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City of Albuquerque

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Informative Case Synopsis

FILE NO: 23-0114-C

SUBJECT MATTER: Park Use Agreement.

STATUS: Final

DocuSigned by:

Peter Pacheco

293499911040768

PETER PACHECO
LEAD INVESTIGATOR
OFFICE OF INSPECTOR GENERAL

02/20/2024

Date of Completion

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Melissa R. Santistevan

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MELISSA SANTISTEVAN
INSPECTOR GENERAL
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02/20/2024

Date of Completion

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VICTOR GRIEGO, CPA
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

June 26, 2024

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**

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EXECUTIVE SUMMARY

The City of Albuquerque Office of Inspector General conducts investigations, inspections, evaluations, and reviews following the Association of Inspectors General (AIG) standards.

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.

The Office of Inspector General (OIG) received a complaint alleging the Parks and Recreation Department (PRD) approved a "Park Use Agreement" at a City park from March 2023 to October 2023 for the complainant. The complainant submitted a renewal in 2024, but was denied. The complainant stated that the submission met all requirements of the Park Use Agreement and therefore was abusive of the PRD to deny it. The complainant stated that another user of the park submitted a Park Use Agreement during the same period requesting to use it for commercial use and that the PRD prefers the commercial activity for the park and therefore denied the complainant's request.

The OIG determined that the allegations 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 collect evidence to substantiate or not substantiate if denying the complainant's Park Use Agreement form in favor of an alternative user's Park Use Agreement was an abuse by PRD.

As defined in the Inspector General Ordinance §2-17-3, fraud is the knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Waste is the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the City. Abuse is the use of resources or exercise of authority that is contrary to rule or policy, or knowingly inconsistent with any established mission or objectives for the resource, or the position held by the person exercising the authority. Abuse does not necessarily involve fraud or illegal acts.

Finding:

The evidence obtained by the OIG substantiates that the complainant met the criteria for a Park Special Condition, publicizing, met the requirement for the complainant to submit a Park Use agreement form as required by the information on the PRD website.

No information stating that the complainant's proposed "usage" not requiring a Park Use Agreement could be found based on PRD's response of not a "true event or program".

Recommendation:

1. **Reassess the Complainant's Park Use Agreement:** PRD should reassess the complainant's Park Use Agreement.
2. **Review Park Special Conditions and Park Use Agreement Form:** PRD should consider reviewing the Park Special Conditions and Park Use Agreement form to determine if revisions should be made.
3. **Define "True Event or Program":** PRD should define a "true event or program" if they are going to deny Park Use Agreements based on that criteria.

In conclusion, the investigation underscores the need for PRD to adhere to the established regulations and guidelines to ensure fairness and accountability. By implementing the provided recommendations, PRD can enhance its transparency and maintain the highest standards of integrity and service delivery.

ABBREVIATIONS

CITY: City of Albuquerque
OIG: Office of Inspector General
PRD: Parks and Recreation Department
E1: PRD City Employee

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque (City) to safeguard and preserve public trust. Investigations, inspections, evaluations, and reviews are conducted in accordance with AIG Standards.

Complaint

Parks and Recreation Department (PRD) abuse by denying the complainant's Park Use Agreement form in favor of an alternative commercial program user Park Use Agreement.

Background

The City's PRD has a process for park reservations. To qualify for the planned park usage, the event must meet at least one (1) of the Park Special Conditions. If the park use meets a Park Special Condition, then a Park Use Agreement form needs to be filled out and submitted to PRD.

The online form states that the "Park Use Agreement is not a reservation or guarantee for the use of any specific park or area. City parks are open to the general public and cannot be reserved. This paperwork is for the purpose of coordinating events, organizing sports and maintenance of scheduled events."

The complainant alleges that the PRD approved a Park Use Agreement at a City park from March 2023 to October 2023 for the complainant. The complainant then submitted a renewal Park Use Agreement form for 2024 but was denied. The complainant stated that the park usage met the criteria of one (1) Park Special Condition and therefore the complainant submitted the Park Use Agreement form. The complainant stated that PRD denied the Park Use Agreement which the complainant stated was abusive of the PRD. The complainant stated that another user of the park submitted a Park Use Agreement during the same period requesting to use it for commercial use and that the PRD prefers the commercial activity for the park and therefore denied the complainant's request.

SCOPE AND METHODOLOGY

Scope: Park and Recreation Department action related to the Park Use Agreement submitted by the complainant.

The methodology consisted of:

- Review Park Use Agreements
- Review PRD requirements for submitting a Park Use Agreement
- Review City policies and procedures
- Conduct inquires
- Review Social Media

This report was developed based on information from interviews, inspections, observations, and the OIG's review of selected documentation and records.

INVESTIGATION

Allegation: Abuse by the Parks and Recreation Department by denying the complainant's Park Use Agreement in favor of an alternative commercial program user's Park Use Agreement.

Authority:

Article 17 Inspector General Ordinance

Parks and Recreation Department

Park use and rental. <https://www.cabq.gov/parksandrecreation/parks/park-use-rental>

Evidence:

PRD website

PRD forms

Email correspondence between PRD and complainant

Analysis:

The PRD website for park use and rental requests ([Link](#)) states the following for Park Reservations and Park Special Conditions:

Park Reservations

In general, reservations are not accepted for parks.

If your planned park usage involves one or more of the Park Special Conditions, please complete and return the Park Use Agreement Form.

