there is no statutory violation involved if their participation presents the appearance of impropriety (Sec. 8). Members shall refrain from receiving gifts which might compromise their independence of judgment or which give the appearance of being compromised (Sec. 9). Council members shall not unduly influence Members serving on boards and commissions (Sec. 15). Members are reminded that they have taken an oath of office, and that they have a duty to disclose corruption, abuse, or other violations of law (Sec. 17). Violation of the Policy by a member of a commission, board or committee, may result in the removal of that person from office (Sec. 19).

Under Section 18, it is stated that the Policy is intended to be self-enforcing. For this reason, based upon the language in the resolution, the Policy is intended to be part of the regular orientation for

elected and appointed officials. Training materials have been revised to include a discussion of the Ethics Policy, and all sitting and future Members have been required to sign a statement prepared for the purpose of acknowledging that they have read, and that they understand, the policy.

ATTACHMENTS:

Attachment 1 – Anti-Nepotism and Anti-Cronyism Ordinance.

Attachment 2 – Resolution No. 13-051 Adopting City of Hercules Ethics Policy