

THE AUSTIN CHRONICLE

<http://www.austinchronicle.com/news/2014-10-17/then-theres-this-trying-to-undo-a-witch-hunt/>

Then There's This: Trying to Undo a "Witch Hunt"

Council tries to untangle a controversial ethics complaint

BY AMY SMITH, OCTOBER 17, 2014, NEWS

Longtime columnist – now freelancer – Amy Smith is back in her old space for this week only. "Public Notice" returns next week.

Six months after **Daniela Ochoa Gonzalez** was accused – wrongly, it turns out – of violating conflict of interest rules while serving as a city commissioner, **City Council** members today (Thursday, Oct. 16) will attempt to right the wrong by formally disavowing a damning city auditor's report and extending an apology to the accused.

So far, that's not sufficient for Ochoa Gonzalez. Early this week, she and her advocates were still urging staff and Council to beef up the language in the resolution proposed by Council Member **Mike Martinez** (with co-sponsors **Chris Riley** and **Laura Morrison**). The measure currently includes a mild rejection of the April auditor's report, which accuses Ochoa Gonzalez of violating ethics rules while serving on the **Zero Waste Advisory Commission**, or ZWAC (see "Then There's This: The 'Witch Hunt' of a Commissioner," May 30).

The resolution doesn't go far enough for Ochoa Gonzalez and her many allies in the environmental and education communities. They're pressing for a strongly worded rejection letter from Council that would prominently accompany the auditor's report on file – their workaround answer to Council's lack of legal authority to rescind the widely disseminated document, which cost Ochoa Gonzalez her seat on ZWAC and, after a front-page story in the *Statesman*, her job at UT-Austin.

Ochoa Gonzalez is also asking the Council to extend an apology to **Texas Disposal Systems**, the waste company also implicated in the investigation that was prompted by an anonymous tipster. At the time of the complaint, Ochoa Gonzalez, a sustainability expert and active community volunteer, was serving as Martinez's appointee on ZWAC, while also performing contract work for TDS, a job that entailed teaching area public schools how to turn their food waste into rich compost. Because of the charged nature of the competitive waste industry, TDS' **Bob Gregory** believes the anonymous complaint was intended to damage his company's reputation – and that Ochoa Gonzalez was scapegoated in the process.

The report alleged that Ochoa Gonzalez violated ethics rules by participating in three specific agenda items – two of them general issues that didn't specifically apply to TDS. On a third item involving an **Austin Energy** waste disposal contract, Ochoa Gonzalez participated in the discussion but didn't vote.

"I just hope the resolution is consistent with what we are asking," Ochoa Gonzalez said last week. "I'm also willing to sign papers for the city so they are guaranteed that this will end here." Looking forward, she and others have successfully advocated for ordinance revisions concerning such "conflicts," so that other volunteer commissioners – many of them professionals who are asked to serve specifically because of their knowledge of, say, waste and recycling issues – won't have to endure what she experienced. A related Council item sponsored by **Bill Spelman** (with Mayor Pro Tem **Sheryl Cole**) aims to reform city rules to provide transparency and due process for members of boards and commissions who might find themselves the target of an ethics investigation.

It appears the city auditor didn't follow proper protocol in pursuing the case and drawing conclusions. Under city rules, the auditor may investigate allegations of commissioners, but doesn't have the authority to determine whether a conflict of interest violation occurred. That's the job of the **Ethics Review Commission**, which declined to take any action in this case.

Other than Ochoa Gonzalez herself, probably no one wants to see this matter end more than Martinez, whose aide asked Ochoa Gonzalez to resign in April, just as Martinez was mounting a campaign for mayor. "The bottom line is, we have to improve the process, and when anonymous complaints are made, like the one made against Daniela, and when an investigation occurs, it should be done in a manner that is extremely transparent and open, and that the accused gets to have their rebuttal and to have the opportunity to see the report before it's issued publicly," Martinez said. And, he added, the Ethics Commission should make the final call, not the auditor. "No citizen volunteer should ever have to go through this again, and lose their job over it because it became a front-page story. We want to make it right. I am convinced that this could have been handled completely differently – not just from the auditor's standpoint but from my office. We accept our part in this, and we're trying to make it right."

Still, unless Ochoa Gonzalez sees more muscle added to the resolution Martinez is proposing, his current attempt may be insufficient.

"Public Notice" will return next week. Send gossip, dirt, innuendo, clever insults, and other useful grist to nbarbaro@austinchronicle.com.

Copyright © 2014 Austin Chronicle Corporation. All rights reserved.