



**ACTION SHEET**  
**ITEM FROM FINANCE COMMITTEE MEETING OF 10/19/15**  
**FOR CITY COUNCIL MEETING OF 10/28/15**

**ISSUE:**

20. Request for Approval of a Resolution Authorizing the Placement of a Question on the Ballot of a Special Election, to be Held in Conjunction with the Regular Election on March 1, 2016, to ask the Voters of the City of Santa Fe Whether or Not the *Santa Fe Municipal Charter* Should be Amended to Include a Provision to Establish an Independent Office of Inspector General for the City of Santa Fe. (Councilor Maestas) (Kelley Brennan)

**Committee Review:**

Audit Committee (scheduled)	10/14/15
City Council (scheduled)	10/28/15

Fiscal Impact – Yes - \$400 estimated to place the question on the ballot. Should the charter amendment be approved by a majority of voters at the regular 2016 municipal election on March 1, there would be substantial fiscal impact for establishing a new department within the City of Santa Fe structure.

**FINANCE COMMITTEE ACTION:**

Approved as Discussion item.

**FUNDING SOURCE:**

**SPECIAL CONDITIONS OR AMENDMENTS**

**STAFF FOLLOW-UP:**

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA		X	
COUNCILOR LINDELL	Excused		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

# City of Santa Fe, New Mexico

## LEGISLATIVE SUMMARY

Resolution No. 2015-\_\_

### Office of the Inspector General Charter Amendment

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**SPONSOR(S):** Councilor Maestas

**SUMMARY:** The proposed resolution authorizes the placement of a question on the ballot of a Special Election, to be held in conjunction with the Regular Election on March 1, 2016, to ask the voters of the city of Santa Fe whether or not the *Santa Fe Municipal Charter* should be amended to include a provision to establish an Independent Office of Inspector General for the City of Santa Fe.

**PREPARED BY:** Rebecca Seligman, Legislative Liaison Assistant

**FISCAL IMPACT:** Yes

**DATE:** October 5, 2015

**ATTACHMENTS:** Resolution  
FIR

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2015-\_\_

3 INTRODUCED BY:

4  
5 Councilor Joseph M. Maestas  
6  
7  
8  
9

10 A RESOLUTION

11 AUTHORIZING THE PLACEMENT OF A QUESTION ON THE BALLOT OF A  
12 SPECIAL ELECTION, TO BE HELD IN CONJUNCTION WITH THE REGULAR  
13 ELECTION ON MARCH 1, 2016, TO ASK THE VOTERS OF THE CITY OF SANTA FE  
14 WHETHER OR NOT THE *SANTA FE MUNICIPAL CHARTER* SHOULD BE AMENDED  
15 TO INCLUDE A PROVISION TO ESTABLISH AN INDEPENDENT OFFICE OF  
16 INSPECTOR GENERAL FOR THE CITY OF SANTA FE.  
17

18 WHEREAS, the Governing Body finds that good governance, transparency and  
19 accountability are critical in the public sector for the effective and credible functioning of a  
20 healthy democracy, and in fulfilling the government's responsibility to citizens and taxpayers;  
21 and

22 WHEREAS, transparent and reliable reporting and effective auditing in government  
23 serve to promote accountability, enhance the effectiveness of government services to its citizens,  
24 and increase the public's confidence in their government; and

25 WHEREAS, in 2013 the Governing Body enacted the Fraud, Waste and Abuse Hotline

1 Ordinance (being Section 19-2 SFCC 1987) which was created for the purpose of establishing a  
2 mechanism for City employees to anonymously report alleged fraud, waste or abuse by City  
3 employees or public officers; and

4 **WHEREAS**, the Fraud, Waste and Abuse Hotline was established solely for City  
5 employees, therefore, there is a need for a similar line dedicated to anonymous public reporting of  
6 fraud, waste and abuse; and

7 **WHEREAS**, in 2013 the Governing Body created the Santa Fe Audit Committee (being  
8 Section 6-5 SFCC 1987), an advisory committee to the Governing Body whose mission is to  
9 advise the City Manager, the Finance Committee and the Governing Body regarding financial  
10 audits and investigations and related policies and procedures in order to promote transparency,  
11 accountability, efficiency and effectiveness of City government for the citizens of Santa Fe; and

12 **WHEREAS**, in furtherance of the Governing Body's above actions, the City requires the  
13 services of an Inspector General to provide independent, objective assurance and review services  
14 designed to promote transparency, accountability, efficiency and effectiveness in City  
15 government and to investigate fraud, waste and abuse, whether reported or identified through  
16 independent investigation; and

17 **WHEREAS**, to maintain independence, an Office of Inspector General should not report  
18 to the City's executive branch or the Governing Body thereby allowing the Inspector General to  
19 conduct investigations without the influence of politics; and

