

# Agreement renders Mittelstadt powerless

By Kathryn Reed



A distinct hierarchy now exists in the South Lake Tahoe city attorneys office. Patrick Enright is Jacqueline Mittelstadt's boss.

On a 5-0 decision Tuesday, the City Council chose to stop the dismissal process against Mittelstadt and instead demoted her and elevated Enright. His contract will be before the council Nov. 17. Mittelstadt returns to work Thursday.

The original contracts for the two were identical except Enright had assistant in front of his name. They were to act as equals. Not anymore.

The seven-page settlement agreement says, "The City Attorney will prepare proposed written performance evaluations of Mittelstadt, which will be reviewed in person with Mittelstadt, the City Attorney and the Transition Subcommittee prior to being finalized."

She will be evaluated every three months. No other employee has been scrutinized like this before.

The transition team is Mayor Jerry Birdwell and Mayor Pro Tem Kathay Lovell. These are the same two who made up the transition team this summer when it was obvious no one had thought about how much different the city attorneys office would be by doubling the number of attorneys on staff, nor had anyone asked what the newcomers might need.

One might conclude their oversight was ineffective since on Sept. 8 the council on a 3-2 vote decided it had had enough of Mittelstadt. Birdwell and Councilman Bill Crawford wanted to keep her.

What led to the majority of the council – Lovell, Hal Cole and Bruce Grego – to decide less than two months later to keep her is a mystery.

The public won't know if it was cheaper to keep Mittelstadt than incur a lawsuit; the public won't know if losing the Johnny Poland case last week played a role in Tuesday's decision; the public won't know who to believe anymore because the truth is not being disclosed.

### **Public in the dark**

One policy the city does seem to have in place is censorship.

The five elected officials seem to have forgotten who they work for – the 25,000 or so residents of South Lake Tahoe.

They chose to tie their own hands in not being able to disclose the details behind the Mittelstadt ordeal.

“Mittelstadt and the City acknowledge that this is a confidential personnel matter and that neither party will discuss or disclose the terms of the Agreement unless required to do so by law or to operate the City's government. The Parties therefore will not discuss with the public and/or press the terms of this agreement,” the document reads.

The document is public. But how it was reached and the reasons behind the words are still a mystery.

All the bravado of transparency and openness various councilmembers talked about in the weeks leading up to this point seem like a failed campaign promise – how ironic for that rhetoric to be quieted on Election Day.

Because neither the city nor Mittelstadt is talking to the media it's unknown if it will ever be made public why the city has been behaving seemingly so recklessly with taxpayer dollars, staff time and people's lives.

Without the facts, how is the public to know if the council is acting in the public's best interest? Some on the council have said to trust the majority – it knows what it is doing.

History tells us that deferring to elected or self-anointed leaders without question is a fatal, costly error in judgment.

The city government has been working under a veil of secrecy that needs to be lifted.

This agreement is just another layer of muck that clouds the clarity of what is going on at city hall.

### **Now what?**

Mittelstadt's new job duties render her little more than an underling to Enright. She is only supposed to do what she is told by Enright.

"Mittelstadt will not hire staff or outside legal counsel, will not make purchases on behalf of the city or direct other city employees except support staff employees in the City Attorney's office," the agreement says. "Mittelstadt will perform any and all assignments given to her by the City Attorney. Mittelstadt will not speak to the public and/or press regarding matters of City business unless authorized or directed by the City Attorney."

By taking away all of her authority, the council clearly questioned her leadership ability and capability to work well with others.

The agreement goes on to say, "Mittelstadt will participate in counseling and training designed to enhance her communication and interpersonal skills to the extent deemed necessary by the

City.”

Why just her? That’s one of the many questions not being answered. City Manager Dave Jinkens and the former city attorney kept their titles when they were ordered to counseling.

Jinkens’ role in this whole matter is still not completely evident. The council is not reprimanding him for his actions in regards to personnel issues like disseminating information to councilmembers about claims that have been filed.

Part of the agreement is Mittelstadt must drop all claims she has filed against any city staff member.

No one is saying where the claim Finance Director Christine Vuletich filed against both city attorneys is. Some speculate it will just disappear.

No one in the city has ever explained why Enright was not fighting for his job.

When Mittelstadt and Enright arrived, grumbling was heard in city hall about both attorneys wanting upgrades to the work environment – such as privacy and not sharing equipment with other staff when what they work on is confidential information.

Personality conflicts sprung up. Back biting comments seemed to be the norm.

In closed session on Tuesday the council talked about creating a formal grievance policy. It does not have one to date, which is part of the problem that the city found itself in.

Despite the demotion in title for Mittelstadt, it does not come with a reduction in salary. It does mean Mittelstadt won’t have to attend City Council meetings. Her contract expires in May 2011.

Someone might want to update the city's website. Tuesday night  
it still said Mittelstadt is the city attorney.