

# S. Tahoe City Council violates Brown Act at first meeting

By Kathryn Reed

On the first day on the job, Claire Fortier learned it takes more than desire to get what she wants as an elected official.

During council member comments Dec. 14, she proposed forming a citizens' committee to look into what happened to the stalled Lakeview Commons project.

"I feel like we are not going to be transparent unless we look at what was done," the South Lake Tahoe councilwoman told her peers. She wants to ensure awarding of future bids doesn't wind up in court with the judge overturning the work of the city.



Work on Lakeview Commons was stopped by court order. Photo/Kathryn Reed

Before such a committee is formed, Mayor Hal Cole said he wants the matter to be discussed in closed session.

"I looked at the judge's decision and didn't see malfeasance," Cole said. "Before there is a witch hunt or a group of citizens (is formed) I would like to see it in closed session."

Councilman Tom Davis believes the report provided by City Attorney Patrick Enright before taking office was sufficient.

"I know what happened and I'm satisfied," Davis said on his first day back on the council after a six-year hiatus.

The odd thing about this exchange is the council is not supposed to discuss items not on the agenda. A simple show of hands is how things get on a future agenda. This was a clear violation of the Brown Act – the California open meeting law.

If council members are going to discuss things, then the public has a right to comment. The public was not allowed to comment Dec. 14 on Lakeview Commons. A change in the agenda must be done 24 hours before the meeting.

Their exchange was deliberation – which is completely illegal.

At no time did Enright try to put a stop to the discussion. He would be the one to do so. He is also one of the city employees who the judge was highly critical of and might have much to lose if the matter were looked into by an independent party.

According to the First Amendment Coalition's website, "Either a citizen or the district attorney may sue to compel the local agency to comply with the Brown Act; obtain a ruling that a particular practice of the local agency violates the Brown Act; or obtain a ruling that the local agency is violating the free speech rights of one or more of its members in seeking to silence that member. Gov't Code section 54960(a)."

Fortier said she is willing to hear what is said Jan. 11 when Lakeview Commons is slated to be on the agenda in closed and

open session before pressing harder on her request. Closed session will be at 8am, with regular session commencing at 9am – both at Lake Tahoe Airport.

At this meeting the council will likely vote on whether to start the bid process over or award it to Clark & Sullivan, the firm that prevailed in court.

Fortier's concern is with accountability.

No one in the city has publicly been reprimanded for what the judge ruled as a severe mishandling of the bid process on the \$6 million project near El Dorado Beach.