20 **WHEREAS**, an Inspector General is a general auditor of a government agency's  
21 operations, ensuring an agency is in compliance with established policies of government; and

22 **WHEREAS**, an Inspector General also investigates the possibility of misconduct, fraud,  
23 waste, abuse, theft or other types of criminal activity by government employees or contractors  
24 working for the government; and

25 **WHEREAS**, the City of Santa Fe Code of Ethics already provides for the creation of an

1 office of inspector general in Section 1-7.9 SFCC 1987, which states “the governing body may by  
2 separate ordinance establish an office of inspector general”; and

3 **WHEREAS**, the City of Santa Fe is in need of an independent office to conduct  
4 investigations and audits of government operations to ensure that taxpayer funds are used in an  
5 appropriate manner.

6 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
7 **CITY OF SANTA FE** that the Governing Body hereby authorizes the placement of a question  
8 on the ballot of a special election, to be held in conjunction with the regular municipal election on  
9 March 1, 2016, to ask the voters of the City of Santa Fe whether or not the *Santa Fe Municipal*  
10 *Charter* should be amended to include a provision to establish an independent Office of Inspector  
11 General for the City of Santa Fe.

12 PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2015.

13  
14 \_\_\_\_\_  
15 JAVIER M. GONZALES, MAYOR

16 ATTEST:

17  
18 \_\_\_\_\_  
19 YOLANDA Y. VIGIL, CITY CLERK

20 APPROVED AS TO FORM:

21   
22 \_\_\_\_\_  
23 KELLEY A. BRENNAN, CITY ATTORNEY

24  
25 *Legislation/Resolutions 2015/OIG Charter Amendment*

**City of Santa Fe  
Fiscal Impact Report (FIR)**

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

**Section A. General Information**

(Check) Bill: \_\_\_\_\_ Resolution:  X

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): **AUTHORIZING THE PLACEMENT OF A QUESTION ON THE BALLOT OF A SPECIAL ELECTION, TO BE HELD IN CONJUNCTION WITH THE REGULAR ELECTION ON MARCH 1, 2016, TO ASK THE VOTERS OF THE CITY OF SANTA FE WHETHER OR NOT THE SANTA FE MUNICIPAL CHARTER SHOULD BE AMENDED TO INCLUDE A PROVISION TO ESTABLISH AN INDEPENDENT OFFICE OF INSPECTOR GENERAL FOR THE CITY OF SANTA FE.**

Sponsor(s): Councilor Maestas

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Kelley Brennan/Jesse Guillen Date: 10/21/15 Phone: 955-6961

Reviewed by City Attorney: Kelley A. Brennan Date: 10/22/15  
(Signature)

Reviewed by Finance Director: Jesse Guillen Date: 10/22/15  
(Signature)

**Section B. Summary**

Briefly explain the purpose and major provisions of the bill/resolution:

**This resolution would authorize the placement of a question on the ballot for the next municipal election on March 1, 2016 to include a provision to create an Office of Inspector General for the City of Santa Fe.**

**Section C. Fiscal Impact**

**Note:** Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)\*

**1. Projected Expenditures:**

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs  
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs  
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: \_\_\_\_\_

\_\_\_\_\_ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY <u>15/16</u>	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ <u>2,763.10</u> \$ <u>400.00</u>	_____	_____	\$ _____	_____	_____	_____	<u>12011</u>
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	\$ <u>3,163.10</u>	_____	_____	\$ _____	_____	_____	_____	_____

\* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. \*\*For fringe benefits contact the Finance Dept.

**2. Revenue Sources:**

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____	_____

**3. Expenditure/Revenue Narrative:**

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

The cost for placing the election question on the ballot is estimated a \$400.00. For each special election resolution, the cost of publication (English and Spanish) would be approximately \$2,763.10. However, should the charter amendment be approved by a majority of voters at the regular 2016 municipal election on March 1, there would be substantial fiscal impact for establishing a new department within the City of Santa Fe structure. Those costs are not quantified here.

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**Section D.      General Narrative**

**1. Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

The position of internal City auditor currently exists, and the duties of this position and a potential inspector general may conflict.

**2. Consequences of Not Enacting This Bill/Resolution:**

Are there consequences of not enacting this bill/resolution? If so, describe.

No Office of Inspector General will be created.

**3. Technical Issues:**

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

The Governing Body has considered the addition of a fraud investigator to the internal auditor function as a way of testing whether the creation of an OIG was justified, but did not adopt that option. The history to date of calls/responses to the fraud, waste and abuse hotline and the outcomes of those calls may provide additional information on the kinds of issues an OIG might be expected to address.

**4. Community Impact:**

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

If this resolution is adopted by the Governing Body, the community will have an opportunity to decide if it favors establishment of an OIG, with proponents and opponents able to explain the reason for their respective prior to the election.

