

Judge: S. Tahoe's Lakeview Commons contract not valid

By Kathryn Reed

Lakeview Commons was dealt another blow Friday when a judge ruled the current contract is invalid.

What this means to the multi-million dollar overhaul of El Dorado Beach and the walkway in the center of South Lake Tahoe remains to be seen. But it's doubtful any work will resume until spring 2011 at the earliest.



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Photo/Kathryn
Reed

"The bottom line is we lost this (building season) to get after this project," City Manager Tony O'Rourke told *Lake Tahoe News* on Sept. 19.

In what has been a muddled contractual process since June between South Lake Tahoe and potential contractors is taking a court to unravel. On Sept. 17 El Dorado County Superior Court Judge Steve Bailey ruled the contract with Reeve Knight and the city is void and invalid.

Bailey scheduled a hearing for Oct. 1 at which time he is likely to rule on whether Clark & Sullivan, the Sparks firm that brought the case to court, should be awarded the bid or if the city should start the bid process all over.

"We are arguing only the City Council can award a bid and the court cannot order the city to award a contract to anyone," City Attorney Patrick Enright said.

Clark & Sullivan challenged the awarding of the \$4.5 million bid after trees had been felled and excavating had begun. Bailey issued an injunction Aug. 30, which brought work to a halt. Reeve Knight's subcontractors shored up loose dirt that week, essentially winterizing the project.

The bid was awarded Aug. 3 on a 4-1 vote by the City Council. Councilman Jerry Birdwell voted no because he did not believe all the bid documents were done properly.

This item was originally on the consent agenda, but was pulled by one of the council members. The consent agenda is for items not requiring debate. Clearly, that wasn't the case for this subject.

Mayor Kathay Lovell has been a cheerleader for the project from the get-go. Now that it is mired in a court battle she is not returning calls.

Former City Manager Dave Jinkens was also a big proponent of the project. That is one reason why the contract was on the agenda at the last meeting he presided over, and why the groundbreaking on the project was the following day. His last day on the job was Aug. 6.

Enright believes if the judge throws the matter back into the council's hands, the current council should decide if Clark & Sullivan is immediately awarded the bid or if the process starts over. If it starts over, it's likely the council seated after the Nov. 2 election would vote on the next contractor.

(Three new councilmembers will be elected.)

But it's also possible no matter what Bailey decides next month that Reeve Knight will appeal the decision, thus dragging out the dilemma even longer.

Reeve Knight has not been paid a dime for the work that has been done. With the contract being deemed illegal by the judge, Enright said California law states the company does not have to get paid. But he also said the contractor could make an "equitable argument that they should get paid."

Enright said the California Tahoe Conservancy grant that is funding the project is the likely source of payment for this and not city coffers even though the work was done without a valid contract in place.

It remains to be seen if any of the contractors will go after the city for legal expenses.