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Report of Investigation

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SUBJECT: Information Service Committee

STATUS: Final

INVESTIGATOR: P.Pacheco

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06/17/2022

Date of Completion

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ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

06/29/2022

Date of Approval

DISTRIBUTION:

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

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Executive Summary

Under 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 January 10, 2022, the Office of Inspector General (OIG) received information alleging the City of Albuquerque's (City) Information Services Committee (ISC) was going to hold a meeting on January 12, 2022, without having the required number of members and that some of the member terms had expired.

On February 14, 2022, additional allegations were received from the complainant alleging the following: the Director of Information Systems Division position does not exist; the Director of DTI is not approved as a member of the ISC or as the mayor's "chief information officer"; the chairperson of ISC is not annually rotated as required; several ISC members terms have expired; no current information services master plan; a majority of published ISC agendas appear to not properly inform the public as to the location of the ISC meetings; and no required annual ISC New Mexico Open Meetings Act rules appear to have been published.

The purpose of the investigation was to determine the facts surrounding each allegation identified by the complainant.

As a result of our investigation, the OIG was able to substantiate two (2) of the eight (8) allegations. The OIG has issued one (1) recommendation for improvement related to the OIG observations. See the RECOMMENDATIONS section of page 8 of the report.

ABBREVIATIONS

City: City of Albuquerque
ISC: Information Services Committee
OIG: Office of Inspector General
OMA: Open Meeting Act

INTRODUCTION

The mission of the Office of the Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque (City) in order to safeguard and preserve the public trust.

A complaint was received by the OIG that expressed several concerns regarding the Information Services Committee (ISC) and their compliance with the City Ordinance and the State of New Mexico Open Meetings Act. The Complainant made an initial complaint on January 12, 2022 and then the OIG received several additional concerns from the complainant on February 14, 2022.

The following concerns were made by the complainant:

1. ISC holding a meeting without a quorum.
2. The Director of the information Systems Division of the Department of Finance and Management (job) position does not appear to exist.
3. The Department of Technology and Innovation (DTI) Director was not approved as a member of the ISC, or as the Mayor's "Chief Information Officer".
4. The Chairperson of the ISC appears to have not annually rotated as required.
5. Several ISC members, some with terms that expired over two (2) years ago, appear to have taken official action(s) without the authority to do so.
6. The ISC appears to have not developed or recommended to the City Council an information services master plan – "to keep it current" – for nearly a decade.
7. A majority of the published ISC agendas appear to have not properly informed the public as to the location of the ISC meetings.
8. In the context of the ISC being a public committee, no required annual ISC New Mexico Open Meetings Act (OMA) rules appear to have been published.

SCOPE AND METHODOLOGY

The OIG's investigation focused on determining whether the Information Services Committee is in compliance with the City Ordinance and the New Mexico Open Meeting Act. The methodology will consist of:

- Review of pertinent documents as they relate to the ISC;
- Review of relevant City Ordinances, City policies and procedures, and OMA;

- Online Research;
- Contact pertinent City Staff.

INVESTIGATION

Considerations

To conduct our investigation, the OIG considered the following:

Albuquerque Code of Ordinances-Chapter 2: Government-Article 6: Public Boards, Commissions, and Committees.

§ 2-6-1-3 MEMBERSHIP

(B) *Appointments.*

(6) Every member, unless removed as provided herein, shall hold office until a successor has been duly qualified unless the Council has voted not to approve that member for a reappointment, in which case, the member shall not serve beyond the date the member's current term expires or the date the Council votes not to approve the member, whichever is later.

PART 3: INFORMATION SERVICES COMMITTEE

§ 2-6-3-1 COMMITTEE CREATED.

(A) An Information Services Committee is hereby created.

(B) The Committee shall be composed of seven members serving staggered terms; terms shall be three years, except the initial terms shall vary in length so that at least one position of the Committee shall expire each year. Four members shall be city employees, no two of whom shall be from the same department; one shall be the Director of the Information Systems Division of the Department of Finance and Management and one shall be from City Council staff. Three members shall not be city officials or employees; they shall be people knowledgeable in information systems, who would have no conflict of interest or likely future conflict of interest in making recommendations and decisions as members of the Committee.

(C) The chairmanship of the Committee shall annually rotate between the two city members other than the Director of Information Systems Division, or the City Council staff member.

§ 2-6-3-2 DUTIES, RESPONSIBILITIES, AND POWERS.

(A) The Committee shall develop and recommend to the City Council for the adoption of an Information Services Master Plan for the evaluation of information technology within the city government; the Committee shall recommend amendments of the Master Plan when appropriate. The Master Plan should be amended by the City Council at appropriate intervals to keep it current, but no amendment may be made without the evaluation of the Committee.

New Mexico Open Meeting Act Compliance Guide

Section 10-5-1: Formation of Public Policy

D. Notice Requirements

Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any

closed meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body. That notice shall include broadcast stations licensed by the federal communications commission and newspapers of general circulation that have provided a written request for such notice.

Observations

Allegation 1: ISC holding a meeting without a quorum¹.