West's New Mexico Statutes Annotated  
Chapter 3. Municipalities  
Article 15. Municipal Charters

N. M. S. A. 1978, § 3-15-16

§ 3-15-16. Amendment or repeal of charter; alternate methods

Currentness

The charter of any municipality adopted under the provisions of Article 10, Section 6 of the constitution of New Mexico, by law of the territorial legislature of New Mexico or under the provisions of the Municipal Charter Act may be amended or repealed either by a proposal submitted by the governing body of the municipality to the qualified electors or by petition as provided for in Section 3-15-4 NMSA 1978 for the adoption of an original charter at a general or special election and ratified by a majority of the qualified electors voting on the amendment or repeal.

**Credits**

L. 1965, Ch. 300; L. 1971, c 118, § 6; L. 1990, Ch. 63, § 1.

**Formerly** 1953 Comp., § 14-14-14.

NMSA 1978, § 3-15-16, NM ST § 3-15-16

Current through the end of the First Special Session of the 52nd Legislature (2015)

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**CITY OF ALBUQUERQUE**  
invites applications for the position of:

## Inspector General UN

AN EQUAL OPPORTUNITY / REASONABLE ACCOMMODATION EMPLOYER

**CLASS CODE:** U00279

**DEPARTMENT:** Office of Inspector General

**DIVISION:** IG-Inspector General

**BARGAINING UNIT:** No Union

**REQUISITION #:** 1600231

**SALARY:** \$41.42 - \$45.67 Hourly  
 \$3,313.60 - \$3,653.60 Biweekly  
 \$7,179.47 - \$7,916.13 Monthly  
 \$86,153.60 - \$94,993.60 Annually

**OPENING DATE:** 10/12/15

**CLOSING DATE:** 10/19/15 11:59 PM

### POSITION SUMMARY:

The Office of the Inspector General is created as an independent office of city government. This Office has the authority to supervise, direct and perform independent investigative assessments in support of City departments and programs consistent with the provisions and requirements outlined in the Accountability in Government Ordinance, the Inspector General Ordinance, and Professional Standards.

*Job descriptions are intended to present a general list of tasks/duties performed by employees within this job classification. Job Descriptions are not intended to reflect all duties performed within the job.*

### MINIMUM EDUCATION, EXPERIENCE AND ADDITIONAL REQUIREMENTS:

*Related education and experience may be interchangeable on a year for year basis.*

Bachelor's degree from an accredited college or university with major course work in criminal justice, accounting, auditing, business administration, public administration or a related field, plus eight (8) years of audit/investigation experience to include five (5) years of direct supervisory experience in a management and/or administrative capacity or a professional law degree (J.D. or LL.B) from an ABA accredited law school, plus eight (8) years of audit/investigation experience to include five (5) years of direct supervisory experience in a management and/or administrative capacity.

### ADDITIONAL REQUIREMENTS:

Possession of a New Mexico Driver's License (Class D), or the ability to obtain by date of hire.  
Possession of a City Operator's Permit (COP) within 6 months from date of hire.  
The Inspector General shall be certified as a Certified Inspector General (CIG) or obtain the certification within two years of the appointment. Additional professional certifications such as Certified Public Accountant (CPA), Certified Internal Auditor (CIA) and Certified Fraud Examiner (CFE) are preferred. The finalist shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints

to obtain the candidate's Federal Bureau of Investigation (FBI) record. The City shall pay for the cost of obtaining the FBI records.

**PREFERRED KNOWLEDGE:**

- Management, operations, services and activities of a comprehensive investigation program
- Generally Accepted Inspector General ethics, practices and methods
- Association of Inspector General's professional standards
- Methods and techniques used in performing investigations and case development for prosecution
- Pertinent Federal, State and local laws, codes and regulations
- Principles of evidence gathering, documentation and chain of custody
- Standard court and litigation procedures for obtaining subpoenas and prosecution of violations and offenses
- Principles and practices of program development and administration
- Principles of supervision, training and performance evaluation
- Computer software used within assigned area
- Investigation and audit standards
- Automated methods and techniques used in performing investigations

**PREFERRED SKILLS & ABILITIES:**

- Manage the Office; and coordinate work with the Director of Internal Audit
- Analyze financial data
- Plan and perform complex investigations in an efficient, impartial, equitable and objective manner
- Prepare clear and concise investigation reports that follow professional and department standards
- Establish a program that prevents and detects fraud, waste and abuse
- Promulgate regulations to establish procedures for the Office
- Maintain confidentiality of public records that are made confidential by law
- Select, train, and supervise professional staff
- Respond to and resolve difficult and sensitive inquiries and complaints
- Prioritize investigations
- Communicate clearly and concisely, both orally and in writing
- Plan, organize, direct and coordinate the work of professional staff
- Prepare, prioritize and plan for investigation activities
- Develop and administer division goals, objectives and procedures
- Analyze problems, identify alternative solutions, and project consequences of proposed actions in support of goals
- Research, analyze and evaluate new service delivery methods and techniques
- Interpret and apply Federal, State and local policies, laws and regulations
- Coordinate activities with law enforcement agencies
- Establish and maintain effective working relationships with those contacted in the course of work
- Maintain mental capacity that allows the capability of making sound decisions and demonstrating intellectual capabilities
- Maintain physical condition appropriate to the performance of assigned duties and responsibilities
- Maintain effective audio/visual discrimination and perception to the degree necessary for the successful performance of assigned duties

