



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

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Investigative Informative Case Synopsis

FILE NO: 22-0113-C

SUBJECT MATTER: Alleged Councilor's willful blindness regarding IDO, resulting in collusion, kickbacks, false statements, and violations of policies and procedures.

STATUS: FINAL

INVESTIGATOR: M. Santistevan

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Melissa R. Santistevan
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August 23, 2022
Date of Completion

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C. Jack Emmons
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C. JACK EMMONS, VICE CHAIR
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE

8/29/2022 | 1:08 PM PDT
Date of Approval

DISTRIBUTION:

- Honorable Mayor**
- President City Council**
- Chief Administrative Officer**
- City Councilors**
- Director Council Services**
- City Attorney**
- Department Director**
- Members, Accountability and Government Oversight Committee**
- File**

EXECUTIVE SUMMARY

According to City Ordinance 2-17-2, the Inspector General's goals are to (1) Conduct investigations in an efficient, impartial, equitable, and objective manner; (2) Prevent and detect fraud, waste, and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

On June 14, 2022, the Office of Inspector General (OIG) received an online complaint alleging potential and real kickbacks, false claims, and multiple violations of laws, regulations, policies, and procedures in the context of Councilor REDACTED (C1) and Councilor REDACTED's (C2) willful blindness regarding their support for the Integrated Development Ordinance (IDO). "At the June 6, 2022, Council meeting, the public witnessed C1 take a phone call and what appeared to be instructions to change a "no" vote on ordinance 22-10, the IDO 2021 Annual Update." Further, the complaint stated "this transgression being only a point in time, it is my contention that this abuse on the part of C1, sanctioned by C2 and supported by Councilor REDACTED (C3) is part of an obvious trend built into the IDO to defraud the public. The OIG determined that the allegation contained elements of potential fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine if C1 or C2 colluded with development and realty sector private interests to receive kickbacks, or whether C1 or C2 made false claims, or violated the laws, regulations, policies, or procedures regarding their support for the IDO to defraud the public.

While conducting our fact-finding investigation, the OIG Investigator reviewed the information provided in the complaint, gained an understanding of the legislative process, reviewed the IDO amendment process, and reviewed the council meeting on June 6, 2022, and conducted interviews.

As a result of the investigation, the OIG could not substantiate *allegation 1* about C1 or C2 colluding with development and realty sector private interest to receive kickbacks or whether C1 and C2 made false claims, or violated the laws, regulations, policies, or procedures about their support for the IDO to defraud the public.

ABBREVIATIONS

OIG: Office of Inspector General
IDO: Integrated Development Ordinance
EPC: Environmental Planning Commission
LUPZ: Land Use, Planning and Zoning Committee
C1: City Councilor
C2: City Councilor
C3: City Councilor
E1: City Employee
E2: City Employee

INVESTIGATION

Background

The City of Albuquerque created and approved an Integrated Development Ordinance (IDO) to replace the Comprehensive Plan under the ABC to Z project. The IDO does include a process for annual updates and amendments. The City of Albuquerque Planning Department employed the process in September 2021 when it was distributed to the public for their review. In October 2021, public meetings and open houses were held to discuss amendments. In December 2021 the Environmental Planning Commission (EPC) held a hearing and recommended approval. In February 2022, Planning Department transmitted the IDO annual update to the council for introduction. In March and April 2022, Land Use, Planning, and Zoning (LUPZ) committee meetings are held, in which Council-sponsored amendments were distributed and considered. In June 2022, the council reviewed and voted on the 2021 IDO annual update. There were two submittals, one to prohibit the following uses for Cannabis retail sales, cultivation, and cannabis-derived product manufacturing in Old Town. The other submission was for citywide changes regarding overnight shelters in the MX-M and MX-H zones. Many constituents provided public comments against these amendments, citing that the process for the IDO was broken and that it does not allow for public input.

Allegation 1: C1 or C2 colluded with development and realty sector private interest to receive kickbacks. Furthermore, C1 or C2 made false claims and violated the laws, regulations, policies, or procedures regarding their support for the IDO to defraud the public.

Authority: City of Albuquerque's IDO

Evidence: Video of City Council meeting held on June 6, 2022, IDO amendment process outlined in IDO, Section 6-3(D).

Discussion: The complaint stated "C1 received a phone call and what appeared to be an instruction to change a "no" vote on ordinance 22-10, the IDO 2021 Annual Update. C2 appears to understand the need C1 expressed and approves the motion to address the new vote."

The OIG reviewed the video of the June 6, 2022 council meeting and noted that the Council had eighteen (18) amendments related to O-22-10 before them. The OIG reviewed the historical data from C1's phone, the OIG was able to determine that this message string was between C1 and their policy advisor and therefore it would be presumptive to assert that the discussion was intended to change C1's vote regarding any portion of O-22-10. The policy advisor acknowledged the correspondence and stated that the conversation was to keep track of the numerous amendments to the IDO. C2's approval of the motion to address the new vote followed parliamentary procedure.

The OIG requested additional information from the complainant pertaining to the allegation of potential and/or real kickbacks. No additional information to support the allegation of any kickbacks was provided. A nine-page letter was provided by the complainant suggesting the City's process for planning and zoning changes is unfair, inefficient, and ineffective and that it has been since 2010. The OIG will refer this matter to the Office of Internal Audit for an audit of the effectiveness of the IDO.

The City has a legislative process for amendments to the IDO which has been outlined in the IDO. The OIG obtained documentation to reflect that the process had been followed.

Allegation 1 Conclusion: The OIG could not substantiate the allegation that C1 and C2 colluded with the development and realty private sectors resulting in potential and/or real kickbacks, false claims, and multiple violations of laws, regulations, policies, and procedures in the context of their support for the IDO.