



<http://www.austinchronicle.com/news/2014-05-30/then-theres-this-the-witch-hunt-of-a-commissioner/>

Then There's This: The 'Witch Hunt' of a Commissioner

Auditor's report could have chilling effect on city boards and commissions

BY AMY SMITH, MAY 30, 2014, NEWS

Until last month, **Daniela Ochoa Gonzalez**, a sustainability expert with international expertise, was living what she calls her American dream as a Mexican immigrant in Austin. She was enjoying her fairly new job as a zero-waste coordinator at UT-Austin, and she served as a City Council appointee on the **Zero Waste Advisory Commission**, or ZWAC.

That is until April 18, when the **City Auditor's Integrity Unit** issued a brief but damning report that found her in violation of the city's conflict of interest requirements. As a result, she's lost both her job at UT and her seat on the advisory commission.

To read City Auditor **Kenneth Mory's** report, detailed in an April 28 *Statesman* article that seemed to take the findings as gospel, one would think that Gonzalez was a conniving commissioner on the take in the competitive waste business. Worse, the day after the story's publication, Gonzalez was asked to resign from her job. By then, the auditor's report had been widely distributed (although no copy was given to Gonzalez), and Council Member **Mike Martinez's** office had notified her requesting her resignation from the commission.

When the investigation was launched, based on an anonymous complaint made last September, Gonzalez had been doing contract work for **Texas Disposal Systems**, training area public schools how to compost food waste. The investigation focused on Gonzalez's work as a TDS contractor and her votes on the zero-waste commission.

But as TDS and Gonzalez argue, the former commissioner's involvement in three agenda items (one of which she participated in but didn't vote on) held no "substantial interest" or "direct economic benefit," as specified in city code. The items included phase two of the city's recycling ordinance, and the special events ordinance – requiring event organizers to provide details on waste management and recycling activities. On a third item involving an Austin Energy waste disposal contract, Gonzalez didn't vote.

As TDS attorney **Michael Whellan** told ZWAC members at a May 14 meeting, unless the findings in the Gonzalez case are retracted – either by the auditor or some other body – two other ZWAC commissioners could also be cited for their professional ties to the hauling industry. The report could also adversely impact other board and commission members with professional expertise, Whellan said, adding, "Let's use this travesty ... to really fix the fundamentals here." The **Ethics Commission** was

equally concerned by the findings and opted to take no action against Gonzalez when it met last month. If a violation did occur, it didn't appear to be malicious, one member observed after hearing Gonzalez's side of the story. Members expressed displeasure that no one from the auditor's office had showed up to defend the report. That appearance is expected at the commission's next meeting in July.

Meanwhile, Whellan has asked that the auditor issue a written apology to both Gonzalez and TDS, but neither an apology nor a retraction is likely anytime soon. Mory, responding to Whellan by email, says he stands by the report and its findings.

TDS CEO **Bob Gregory** believes Gonzalez has been scapegoated – and that his company is the real target. Indeed, TDS and the city have been in a legal wrangle ever since officials accused him of violating anti-lobbying laws in 2010. Just this past March, U.S. District Judge **Lee Yeakel** found that the city had acted improperly, and ordered the violation removed from his record. On April 17, the city requested reconsideration of that ruling; Yeakel issued a denial on April 29.

Gregory says he's puzzled why the city auditor would undertake "what I would call a witch hunt involving an interpretation of the ethics rules, which could be very, very broad. It could affect dozens and dozens of board and commission members who could be wiped out by this, just by their association with a company.

"I don't know why anyone would want to serve," he added. "They could be sitting ducks."

As for Gonzalez, he said, "She is innocent and it's horrible what they've done to her and I'm going to help her in every way I can to clear her name." Others have vowed to help, too, including **Robin Schneider** and **Andrew Dobbs** of the **Texas Campaign for the Environment**, and her friends on ZWAC.

Schneider, speaking before ZWAC, lauded Gonzalez's background and skills. "She brings a perspective to our zero-waste community from her work in Mexico and Brazil, as a woman of color who has worked with people across the economic spectrum, and I think that her perspective on [ZWAC] is going to be sorely missed. ... The whole city is being deprived of her expertise."

Copyright © 2014 Austin Chronicle Corporation. All rights reserved.