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APPLICATIONS MAY BE FILED ONLINE AT:  
<http://CABQ.GOV>

Position #1600231  
 INSPECTOR GENERAL UN  
 KO

400 Marquette N.W.  
 Albuquerque, NM 87103  
 505 768-3700

[humanresources@cabq.gov](mailto:humanresources@cabq.gov)

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**Inspector General UN Supplemental Questionnaire**

- \* 1. Select the highest level of successfully completed related education as identified by the minimum requirements.
- No High School Diploma or GED
  - High School Diploma or GED
  - Non/degree accredited hours (some college)
  - Associates
  - Bachelors
  - Masters
  - Doctorate
2. If you selected non/degree accredited hours for question #1, identify the total number of hours which were successfully completed with a passing grade and are related to the minimum education and/or experience.
- \* 3. For relevant degree(s) obtained, identify the major field of study.
- \* 4. How many years of audit/investigation experience do you possess?
- No experience
  - less than year
  - 1 year to less than 2 years
  - 2 years to less than 3 years
  - 3 years to less than 4 years
  - 4 years to less than 5 years
  - 5 years to less than 6 years
  - 6 years to less than 7 years
  - 7 years to less than 8 years
  - 8 years to less than 9 years
  - 9 years to less than 10 years
  - 10 years to less than 11 years
  - 11 years to less than 12 years
  - 12 years to less than 13 years
  - 13 or more years
- \* 5. Briefly describe your audit/investigation experience.
- \* 6. Do you possess a valid New Mexico Driver's License (Class D) or have the ability to obtain by date of hire?
- Yes
  - No
- \* 7. Do you possess a Certified Public Accountant (CPA) certification?
- Yes
  - No
- \* 8. Do you possess a Certified Internal Auditor (CIA) certification?
- Yes
  - No
- \* 9. Do you possess a Certified Fraud Examiner (CFE) certification?
- Yes
  - No

\* 10. How many years of supervisory experience do you possess? If you have successfully completed the City of Albuquerque's Pre-Management Development Program (PMDP), include two (2) additional years in your supervisor experience.

- None
- Less than one 1 year
- 1 year to less than 2 years
- 2 years to less than 3 years
- 3 years to less than 4 years
- 4 years to less than 5 years
- 5 years to less than 6 years
- 6 or more years

\* Required Question

**Councilor Lindell**

Councilor Lindell introduced an Ordinance relating to the City of Santa Fe Animal Services Ordinance, Chapter 5 SFCC 1987; amending Section 5-8 to establish that trapping furbearing animals for commercial or recreational use is prohibited on lands within the municipal boundaries of the City of Santa Fe. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "14."

**Councilor Trujillo**

Councilor Trujillo said he would like to be added as a cosponsor on Councilors Ives' and Dominguez's Ordinances.

**Councilor Rivera**

Councilor Rivera introduced a Resolution declaring the Governing Body's ongoing support for the homeless community, local businesses and established residential neighborhoods; directing staff to analyze and report back to the Governing Body on the overall operation of the One-Stop for Homeless Services and Winter Shelter, located at 2801 Cerrillos Road and whether the shelter should be expanded or relocated to meet the ongoing needs of the homeless community. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."



**15. PURSUANT TO RESOLUTION #2014-65, FINDINGS AND RECOMMENDATIONS REGARDING CREATING AN INDEPENDENT OFFICE OF INSPECTOR GENERAL. (KELLEY BRENNAN)**

A copy of Resolution No. 2014-65, A Resolution directing staff to identify the benefits, feasibility, needs and options for creating an independent Office of Inspector General, introduced by Councilor Joseph Maestas, is incorporated herewith to these minutes as Exhibit "16."

Kelley Brennan, City Attorney said, "You had asked us to look into the benefits, the possibility of an Inspector General, the benefits of an Inspector General, of creating an Office of Inspector General, identifying any issues, and suggesting perhaps a model for how the City would create the office. The initial question was why an Inspector General. We have an Ethics Review Board, we have an Internal Auditor. However, both of those offices are insufficient to fully protect the public interest.

