

## RESOLUTION NO. 13-051

### RESOLUTION OF THE HERCULES CITY COUNCIL ADOPTING AN ETHICS POLICY TO ASSURE PUBLIC CONFIDENCE IN THE INTEGRITY OF LOCAL GOVERNMENT AND ITS EFFECTIVE AND FAIR OPERATION

**WHEREAS**, the citizens and businesses of Hercules are entitled to have fair, ethical and accountable government which earns the public's full confidence for integrity; and

**WHEREAS**, the effective functioning of democratic government therefore requires that public officials and appointed members of the City's commissions, boards and committees, including ad hoc committees, comply with both the letter and spirit of the laws affecting the operations of government; and

**WHEREAS**, public officials and appointed members of the City's commissions, boards and committees, including ad hoc committees, must show that they are independent, impartial and fair in their judgment and actions; and

**WHEREAS**, public deliberations and processes must be conducted openly, except when closed session is permissible under State law, and must be conducted in an atmosphere of respect and civility; and

**WHEREAS**, all public resources are held in trust for the people, and must be used for the public good, not for personal gain; and

**WHEREAS**, nothing in this Resolution is intended to limit or otherwise infringe on the First Amendment rights of free speech or association of public officials and appointed members of the City's commissions, boards and committees, including ad hoc committees, or to conflict with any other federal, state or local laws.

**NOW, THEREFORE**, in furtherance of the above-mentioned goals and values, the Hercules City Council hereby resolves to adopt this Ethics Policy which shall apply to all City Officials, including elected and appointed officials and appointed members of the City's commissions, boards and committees, including ad hoc committees (collectively "Members"), to assure public confidence in the integrity of local government and its effective and fair operation. Persons who participate without appointment on a City task force are not subject to the requirements of this Ethics Policy.

#### **PRINCIPLES**

1. **Act in the Public Interest**

Recognizing that stewardship of the public interest must be their primary concern, Members will work for the common good of the people of Hercules and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Hercules City Council, commissions, boards, and committees.

2. **Comply with the Law**

Members shall comply with the laws of the nation, the State of California, and the City of Hercules in the performance of their public duties. These laws include, but are not limited to: the United States and California Constitutions; the Hercules Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government. Members shall also comply with all applicable City policies and procedures.

3. **Conduct of Members**

The professional and personal conduct of Members must be above reproach. Members should take steps to avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, commissions, boards and committees, the staff or public.

4. **Respect for Process**

Members shall perform their duties in accordance with the processes and rules of order established by the City Council for commissions, boards, and committees governing the deliberation of public policy issues, in order to allow meaningful involvement of the public, and implementation of policy decisions of the City Council by the City Manager and City Attorney.

5. **Conduct of Public Meetings**

Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus their attentions on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or interfering with the orderly conduct of meetings.

6. **Decisions Based on Merit**

Members shall base their decision on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. **Communication**

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or commissions, boards, or committees, which they may have received from sources outside of the public decision making process.

8. **Conflict of Interest**

In order to assure their independence and impartiality on behalf of the common good, Members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. In accordance with the law, Members shall disclose investments, interests in real property, sources of income and gifts; and should abstain from participating in deliberations and decision making where conflicts may exist. Members are further subject to the Conflict of Interest Policy of the City of Hercules.

When participating as a Member does not implicate the specific statutory criteria for conflict of interest, however, participation does not “look” or “feel” right, that Member has probably encountered the appearance of impropriety. For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, Members may, for the good of the community, need to step aside to avoid the appearance of a conflict of interest, even though no technical conflict exists,

9. **Gifts and Favors**

Members shall not use their public office to take any special advantage of services or opportunities for personal gain that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefit which might compromise their independence of judgment or action or give the appearance of being compromised

10. **Confidential Information**

Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City to the extent confidentiality is required by the Brown Act. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

11. **Use of Public Resources**

Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. **Representations of Private Interests**

In keeping with their role as stewards of the public interest, Members of the Council shall not appear on behalf of the private interests of third parties before the Council or any commission, board, committee, or proceeding of the City, nor shall members of commissions, boards, and committees appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. **Advocacy**

Members shall represent the official policies or positions of the City Council, commission, board, or committee to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, Members shall explicitly state they do not represent their body or the City of Hercules, nor shall they allow the inference that they do. When representing the City on federal, state, or regional bodies, Members shall advocate policies which are in the best interest of the City of Hercules over their own personal interests.

14. **Policy Role of Members**

Members shall respect and adhere to the council-manager structure of Hercules city government. In this structure, the City officials determine the policies of the City with the advice, information and analysis provided by the public, commissions, boards, and committees, and City staff. Individual Members therefore shall not interfere with the

administrative functions of the City or the professional duties of City officials; nor shall they impair the ability of staff to implement Council policy decisions.

**15. Independence of Commissions, Boards, and Committees**

Because of the value of the independent advice of commissions, boards, and committees to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.

**16. Positive Work Place Environment**

Members who interact with City employees shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

**17. Disclosure of Corruption**

All members shall take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State and the Federal government. As part of this oath, members commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery or other violation of the law.

**18. Implementation**

As an expression of the standards of conduct for Members expected by the City, the Hercules Ethics Policy is intended to be self-enforcing. It therefore becomes most effective when Members are thoroughly familiar with it and embrace its provisions. For this reason, this Ethics Policy shall be included in the regular orientations for candidates for City Council, application packets to commissions, boards, and committees, and given to newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Hercules Ethics Policy. In addition, the Ethics Policy shall be periodically reviewed and updated by the City Council upon its own recommendation and recommendations from commissions, boards, committees, and the citizens of Hercules.

**19. Compliance and Enforcement**

The Hercules Ethics Policy expresses standards of ethical conduct expected for members of the Hercules City Council, commissions, boards, and committees. Members themselves have the primary responsibility to assure that ethical standards are understood and met, so that the public can continue to have full confidence in the integrity of government. In the event of violation of this Ethics Policy by a member of a commission, board, or committee, where removal by the City Council is permitted without cause, the City Council may remove that person from office. A violation of this Ethics Policy shall not be a basis for challenging the validity of any Council, commission, board, or committee decision.

Severability. If any section, sub-section, sentence, clause or phrase of this Resolution is for any reason determined to be invalid or unconstitutional, such determination shall not affect the validity of the remaining portions of this Resolution, and the Council hereby declares that it would have adopted this Resolution, and each section, sub-section, sentence, clause, and phrase

hereof, irrespective of any one or more sections, sub-sections, sentences, clauses or phrases being declared invalid or unconstitutional.

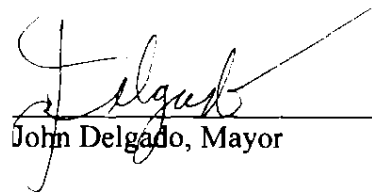
The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 28th day of May, 2013 by the following vote of the Council:

AYES: de Vera, Kelly, McCoy, Romero, Delgado

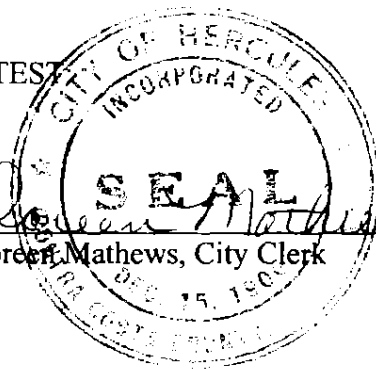

NOES: None

ABSTAIN: None

ABSENT: None

  
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John Delgado, Mayor

ATTEST

  
  
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Doreen Mathews, City Clerk