

Grand jury chastises South Lake's council, city manager

By Kathryn Reed



Dysfunctional is the overwhelming feeling the El Dorado County Grand Jury has of the city of South Lake Tahoe – primarily the council and city manager.

The seven pages devoted to South Lake Tahoe in the 2009-10 Grand Jury Report that came out this week are scathing.

“Council members and senior staff are unwilling or afraid to address and deal with the existing hostile work environment,” the report says.

“Bickering”, “nitpicking”, “back biting”, “bush league” – those are some of the words and phrases in the report.

This civil grand jury made up of 19 county residents issues a report each June based on its investigations during the past year. This particular report touches on the Brown Act, council behavior, Councilman Bruce Grego’s repayment of an outside legal counsel bill, City Manager Dave Jinken’s behavior, how City Attorney Patrick Enright coached staff to talk to the grand jury, and the general climate of the city.

The panel interviewed at least three council members –Kathay Lovell, Bill Crawford and Hal Cole. Councilman Jerry Birdwell said no one from the grand jury contacted him nor did he contact them. Grego did not return calls to *Lake Tahoe News*.

Others interviewed by some of the grand jury members or the full panel include this reporter, appointed city staff (the city manager and city attorney are the only ones who fit that category), city employees, and a trainer of municipal officers and employees. It is not known if other media were questioned.

The document, which is a public record but is not currently on the county's website, rips into how the council works together, or rather, doesn't work together.

Cole concurred with this assessment, adding that he, too, believes personal agendas take precedence over policy. He hopes three candidates come forward for the November election who will change the makeup of the council so it functions better.

(Lovell is running, Crawford isn't, Birdwell is weighing his options.)

Cole was also critical of this reporter who has written about actions from closed session. He said that was wrong. One item reported was the vote on what to do with Officer Johnny Poland. Some council members believed that vote needed to be disclosed based on the Brown Act, others disagreed.

One of the recommendations of the grand jury is for the council to adopt a code of conduct and ethics and receive conflict resolution training.

"I do disagree with their thought that the City Council has not had appropriate ethical trainings," Crawford said. "It's mandated by law we have an ethics session every two years and we have done that. I think the grand jury is correct, if I read between the lines, that there is a question among the City Council about ethical behavior."

The grand jury addressed Grego's reimbursement of nearly \$1,000 to have attorney Dennis Crabb handle a potential conflict of interest issue with the Fair Political Practices

Commission.

The grand jury wrote, "California State Law clearly states that government contracts for payment may not be backdated. All unusual expenditures should be approved in open session."

District Attorney Vern Pierson did not return a call asking him if his office would revisit the issue now that the grand jury has weighed in.

The report further states, "Testimony supports that City officers and employees at times operate using accepted historical practices that conflict with official written policy. This has resulted in misunderstandings, contentious City Council meetings, and a public impression that the City's government operates outside the law. These misconceptions could expose the City to lawsuits."

It accuses Enright of crossing the line when it came to coaching staff about what to tell the grand jury.

Enright said via email, "... I have barely had a chance to review the report and will need to review it carefully next week before responding."

The grand jury essentially said the council abdicated its responsibility at crucial times.

"The City Council, when facing controversial issues or after threat of litigation, routinely drops issues, even if addressing the issue would improve the function of government or service to the public," the report says.

Another issue brought up in the report is all of the couples who work for the city. South Tahoe does not have a nepotism policy. The report shows how staff is afraid to say something about one person for fear of retaliation for being critical of a family member. The report says the city needs to address this issue to create a better work environment.

Jinkens took the brunt of the heat from the grand jury.

“The City Manager, fearing loss of supervisory control of the Finance Director, advised the City Council that the Finance Director would probably file an official complaint against the City Attorney and the City charging them with harassment if the move took place. This statement was viewed by some employees as a threat by the City Manager,” the report says.

One of the confusing things about the report that will make it hard for the public to understand is that just titles are used and not names. With there having been two city attorneys for much of the time of the investigation and different mayors part of the time, it takes knowing a bit of the city’s history to know who is who.

Based on stories written by *Lake Tahoe News*, the above reference is to when Jacqueline Mittelstadt was city attorney. Mittelstadt did not respond to a request to comment on the report.

When the report takes issue with the mayor not putting something on the agenda, it is Lovell they are talking about.

Other references to Jinkens in the report include, “During a contentious June 30, 2009 City Council meeting it was suggested that the City Manager should resign. Testimony received indicated the City Manger later threatened to file a Workers Compensation claim, hire outside counsel and sue the City.”

It further says, “The City Manager used intimidation to retain control over parts of government.”

Jinkens sent an email to the council, Enright and City Clerk Suzie Alessi on Thursday afternoon that he shared with *Lake Tahoe News* the next day. It says, “While I do not agree with all of their conclusions and their understanding of the facts in all cases, I understand their right of the Grand Jury to

examine the operation of local government and report their findings. My hope is that the very unpleasant experiences of the last year that we have endured will be lessons that will help us all to build a more positive and productive future for the people we serve.”

Jenkins, whose last day is Aug. 7, did not want to talk further about the report. He said he and Enright will create a draft response for the City Council in the next two weeks. The council has 90 days to respond to the report.