Ms. Brennan continued, "The Ethics Review Board addresses violations of ethics ordinances based on complaints. It does not pro-actively address fraud, waste and abuse. The Internal Auditor addresses financial and performance issues and, again, does not pro-actively address fraud, waste and abuse issues. An Inspector General performs audits but also has the additional authority to investigate fraud, waste and misuse of government funds. And we would recommend it also have subpoena power and the power to enforce the subpoena in court."

Ms. Brennan continued, "We found in our research that establishment of Office of the Inspector General functions is expanding. It started out as a federal office typically and then expanded into federal agencies, to states, I think New York has had one for a long time, and now has expanded to municipalities. And the Inspector General both detects and reduces waste and reduces wrong-doing. So they identify efficiencies in government that result in savings on operations but aren't sort of cash in the bank, and at the same time their role is to look for fraud and abuse that may result in overpayments, over-billing on contracts and to recover actual cash in the bank."

Ms. Brennan continued, "The issue in creating an Office of Inspector General is typically one of assuring independence. Most people want a high degree of confidence that the people who have a stake in the outcome of investigations have minimal effect on the Inspector General. But at the same time, you don't want to create a free-flowing person that might go off and be sort of a rogue investigator. They're typically.... New Orleans uses its Ethics Review Board to select the Inspector General. Albuquerque has a Government Oversight Committee which takes applications for the office, ranks 3 according to specific criteria and then submits those to the Council. And the Council chooses the Inspector General from that list."

Ms. Brennan continued, "Other entities will have a judge appoint, will establish a nominating panel that dissolves once that office is filled. The term ranges in municipalities and counties that have inspector generals from one year through however long before they are removed or leave the office. Removal is typically for cause and some organizations require a 2/3 vote of the committee that appointed them, or a public hearing or those kinds of things. Powers. They need to provide for subpoena power so they can get the records they need to conduct their investigations. That might be, for example, for an outside contractor that is suspected of over-billing. Obviously, City offices would be required to turn over documents, but outside entities would not. And they would need the power to enforce the subpoena in Court."

Ms. Brennan continued, "Limitations on powers. Typically you would not want an Inspector General to investigate current litigation, employment litigation and discrimination matters, because those have effects on liabilities. Once a litigation was completed, I think it would be within the purview of an inspector general to look at whether litigation was being handled properly or whether there was not discrimination. For instance, I would sue one person over here for something, but not someone over here because they were a friend of my husband. That would be a proper investigation, but the actual circumstances of the litigation would not be, and you would want to make that distinction."

Ms. Brennan continued, "And then, of course, a big concern are public records. Are records generated by an Inspector General public, when do they become public at the conclusion of an investigation, or are they always public. And obviously something that hampers an investigation you would try to protect until the investigation was complete and a report was rendered."

Ms. Brennan continued, "Funding. The big question. Most entities that have Inspector Generals do allocate funds from their General Fund for the office. But what they have found is that the office fundamentally pays for itself through the savings it generates in the recovered cash. And I have two examples. Miami, Dade County, between 2008 and 2009 had a budget of \$5.5 million, and they recovered in that same year, \$9.1 million in questionable costs and losses and averted \$9.1 million in losses. So they had both kinds. They recovered real cash and they generated efficiencies in how they operated. And Montgomery County Maryland, over a 5 year period, had a \$2.8 million operating cost and identified \$13 million in questionable costs or potential savings, and recovered or recommended the better use of \$25 million in county funds."

Ms. Brennan continued, "Almost across the Board, our research indicated that they paid for themselves. Nevertheless there is an appropriation required to fund the office, at least initially. As an example that is closer to home in every respect in terms of size and geography, Albuquerque has an Office of Inspector General and they allocate about \$330,000 a year and they spend about \$300,000 a year on outside investigators. And they have 3 employees, one person staffing. I think that's a little larger."

Ms. Brennan continued, "So we looked at our Ordinances and we could see to create an Office of Inspector General, perhaps the most efficient way to start in the City would be to use the Internal Auditor function that's currently existing. There is an Ordinance that created an independent committee or as independent as you could expect, the Audit Committee. Make the Committee into an oversight committee and create a position within to either co-exist or be under the management of the Internal Auditor. And Ms. Kerr thought she could find a Certified Fraud Investigator which is a category of certification for a salary for something between \$60,000 and \$65,000. And so that would be a start and could perhaps over time, if very successful, be moved into an independent office. And I think the next step, if you direct us to, would be to draft an ordinance for consideration."

*The Governing Body commented and asked questions as follows:*

- Mayor Gonzales said, "The examples you stated and the recoveries all seem, including Albuquerque, substantial governments. What is the size of Albuquerque's budget and the total number of employees."

Ms. Brennan said they have three, what she assumes are investigators.

- Mayor Gonzales said, "The total Albuquerque budget. Do we know what it is."

Ms. Brennan said no.

