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November 19, 2014

Mayor Richard Berry
City Councilor Ken Sanchez
Mayorberry@cabq.gov
kensanchez@cabq.gov

Dear Mayor Berry and Councilor Sanchez:

We are writing in response to recent legislation to revive the function of inspector general for the City of Albuquerque. NMFOG is an advocate of providing information to the public and transparency in government. To the extent the inspector general would further those goals this organization supports it.

However, NMFOG strongly disagrees with one aspect of the proposal passed by the City Council. The proposal as it now stands would give the office independence from public oversight by shielding investigative files and reports from view until a final report is approved by a committee that oversees the office. The city would, in effect, be adding its own exemption to the New Mexico Inspection of Public Records Act (IPRA). This is very bad precedent, and we do not believe it is allowed under state law.

City Attorney David Tourek told city councilors last week he doesn't believe the city can add its own IPRA exemption and that the ordinance might not withstand a court challenge. Mr. Tourek further stated that his opinion was shared by other attorneys for the city and the state attorney general.

NMFOG agrees with that position and strongly disagrees with the Council's vote to approve the ordinance as long as it contains this secrecy language. Mayor Berry, you have described the proposed ordinance as a step away from transparency in government records. NMFOG agrees and would support a veto on those grounds.

To reiterate, NMFOG is not opposed to an ordinance reviving the Office of Inspector General. We do not disagree with the comment by sponsor Rey Garduno who told the Council: "Almost every large organization has an inspector general for a good reason. Anybody that polices itself is probably not doing a good job."

Unfortunately, NMFOG cannot support the ordinance as long as it contains the secrecy provision. NMFOG urges the parties to draft an ordinance that meets the goals of self-examination without violating the state's sunshine laws.



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Let us know if we can provide additional information.

Very truly yours,

/s/

Susan Boe

Executive Director