

City of Austin



**A Report to the
Austin City Council**

Mayor
Lee Leffingwell

Mayor Pro Tem
Sheryl Cole

Council Members
Chris Riley
Mike Martinez
Kathie Tovo
Laura Morrison
Bill Spelman

**Office of the
City Auditor**

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CPA, CIA, CISA, CRMA

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Corrie E. Stokes
CIA, CFE, CGAP

AUDIT REPORT

Zero Waste Advisory Commission Audit

December 2012



REPORT SUMMARY

In general, the Zero Waste Advisory Commission (ZWAC) complies with City Code, bylaws, and applicable policies, and City staff provided support. However, we identified one instance where the ZWAC did not follow the City's conflict of interest policies. Additionally, Austin Resource Recovery staff assigned to ZWAC does not always monitor compliance with laws and regulations or review staff outputs.

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GOVERNMENT AUDITING STANDARDS COMPLIANCE

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT TEAM

Rachel Snell, Assistant City Auditor, CIA, CFE, CICA
Gus Rodriguez, Auditor-in-Charge, CIA, CISA, CGAP
Rebecca Takahashi, Auditor, CGAP

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Audit Report Highlights

Why We Did This Audit

This audit was conducted as part of the Office of the City Auditor's Fiscal Year (FY) 2012 Strategic Audit Plan.

The ZWAC was identified for audit by the FY 2011 Boards and Commission Risk Assessment.

What We Recommend

The ZWAC chair should ensure compliance with the City's conflict of interest policy, and the Austin Resource Recovery Director should review and monitor the outputs that support the ZWAC and ensure compliance with relevant laws and regulations.



For more information on this or any of our reports, email oca_auditor@austintexas.gov

ZERO WASTE ADVISORY COMMISSION AUDIT

Mayor and Council,

I am pleased to present this audit on the Zero Waste Advisory Commission (ZWAC).

BACKGROUND

The ZWAC's mission is to review, analyze, and advise City Council on policies and resources relating to solid waste management, as well as provide assistance to Council to ensure that the City provides an economical and environmentally safe system of waste reduction, recovery, and disposal to its citizens. The ZWAC is comprised of seven board members who are appointed by City Council.

OBJECTIVE AND SCOPE

The objective was to evaluate whether:

- The ZWAC is operating in compliance with the City Code, ZWAC Bylaws, and other applicable policies; and
- Staff liaisons are providing support services to the ZWAC on a timely basis and as prescribed by applicable City Code.

The scope included ZWAC's activities from June 2011 through May 2012.

WHAT WE FOUND

In general, the ZWAC complies with the City Code, ZWAC bylaws, and other applicable policies. However, we identified one instance where the ZWAC did not follow the City's conflict of interest policies. Additionally, Austin Resource Recovery staff assigned to ZWAC does not always monitor compliance with laws and regulations or review staff outputs.

We appreciate the cooperation and assistance we received from the ARR, the Office of the City Clerk, and ZWAC board members during this audit.


Kenneth J. Mory, City Auditor

BACKGROUND

The mission of the Zero Waste Advisory Commission (ZWAC), formerly known as the Solid Waste Advisory Commission, is to review and analyze the policies and resources relating to solid waste management in the City and advise Council on solid waste management policies and resources. The ZWAC also provides assistance to Council to ensure its citizens that the City provides an economical and environmentally safe system of waste reduction, recovery, and disposal. The ZWAC is an advisory body consisting of seven members appointed by the City Council. The ZWAC was identified for audit in our Fiscal Year (FY) 2011 Boards and Commission Risk Assessment.

OBJECTIVE, SCOPE, AND METHODOLOGY

The ZWAC Audit was conducted as part of the Office of City Auditor's FY 2012 Strategic Audit Plan, as presented to the Audit and Finance Committee.

Objective

The audit objective was to evaluate whether:

- The ZWAC is operating in compliance with the City Code, ZWAC bylaws, and other applicable policies; and
- Staff liaisons are providing support services to the ZWAC on a timely basis and as prescribed by applicable City Code.

Scope

The audit scope included ZWAC's activities between June 2011 and May 2012.

Methodology

To accomplish our audit objectives, we performed the following steps:

- Reviewed and analyzed documentation for compliance with the City Code, bylaws, and other applicable laws, regulations, and policies.
- Interviewed relevant City staff and ZWAC members.
- Administered and evaluated a survey of ZWAC members and City Council aides to assess ZWAC operations and Council satisfaction.
- Obtained and analyzed data related to the ZWAC and staff support activities.
- Considered risk of fraud, waste, and abuse.
- Considered information technology risks.

AUDIT RESULTS

The City Code and ZWAC bylaws outline the ZWAC's mission and the zero waste policies and goals on which this commission is empowered to advise Council. Within the scope of our audit, we found that in general, the ZWAC performed work within its mission and complied with its bylaws, and City staff provided support. All commissioners completed the Office of the City Clerk's (OCC) required training.