- Mayor Gonzales said, "I guess where I was going on this, it's a move in the right direction. For sure, the issues, I don't want us to kid ourselves that we will be able to recover the cost. I don't know that we do enough transactions to find enough of the waste *per se*. Now there can be direction that is certainly given. I think the proposal you offered seems to make some sense, if

there is some authority by the Independent Auditor to engage fraud specialty services where they felt there is something that rises to that occurrence. It seems like that could make some sense. And I don't know, do we have the ability to change the name of the Independent Auditor to an Inspector General."

Ms. Brennan said that would be part of the Ordinance. She said, "And the Internal Auditor, I believe, had asked for an expansion in the last budget cycle because she felt she could use another person. And this would allow her to pick up some of that load. And already items from the fraud and abuse hotline are directed to her. She also receives, sort of independent complaints. She's the person they get directed to. So some of those things are already moving in the direction of her office. I think it could be changed. So it would be a modest beginning, and an experiment that could then be built on."

- Councilor Dominguez said the authority needed by the Internal Auditor, needs to be incorporated into that piece of legislation. He said as is, the Internal Auditor is an employee of the City Manager. And so that autonomy to be a functional OIG needs to be built into some of that legislation.
- Councilor Rivera asked the size of the two entities Ms. Brennan stated, Miami Dade and one other.

Ms. Brennan said one in Maryland and Miami Dade. She said, "They are much larger. They have offices with 50 employees, and very sophisticated operations. We didn't find, certainly I didn't find any references to cities the size of Santa Fe, which doesn't mean that they don't have Inspectors General. I think it means they are not getting written about. The larger entities probably were formed longer ago and have a longer record to be written about. It's a relatively new phenomenon for municipalities. I will say that New York, Chicago, Philadelphia, Miami Dade, the Maryland counties, all did have dramatic results. I think part of the issue is not that there is rampant fraud, but that there are things that can be buttoned down and yield savings."

Ms. Brennan continued, "I think that one of the things that seemed evident in some of the articles, was there was an element of surprise that it generated as many efficiencies in the governments that took them on."

- Councilor Rivera asked how much money Albuquerque has recouped in its program.

Ms. Brennan said, "I could not find that out. I talked to a couple of people down there, and I didn't hear that, but I have heard that the program is successful."

- Councilor Rivera asked if the salary stated of \$65,000 includes benefits and such, or is it just salary.

Ms. Brennan said that's correct, it's just salary.

- Councilor Rivera said typically it's a little more or less than double.

Mr. Snyder said typically we use 1.4 or 1.5, so it would be somewhere around \$100,000.

Councilor Maestas said, "First of all we already have some processes and groups that are dancing around really addressing fraud, waste and abuse. We have an Ethics Board, but they don't quite do that. We have an Internal Auditor who doesn't quite do that. I think we're raising expectations in terms of the City's intent to investigate fraud, waste and abuse. For example, the Fraud Hotline. But if you look at the Internal Auditor's function, that's really important, but I think we need some dedicated resources are independent. And as Councilor Dominguez said earlier, a lot of employees contact us, anonymously, to raise complaints and concerns. But I am sure they still feel like the current arrangement is not as transparent and objective as, for example, having an independent IG would create I think maybe less concern about fear of retaliation."

Councilor Maestas continued, "So I think employees would come forward. I think we would get more anonymous disclosures of fraud, waste and abuse by creating this independent function that does focus on investigating fraud, waste and abuse. And not only that, I think it would send a message that we're serious about this issue, that the City Government is beyond reproach when it comes to fraud, waste and abuse. And I think the recommendations put forth are very very modest. It's a very modest start and I would ask my colleagues to be open to this, to consider this and we can always take a look and investigate the cases coming in, the case load and then make decisions from there whether to expand or stay the same, or reconsider it. There are also, I believe, Kelley, there are provisions for the establishment of an IG in the Ethics Ordinance, correct."

Ms. Brennan said that is correct. There is a provision authorizing an independent Office of Inspector General.

Councilor Maestas said we are fulfilling our role per the Charter and our ethics framework by taking this step.

- Councilor Ives asked if we have statistics on the number and nature of matters reported on the Fraud and Waste Hotline, and what investigations have been done and the results or conclusions about those efforts.

Ms. Brennan said no. She said Ms. Kerr indicated in the summer that she had received a number of complaints and tried to look into them or to work them into her schedule. It seemed clear to me that she had enough complaints that it constituted a question in her mind about handling them.

- Councilor Rivera said, "Since I brought up the Resolution regarding the Fraud, Waste and Abuse Hotline, I'm been tracking it. And I think it was last month that they finally went out to bid for a company that could receive the complaints from employee which would be anonymous and figure

out a way the complaints would get to Lisa and then filter to whichever department. However, this was just done last month. As far as the way the Hotline is supposed to function, I'm not sure we're even quite there yet. I know the contract was a small amount, less than \$5,000, which was within the City Manager's approval to budget within the amount that he's given authority to do. I don't know if that's come to you yet."

