



*April 30, 2014*

## **Ethics commission balks, files no charges against former commissioner**

By Kara Nuzback

The **Austin Ethics Review Commission** will take no action against former **Zero Waste Advisory Commission** member **Daniela Ochoa Gonzalez** for alleged ethics violations.

**City Auditor Kenneth Mory** released an April 18 report accusing Ochoa Gonzalez of violating conflict of interest regulations by discussing and voting on items related to **Texas Disposal Systems** at three separate meetings in 2013. Ochoa Gonzalez has a contract with TDS through her company **Sustainable Urban Solutions**, or SOLURSO, which offers professional consulting service related to sustainability.

In his report, Mory said the **City Auditor's Integrity Unit** began its investigation of Ochoa Gonzalez in September 2013, after it received a tip she had violated the **City Code's** conflict of interest requirements. Mory said after the investigation, the unit found Ochoa Gonzalez failed to disclose her business relationship with TDS and participated in discussions related to the hauler at three separate meetings: Feb. 13, 2013; April 10, 2013 and Aug. 14, 2013.

On two of these occasions, she voted on agenda items related to TDS, Mory stated. Neither Mory, nor any representative of the City Auditor's Office attended the Ethics Review Commission meeting Tuesday night.

**Cynthia Tom**, legal counsel to the Ethics Commission, said the city auditor accepts anonymous complaints.

"I don't know that this one was anonymous," she said. But, Tom said it was unlikely the auditor initiated an investigation against Ochoa Gonzalez without a complaint.

Ochoa Gonzalez, who testified before the Ethics Commission, said her work with TDS was merely educational, and she was never involved in any business decisions with the company.

"I do not believe I have violated the conflict of interest rules," she said.

Ochoa Gonzalez said she disclosed she had a contract with a hauler on several occasions, but she did not specify the hauler was TDS. During the Feb. 13, 2013 meeting, she said, she told the director of **Austin Resource Recovery** that she was a contractor doing educational work for a private entity.

Ochoa Gonzalez said the director told her, "If you're only doing education, you're fine."

In Mory's report, he said he interviewed a representative of Austin Resource Recovery who says he or she told Ochoa Gonzalez not to vote on any item related to the hauler with whom she contracted.

Tom said Ochoa Gonzalez met the substantial interest threshold as defined in the City Code when she earned a \$5,000 gross salary from TDS, which Ochoa Gonzalez admitted she earned by the April 2013 meeting. On April 10, 2013, she discussed, but did not vote on TDS's request to extend a contract with the City of Austin.

Ochoa Gonzalez said the auditor's report was disseminated without her knowledge, and though she was interviewed by the auditor, she never had an opportunity to present evidence in her favor. She said she has already resigned from her post on the **Zero Waste Advisory Commission**, but she asked the Ethics Commission to withdraw the allegations against her and clear her name.

**Commissioner Peter Einhorn** said it was absurd the auditor brought the charges against Ochoa Gonzalez to the Ethics Commission's attention, but failed to attend a meeting to discuss the allegations.

"This is pretty ridiculous," he said. "I would've thought it would be in their interest to (attend)," Tom said, "He's out of town right now, which might be why he's not here." She said a member of the auditor's staff would have attended the meeting if the commission had requested it.

Einhorn recommended the Ethics Commission take no further actions against Ochoa Gonzalez. "It sounds like you got bad advice," he told her. He added he did not feel that Ochoa Gonzalez acted with malice.

The commission agreed not to pursue action against Ochoa Gonzalez and requested Tom to arrange for the auditor to attend the commission's next meeting, July 30.

Ethics commission **Chairman Austin Kaplan** said the commission does not have the authority to clear Ochoa Gonzalez of the allegations against her; it could only choose not to pursue its own ethics charges and a separate investigation.

Kaplan said the commission should work to beef up conflict of interest training for board and commission members and investigate the City Auditor's process for handling complaints and administering reports against city volunteers.