

Judge's Lakeview Commons decision critical of South Tahoe

By Kathryn Reed

South Lake Tahoe officials and the City Council were given a written reprimand by the judge overseeing the Lakeview Commons contract dispute.

El Dorado County Superior Court Judge Steve Bailey issued his written opinion of the case Nov. 1. Though the outcome does not alter the decision rendered in court last month, the 30-page document explains why he sided with plaintiffs Clark & Sullivan.

The construction firm sued to have work at Lakeview Commons stopped under the belief the bid was unfairly awarded to Reeve-Knight Construction.



No one is smiling about Lakeview Commons today like ex-City Manager Dave Jinkens, center, and Councilmembers

Bruce Grego
and Kathay
Lovell were in
August.
Photo/Kathryn
Reed

The court document is a blow-by-blow recount of how city staff practically held Reeve-Knight's hand to get the documents in proper order. That isn't allowed. Despite much of this coming out during two summer City Council meetings, all but Councilman Jerry Birdwell agreed to go forward with awarding RKC the bid.

The judge's decision says, "The city acted arbitrarily and capriciously and abused its discretion by accepting a bid that was non-responsive on its face and that material and substantially deviated from the invitation for bids and bid documents. The city further abused its discretion by allowing RKC to revise its bid after the bids were opened; by assisting RKC in correcting the bid irregularity; by providing an opportunity for RKC to withdraw its bid without penalty; by designating specialty items after bid opening; and, by waiving a material element of the bid and awarding the contract to RKC."

The court points out how allowing the contractor to change its bid violates Public Contract Code.

Now the city is essentially at square one, with the fall building season having been wasted. The original plan was for the foundation of the boathouse to be completed by Oct. 15 and framing to be done this winter. Construction was to be done in July. No date has been given for when Lakeview Commons might be something other than an unusable fenced off area.

RKC will only get paid for the cost of work done, no profit, per state law.

The judge's decision can be appealed within 60 days of being issued.

The city's options per court order are to either award the bid to Clark & Sullivan or start the bid process all over.

"From our perspective there is no urgency to the matter," City Attorney Patrick Enright said when asked if the sitting council will make the decision or if the one sworn in Dec. 14 will pick up the pieces.

The current council meets again Nov. 16 and has a special meeting set for Nov. 30. (The latter is to approve the reconfiguration of Redevelopment Area 2 per the city and county's negotiated deal.) Lakeview could be on one of those agendas.

Enright would not commit to which council is definitively going to handle the Lakeview mess.

With construction not able to resume until May per Tahoe Regional Planning Agency rules of not being able to move dirt in the basin between Oct. 15 and May 1, the bid process could resume after the start of the year on the multi-million dollar project to transform El Dorado Beach from a rundown area to a showcase for the city.

Click on decision to read the judge's response.