Mr. Snyder said he hasn't seen that yet.

- Councilor Rivera said then we're probably not functioning the way the Ordinance and the Hotline are meant to function.

Ms. Brennan said, "Which is to provide, I think, a fraud monitor or a call monitor that will assure anonymity to the callers."

- Councilor Ives said, "And I suppose what I'm trying to figure out is, what is the extent of our problem. If somebody is saying.... the possible complaints could range from the mundane to the deeply troubling, and I would love to understand the nature of the problem before trying to figure out what I think is the best and appropriate solution. So I would love to have some statistics on what kinds of calls we've been getting. I think it would be helpful to have Lisa indicate her capacity to follow up on those. Again, I'm in just a little bit of a vacuum in terms of my knowledge."

Ms. Brennan said, "I understand. I think that what Lisa indicated to me is that she didn't have much capacity to follow up and was a little concerned about that. We could attempt, along Councilor Dominguez's lines, to look at what an ordinance would look like and bring something forward with data that would explain why certain choices had been made."

- Councilor Ives said he would be interested in the data, first and foremost, but yes, if we could get that, it would be very helpful to him.
- Councilor Dimas said, "We'll have our own internal Affairs Division within the City, basically. Will this person have authority if they do find criminal activity, to take that directly to the District Attorney's Office for investigation and possible indictments, or however that happens, rather than going through any divisions or departments."

Ms. Brennan said, "Yes, that is typical of Inspectors General that if they identify criminal activity that they take it to a prosecuting authority."

- Councilor Dimas said, "So they would be, in essence, certified. They would probably have to be certified police officers within the State of New Mexico, I would assume."

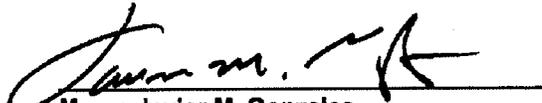
Ms. Brennan said, "A background in law enforcement is one of the typical qualifications for IG's, and I'm not exactly sure how that would work, rather than prosecuted, perhaps a referral to the DA for further investigation which I don't believe would require an officer. But very typically, a background in law enforcement with experience in investigations is one of the qualifications that many jurisdictions look for."

- Councilor Dimas said he thinks it's a good idea and something that has been needed. He said, "We've had instances within the City, within the Parking Division and other areas that have been under investigation and, in my opinion, those were never thoroughly investigated and there was really no outcome on it. So with that being said, I think a lot of times, they can continue a lot of the investigations that were started and never really completed if they were in that position, so there may be some cold cases out there also from some of these complaints that could be reinvestigated and brought forward again. So, great idea. Hope we can find the funding for it."
- Mayor Gonzales said, "It does seem, as has been indicated, that the City taken a lot of steps in toward the direction of being able to create an independent auditor or inspector to do all the things we've talked about. So, the issue of the Ethics Committee, it's strong. There's an Internal Audit requirement now as part of our Charter. I think the State has a sunshine law in terms of IPRA and making things available. It seems like the issue would be, and as Councilor Maestas said, this is a modest step, but the issue is really to pull it all together in a way that allows for the true objectives to be achieved ultimately. If it's discovering fraud and addressing it, having the means to do it. If it's driving savings, I think those are all areas we can do. But short of that or a complement to that, it doesn't abdicate us as Councilors to find things we can do on our own through policy, like going through a review of how much of our records could go on line. Or funding ways to get more of our own records on line so we don't have to spend so much time going through IPRA request. Being able to challenge ourselves to find more efficiencies through business processes, those are all the opportunities we have to do that work."
- Mayor Gonzales continued, "And I know you guys at Finance Committee and at Public Works and other Committees are doing that constantly, and constantly providing that oversight. So, I look forward to it coming back. I am, obviously, wanting us to be very conscious of the costs associated with this, especially if it could be minimal or modest when it comes to tightening it up and maybe giving, through Ordinance, a little bit more power that might be needed and create a little bit more independence. But I think we have to be smart and measured in how we proceed forward on this. So cool. Good work Councilor Maestas in bringing this forward."

