

City Council Redeems Former Commissioner and Protects Due Process

Yesterday, by unanimous vote, the Austin City Council passed a resolution setting a strong precedent protecting due process for volunteers and businesses that participate in the city's policy making process. The resolution number 20141016-024, co-sponsored by Council Members Mike Martinez, Laura Morrison and Chris Riley, specifically refers to the case of former Zero Waste Advisory Commission (ZWAC) member Daniela Ochoa Gonzalez who was wrongfully accused of violating the city's conflict of interest rules.

Ms. Ochoa is internationally recognized on waste reduction topics and has established a long track record as a volunteer in Austin. She was forced to resign from both her volunteer post at ZWAC and her employment when the Auditor disseminated of the report and its findings appeared in the front page of the local newspaper. Ms. Ochoa expressed that she could now move on with her life. "When the government officials attack somebody wrongfully, it can make you feel helpless. While this process created great difficulties in my life, it was a learning experience and it made me stronger in believing that all of us have an obligation to fight back whenever government officials abuse their authority. Now I am free to continue my work for the community."

The entire ordeal was sparked when the City Auditor issued and widely publicized a report incorrectly finding Ms. Ochoa guilty of violating the city's conflict of interest rules by voting on several agenda items at Zero Waste Advisory Commission meetings while her small consulting business had a contract with local company Texas Disposal Systems (TDS). At different public meetings, Ms. Ochoa and many in the community strongly challenged the findings of the report and the process followed by the Auditor.

Among others, they claimed that none of the items created a direct economic benefit for TDS or Ms. Ochoa, the Auditor never provided Ochoa an opportunity to respond to its findings, and that the report failed to demonstrate how Ochoa's alleged conduct might constitute a conflict of interest. They also expressed deep concern that the Auditor should operate with accountability and due care prior to releasing report that could damage the reputation and livelihoods of people and businesses that participate in the policy making process.

The Ethics Review Commission, which has sole authority to rule on ethics complaints under the city code, during two separate meetings considered the allegations contained in the report and declined to take action. The Council's resolution unanimously acknowledged all of these factors.

"One of Austin's most important Zero Waste leaders was under attack and we are thrilled to see her vindicated," Robin Schneider, Executive Director of Texas Campaign for the Environment said. "Still, this must be a wakeup call—Austin's system has failed to provide a simple means of due process, and if it weren't for the extraordinary action taken by the Council, Daniela Ochoa would have had no means to clear her name. We need strong democratic accountability if we are going to protect the public interest. We're looking forward to seeing Council rectify the process which put Daniela in this position."

Ms. Ochoa's attorney, Mariano Conde de Frankenberg expressed that the resolution accomplishes 3 key objectives: 1) it protects the basic right to defend oneself of allegations; 2) it ensures compliance with the city code, specifically the Ethics Review Commission process, when board and commission members are accused of ethical violations; 3) it clears Daniela and Texas Disposal Systems who were both wrongfully smeared by the Auditor's report.

Ms. Ochoa and observers of the process indicated that this result would not have been reached without the confluence of the strong support of the community that rallied behind her and the help of TDS.

"I am grateful for all those who actively supported me and appreciate the Council passing this resolution which clears me and Texas Disposal Systems," Ms. Ochoa remarked.

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