Park Special Conditions

- Inflatable "fun jumps" or "bouncer houses"
- Alcohol use in parks - Read the Statute
- Groups over 100
- Tent or canopies (stakes prohibited)
- Live music, bands, or amplification systems
- Serving or selling food to the public
- Publicized events
- Street barricading
- Portable restrooms
- Dunk tanks
- Organized recreation

The OIG reviewed the PRD webpage, Park Use, and Park Pop-Up Agreement. On the webpage, a citizen can fill out an electronic Park Use Agreement form. The Park Use Agreement form web page states:

Please complete and submit the following form if you plan to host a Park Pop-Up or your park use meets one of the following special conditions:

- Inflatables (i.e. fun jumps, bouncer houses, etc.)
- Alcohol use in parks
- Groups over 100
- Tent or canopies (stakes prohibited)
- Live music, bands, or amplification systems
- Serving or selling food to the public
- *Publicized events*
- Street barricading
- Portable restroom
- Organized recreation

Note: Except jumper sites, this agreement is not a reservation or guarantee for use of any specific park or area. City parks are open to the general public and cannot be reserved. This paperwork is for the purpose of coordinating events, organized sports and maintenance of scheduled events.

(* The OIG noted that the Park Use and Rental PRD webpage lists Dunk Tank as a Park Special Condition and Park Use Agreement webpage does not list Dunk Tanks as a Park Special Condition. Webpages are not consistent.)

Complainant Information:

The complainant stated that the event requested met the criteria of a "publicized event" for Park Special Conditions, which required the complainant to complete and return the Park Use Agreement form. (Note: The Park Use Agreement form does not have a section where an applicant can state yes/no regarding publicizing the event.)

After submission of the Park Use Agreement form, a PRD employee, E1, replied via email to the complainant with the following:

October 11, 2023:

Your request has been reviewed. It does not appear that your request warrants a park use agreement as this is not a true event or a program.

December 7, 2023:

The Parks and Recreation Director reviewed your proposed usage for 2024 and the comment that you want to publicize. Per the Parks & Recreation Director, your intended usage, “nature appreciation”, is not a true event or program. Nature appreciation can be accomplished at any park without a Park Use Agreement. The purpose of a Park Use Agreement is if you are having a true event or program. I am aware that I approved your Park Use Agreement in 2023, but I did mention to you via email dated October 17th, 2023 that I have spoken to the Parks & Recreation Director and he indicated I should not have approved your agreement in 2023 as your usage was not a true event or program. If you wish to host a true event or program for 2024, please re-submit a Park Use Agreement reflecting a true event or program. However, be aware that the alternative users event is an established event with a Park Use Agreement that takes place at the Park on Tuesdays.

In reviewing the information on the PRD website and review of the City’s Park ordinance, the OIG could not find any information stating what a “true event or program” is. No information could be found stating that only a “true event or program” required a Park Use Agreement.

The OIG asked E1 if there was any policy or procedure that would state what a “true event or program” is. E1 replied:

Not officially to E1’s knowledge, and that the statement came from the PRD director. E1 stated that per the director, nature appreciation can be achieved at any park, at any time.

In an email response to the OIG dated December 22, 2023, E1 stated:

The event application that is attached is not approved yet as we are still working with the applicant to finalize their schedule.

But in the email to the complainant dated December 7, 2023, you state:

However, be aware that the event is an established event with a Park Use Agreement that takes place at the park on Tuesdays. - Thank you – E1.

The OIG asked E1 to explain E1’s December 7th statement since it was not finalized yet?

The event has been taking place at the Park for many years between March through October every Tuesday. I can only speak to the past 5 years, there has been an uptick in complaints about the event. In an effort to try to mitigate complaints regarding the event, Parks & Recreation has worked closely with the event organizers and recently working more with the neighborhood associations to try to make improvements to the event in an effort to appease all area citizens. This is why I mention to the complainant that event is an historical event that takes place on Tuesdays every year. Area citizen expect this event on Tuesdays. Last year we experimented to shorten the season and have fewer occurrences, but area citizens were also disappointed by this change. So the Parks & Recreation

Department along with the event organizers and neighborhood association presidents are coming together today to discuss frequency of the event for 2024.

The Park Use Agreement form for the other event organizer is dated, September 19, 2023, and the Park Use Agreement for the complainant is dated October 1, 2023. However, as of January 25, 2024, the other organizer's event had not been approved.

In the complainant's application, the complainant stated that the expected number of people would be thirty (30) or more and that it would be publicized. By stating that the park use would be publicized in the application, it met the criteria of a Park Special Condition and therefore required a Park Use Agreement form to be submitted to the City.

The OIG's analysis was done and is based on the facts obtained during the investigation.

Finding-Allegation:

The evidence obtained by the OIG substantiates that the complainant met the criteria for a Park Special Condition, publicizing, met the requirement for the complainant to submit a Park Use agreement form as required by the information on the PRD website.

No information stating that the complainant's proposed "usage" not requiring a Park Use Agreement could be found based on PRD's response of not a "true event or program".

Recommendation:

1. **Reassess the Complainant's Park Use Agreement:** PRD should reassess the complainant's Park Use Agreement.

Management's Response:

PRD does not object to this and will do so.

2. **Review Park Special Conditions and Park Use Agreement Form:** PRD should consider reviewing the Park Special Conditions and Park Use Agreement form to determine if revisions should be made.

Management's Response:

PRD does not object to this and will do so.

3. **Define "True Event or Program":** PRD should define a "true event or program" if they are going to deny Park Use Agreements based on that criteria.

Management's Response:

PRD does not object to this and will do so.

We will implement new procedures and training to ensure we can address these issues.