## I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:45 p.m.

Approved by:

  
Mayor Javier M. Gonzales

ATTESTED TO:

  
Yolanda Y. Vigil, City Clerk

Respectfully submitted:

  
Melessia Helberg, Council Stenographer

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2014-65**

3 **INTRODUCED BY:**

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5 Councilor Joseph Maestas

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9  
10 **A RESOLUTION**

11 **DIRECTING STAFF TO IDENTIFY THE BENEFITS, FEASIBILITY, NEEDS AND**  
12 **OPTIONS FOR CREATING AN INDEPENDENT OFFICE OF INSPECTOR GENERAL.**

13  
14 **WHEREAS**, in 2012, the Governing Body enacted Section 2-22 SFCC 1987 which created  
15 the Internal Audit Department; and

16 **WHEREAS**, the purpose of the Internal Audit Department is to promote good governance,  
17 transparency and accountability which are critical in the public sector for the effective and credible  
18 functioning of a healthy democracy, and in fulfilling the government's responsibility to citizens and  
19 taxpayers; and

20 **WHEREAS**, transparent and reliable reporting and effective auditing in government serve to  
21 promote accountability, enhance the effectiveness of government services to its residents, and  
22 increase the public's confidence in their government; and

23 **WHEREAS**, members of the Governing Body share a duty to ensure that the actions of  
24 public officials, employees and contractors of the city are carried out in the most responsible manner  
25 possible and that city policies, budgets, goals and objectives are fully implemented; and

1           **WHEREAS**, in 2013, the Governing Body enacted Section 19-2 SFCC 1987, the Fraud,  
2 Waste and Abuse Hotline, which was created for the purpose of establishing a mechanism for City  
3 employees to report alleged fraud, waste or abuse by city employees or city public officers; and

4           **WHEREAS**, in addition to the current duties of the City internal auditor (IA), the IA is  
5 responsible for overseeing the contracted services of implementing and maintaining the fraud, waste  
6 and abuse hotline and investigating reported incidents; and

7           **WHEREAS**, to accomplish a positive, responsive and thorough outcome of the fraud, waste  
8 and abuse allegations, the City could benefit from the services of an inspector general (“IG”) who  
9 could actively investigate reports submitted by City employees as well as the general public on fraud,  
10 waste and abuse of city resources; and

11           **WHEREAS**, pursuant to Section 1-7.9(B) of the City of Santa Fe Code of Ethics, “the  
12 governing body may, by separate ordinance, establish an office of inspector general;” and

13           **WHEREAS**, the presence of an IG in City government would promote transparency,  
14 accountability, efficiency and effectiveness of city government; and

15           **WHEREAS**, municipalities throughout the United States have found that the cost of funding  
16 an IG position is returned through elimination of fraud, waste and abuse and the introduction of new  
17 efficiencies, including in Philadelphia where, in 2013, the IG saved or recovered \$10.9 million for the  
18 City; and

19           **WHEREAS**, the City of Albuquerque and the New Mexico Department of Transportation,  
20 amongst other governmental entities, have successfully established Office of Inspector General (OIG)  
21 functions; and

22           **WHEREAS**, Albuquerque established an OIG in 2010 to promote a culture of integrity,  
23 accountability, and transparency throughout the City of Albuquerque in order to safeguard and  
24 preserve the public trust by preventing, detecting, deterring and investigating fraud, waste and abuse  
25 and promoting the efficiency and effectiveness in the programs and operations of the City of

1 Albuquerque; and

2           **WHEREAS**, the 2012 report of the Albuquerque OIG states “the OIG conducted and  
3 completed 16 investigations which represents a 267% increase over FY2011 (6 investigations). The  
4 OIG reported a total of 90 findings and made 60 recommendations to Departments;” and

5           **WHEREAS**, in 2010, the New Mexico State Transportation Commission established an OIG  
6 for the New Mexico Department of Transportation (NMDOT) whose duties include, but are not  
7 limited to conducting inquiries and investigations into allegations of fraud, waste, abuse, theft and  
8 wrong doings perpetrated against the Department; and

9           **WHEREAS**, because of the Governing Body’s recent establishment of the Fraud, Waste and  
10 Abuse Hotline Ordinance, there is a need to separate the fraud, waste and abuse duties from the City  
11 of Santa Fe’s Internal Auditor and create a separate, independent inspector general position.

12           **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
13 **CITY OF SANTA FE** that the Governing Body directs staff to:

- 14           1.     Review the OIG models currently in place for the City of Albuquerque and the  
15                 NMDOT as well as others that are comparable;
- 16           2.     Identify the benefits, feasibility, needs and options for creating an OIG for the City of  
17                 Santa Fe;
- 18           3.     Evaluate whether the position should be established as a full-time employee or  
19                 whether services should be contracted out;
- 20           4.     Evaluate other existing ordinances that may be modified to strengthen the disclosure,  
21                 investigation, and resolution of fraud, waste, and abuse including, without limitation,  
22                 whistleblower protections, employee discipline procedures and hotline  
23                 improvements; and
- 24           5.     Within 45 days of adoption of this resolution present findings and recommendations  
25                 to the Governing Body.

1 PASSED, APPROVED and ADOPTED this 13<sup>th</sup> day of August, 2014.

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JAVIER M. GONZALES, MAYOR

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ATTEST:

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YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:

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KELLEY A. BRENNAN, CITY ATTORNEY

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*M/Melissa/Resolutions 2014/2014-65 IG Office2*