However, we identified one instance where the ZWAC did not follow the City's conflict of interest policies, and we determined that the Austin Resource Recovery (ARR) does not always monitor compliance with laws and regulations or review staff outputs, potentially limiting stakeholder access to certain decisions made by ZWAC subcommittees.

Finding 1: We identified one instance where the Zero Waste Advisory Commission did not follow the City's conflict of interest policy, resulting in a circumvention of quorum requirements.

According to the City Code, board and commission members must disclose conflict of interest at each meeting and note which agenda items pose a conflict. This is required in order to mitigate the risk of members making decisions on issues for which members may receive a personal benefit or financial gain.

According to ARR management, in consultation with the OCC, Commission members were advised of the City's conflict of interest policy, which resulted in three commissioners with business affiliations to the local hauling industry recusing themselves from a vote on the Hauler Ordinance during the May 2012 meeting. Due to a lack of quorum, the vote was postponed. At the June 2012 meeting, the three commissioners reissued their recusals, but due to a lack of quorum, withdrew the recusal in order to meet quorum requirements. The ZWAC determined that a conflict of interest did not exist since the proposed changes benefited citizens and other hauling businesses equally. However, the ZWAC circumvented the recusal process to protect against actual and perceived conflict of interest in order to expedite a recommendation to Council.

Finding 2: The executive liaison does not always monitor for compliance with applicable policies or review staff outputs.

The City Code and the OCC require executive and staff liaisons to manage conflict of interest, monitor ZWAC compliance with City Code and Texas Open meetings requirements, compile agendas, track attendance, take meeting minutes, and provide other required support services. Department staff and executive liaisons are required to complete training provided by the OCC.

For regular meetings held between June 2011 and May 2012, 11 out of 12 (92%) ZWAC meeting minutes were posted in the Boards and Commissions Information System (BCIC). The meeting minutes for the September 2011 ZWAC meeting were not posted as required. Additionally, meeting minutes were not posted for any of the seven scheduled meetings of the Universal Recycling Ordinance (URO) subcommittee. This subcommittee was supported by City staff and subject to the City Code requirement to record and publicly post minutes of this subcommittee. As of November 2012, some of the missing URO minutes were posted in BCIC.

According to ARR staff, they were not aware of the requirement for subcommittee minutes to be publicly posted in BCIC. In addition, we noted that the executive liaison, the Director of ARR, did not complete the required OCC training, and there was no evidence that staff outputs were reviewed for accuracy or that monitoring was performed to ensure compliance with City Code and other relevant laws and regulations. As a result, stakeholders interested in the decision making processes of the URO subcommittee did not always have access to public information, potentially limiting stakeholder access to certain decisions made by ZWAC subcommittees.

According to management, the OCC training was completed in July 2011, but the OCC record indicated only some of the training modules were completed. As of November 2012, the executive liaison completed the training.

RECOMMENDATION

The recommendation listed below is a result of our audit effort and subject to the limitation of our scope of work. We believe that this recommendation provides reasonable approaches to help resolve the issues identified. We also believe that operational management is in a unique position to best understand their operations and may be able to identify more efficient and effective approaches and we encourage them to do so when providing their response to our recommendation. As such, we strongly recommend the following:

- 1. The Zero Waste Advisory Commission Chair should ensure that the Commission complies with the City's conflict of interest policy.**

MANAGEMENT RESPONSE: **Concur.** Refer to Appendix A for management response and action plan.

- 2. The Director of Austin Resource Recovery should review and monitor the outputs that support the ZWAC and ensure compliance with relevant laws and regulations.**

MANAGEMENT RESPONSE: **Concur.** Refer to Appendix A for management response and action plan.

MANAGEMENT RESPONSE – ZERO WASTE ADVISORY COMMISSION

From: Rick Cofer

Subject: Re: draft report of the Zero Waste Advisory Commission Audit

Date: December 11, 2012 1:05:51 PM CST

To: From the Desk of the City Auditor

Dear City Auditor,

Thank you for the opportunity to reply to this thorough and well-considered report. I joined ZWAC (then Solid Waste Advisory Commission) in April of 2007. The Chair of the commission from that point until October 2012 was Gerry Acuna. Mr. Acuna was not re-appointed to ZWAC and I chaired the October 2012 meeting in my capacity as co-chair. I was elected to a full term as chair at the follow meeting in November 2012.

I was out of the country in Europe during the May 2012 meeting and was sick and unable to attend the June 2012 meeting. Therefore I do not have personal or direct knowledge of the events that transpired at those two meetings in terms of conflict of interest issues. I have subsequently reviewed those meetings and sought information from others who participated in them. I strongly concur with the Auditor's findings and believe that the Chair of ZWAC can perform a stronger function in monitoring and enforcing conflict of interest situations.