Based on the information obtained during our fact-finding investigation, the allegation regarding ISC holding a meeting without a quorum could not be unsubstantiated. The ISC meeting was canceled due to not having a quorum. The City is working on re-appointing a member and appointing replacement members. They anticipate this to take place within the next several months.

Allegation 2: The Director of the Information Systems Division of the Department of Finance and Management (job) position does not appear to exist.

The OIG could not substantiate allegation 2. The Department of Finance and Management is now the Department of Finance and Administration. The Information Systems Division continued with the department through the name change. In the early 2010s, the division was renamed “Information Technology Services Division.” Per the FY16 Approved Budget, the Department of Technology and Innovation (DTI) “was created by administratively transferring the Information Technology Services Division...from the Finance and Administrative Services Department”. DTI was then funded through the Council budget process. The position of director of the information systems division of the department of finance and management is now the Director of the Department of Technology and Innovation.

Allegation 3: The DTI Director was not approved as a member of the ISC, or as the Mayor’s “chief information officer”.

The OIG could not substantiate allegation 3. City Council has already approved the DTI Director serving on the ISC by passing the ordinance specifying the Director is on the committee.

Allegation 4: The chairmanship of the ISC appears to have not annually rotated as required.

The OIG could substantiate allegation 4. § 2-6-3-1 COMMITTEE CREATED. (C) The chairmanship of the Committee shall annually rotate between the two city members other than the Director of Information Systems Division, or the City Council staff member. In speaking with the DTI Director (Formally position was Director of Information Systems Division), the DTI Director stated he has been the ISC chair since he became Director. The DTI Director was made aware of what the ordinance stated, which he then reviewed, and stated he had misinterpreted the wording.

The DTI Director stated that the chairmanship will next rotate beginning July 2022.

¹ A majority of all the members of a public board, commission or committee shall constitute a quorum for the transaction of business.

Allegation 5: Several ISC members, some with terms that expired over two (2) years ago, appear to have taken official action(s) without the authority to do so.

The OIG could not substantiate allegation 5. According to §2-6-2-3(b)(6), Members are allowed to continue serving past their term until a successor is named. ISC is in the process of replacing those whose terms have expired and extending the terms of those who are eligible and willing to serve new terms. One member was confirmed on 03/07/22 for a new term. A new member was confirmed at the same City Council meeting to replace an outgoing member. At least two additional candidates have applied to fill public at large positions. If confirmed, the two candidates will replace two outgoing members. An additional candidate has been identified to replace a City representative.

Allegation 6: The ISC appears to have not developed or recommended to the City Council an information services master plan – “to keep it current” – for nearly a decade.

The OIG could not substantiate allegation 6. From the information received, a City of Albuquerque Technology Plan was introduced as General Information and reviewed at the December 8, 2021 meeting. Items requiring a vote were not discussed due to not having a quorum. On April 13, 2022, the City of Albuquerque Plan (Updated) was introduced to the ISC committee that met quorum requirements. Once approved in a future ISC meeting, it will then be submitted to City Council.

Allegation 7: A majority of the published ISC agendas appear to have not properly informed the public as to the location of the ISC meetings.

The OIG could not substantiate allegation 6. The City’s ISC main webpage contains Meeting Times and Locations along with the Agenda and Minutes. The DTI Director has assigned a different staff assistant to oversee document creation and posting for agendas and minutes. The Director has also directed format changes to such information to ensure the options are easily identified.

Allegation 8: In the context of the ISC being a public committee, no required annual ISC New Mexico Open Meetings Act (OMA) rules appear to have been published.

The OIG was able to substantiate that at the time the complaint was made, the ISC was not in compliance with the OMA which states, “The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body.” However, in the March 9, 2022, ISC meeting minutes, the committee did approve the regular meeting schedule for the remainder of 2022. The OIG informed the ISC that a resolution adopting the annual open meeting policy was also needed. The OIG provided an example as shown in the OMA guide and the ISC responded that they would create a resolution and ask the incoming Chairperson to place it on the agenda for the July 2022 meeting.

RECOMMENDATION

Our investigation found that two (2) of the eight (8) allegations could be substantiated.

Condition: The ISC has not annually rotated ISC chairperson and the ISC does not have a resolution adopting the annual Open Meetings Act Policy.

Criteria: § 2-6-3-1 COMMITTEE CREATED. (C) The chairmanship of the Committee shall annually rotate between the two city members other than the Director of Information Systems Division, or the City Council staff member.

Open Meetings Act: Section 10-5-1: Formation of Public Policy: D. Notice Requirements
Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body.

Cause: The ISC has not rotated the role of the chair annually as required and the ISC has not formally adopted an Annual Open Meetings Policy.

Effect: The ISC is not in compliance with the Albuquerque Code of Ordinances-Chapter 2: Government-Article 6: Public Boards, Commissions and Committees and the New Mexico Open Meeting Act.

Recommendation: ISC members should receive training on what is required by City Ordinance and the New Mexico Open Meeting Act and that the yearly requirements are met.