As the permanent chair of the commission moving forward, I intend on more robustly reviewing for potential conflicts of interest among the membership of the commission and consulting more closely with the staff of ARR, the Clerk and the Auditor to address any potential conflicts before a situation arises.

Already at the November 2012 meeting, ZWAC made preliminary review of new policies and procedures intended to curtail possible situations like this in the future. I expect those recommendations to be adopted fully at the December 2012 meeting.

Thank you for the opportunity to respond to the Auditor's findings.

As ZWAC moves forward with new leadership, we look forward to working closely with stakeholders to ensure Austin stays on the path to a zero waste future.

Attached to this email please find the ZWAC Management Action Plan response.

Sincerely,

Rick Cofer
ZWAC Chair

ACTION PLAN – ZERO WASTE ADVISORY COMMISSION


Zero Waste Advisory Commission Audit

Recommendation	Concurrence and Proposed Strategies for Implementation	Status of Strategies	Proposed Implementation Date
<p>1. The Zero Waste Advisory Commission Chair should ensure that the Commission complies with the City’s conflict of interest policy.</p>	<p>Concur The Chair of the Zero Waste Advisory Commission strongly concurs with the Auditor’s recommendation.</p> <p>The Chair will lead ZWAC members in a review of City of Austin conflict of interest guidelines and rules.</p> <p>The Chair will ensure compliance on a meeting-by-meeting basis by thorough review of the conflict of interest declaration sheet.</p> <p>The Chair will seek further guidance from ARR management, City Auditor and City Clerk as needed regarding individual commissioners and possible conflicts of interest.</p>	<p>The implementation of this program is underway, with ZWAC having already reviewed new policies and procedures at the November meeting. These policies are expected to be adopted at the December meeting.</p>	<p>December 2012</p>

MANAGEMENT RESPONSE – AUSTIN RESOURCE RECOVERY



To: Kenneth J. Mory, City Auditor

From: Bob Gedert, Director 
Austin Resource Recovery Department

Date: December 10, 2012

Subject: Zero Waste Advisory Commission Audit

Austin Resource Recovery has reviewed the audit report issued by your staff regarding the Zero Waste Advisory Commission Audit. ARR Management concurs with the management recommendation provided in the final audit report and has taken immediate actions to resolve the issues identified. As displayed in the attached strategic action plan, three strategic actions were identified in direct response to the audit finding, with two actions completed and one underway.

ARR Management feels that the OCC on-line training does not directly address the issues identified regarding the management responsibility to “monitor ZWAC compliance.” The report indicates that ARR staff and management should take a more proactive role in preventing ZWAC and City rule violations, above and beyond the monitoring of the Commission’s actions. ARR Management agrees and fully supports this new proactive direction, and will work with the City Clerk Office to better identify the roles and responsibilities of the staff liaison and the executive liaison. To be clear, I am pleased with the empowerment granted by this audit finding and will commit to stronger leadership in the administration and proceedings of the Commission meetings.

Austin Resource Recovery staff are committed to continuous improvement in the service we offer to our citizens, and appreciates this opportunity to improve its service to the Zero Waste Advisory Commission.

ACTION PLAN – AUSTIN RESOURCE RECOVERY

Zero Waste Advisory Commission Audit

Recommendation	Concurrence and Proposed Strategies for Implementation	Status of Strategies	Proposed Implementation Date
<p>2. The Director of Austin Resource Recovery should review and monitor the outputs that support the ZWAC and ensure compliance with relevant laws and regulations.</p>	<p>Concur The Director of Austin Resource Recovery Department concurs with the recommendation.</p> <p>All outputs by staff that support ZWAC shall be reviewed by the Director prior to posting.</p> <p>Given the inconsistent advice received regarding the “powers and responsibilities” of the Executive Liaison and Staff Liaison, The Director interprets this report as direction and advice that he has full empowerment to take direct action in situations involving commission and city rules violation.</p>	<p>A) All reports and resolutions are reviewed by the Director prior to each Commission meeting. (implemented)</p> <p>B) ARR Staff has presented new Commission Rules to the ZWAC Commission at its November and December 2012 meetings, with Commission adoption at the December 2012 meeting. (implemented)</p> <p>C) The Director will work with the City Clerk Office to clarify the roles and responsibilities of staff and the Commission members. (underway)</p>	<p>A) Full compliance with all City rules for the Commission has been attained effective at the December 2012 ZWAC meeting.</p> <p>B) New ZWAC Commission rules of conduct and procedure, and are effective at the December 2012 ZWAC meeting.</p> <p>C) Clarification of the roles and responsibilities with be discussed with the City Clerk Office and a written document will be agreed to by March 31, 2013.</p>