Opinion: Raiding S. Tahoe's general fund was criminal

Publisher's note: ***This letter was sent by the author to South Lake Tahoe's city attorney and is reprinted with permission.***

To South Lake Tahoe City Attorney Patrick Enright,

As our city attorney, it is my duty to inform you that it appears serious crimes have taken place and no effort has been made to solve these crimes, or even acknowledge they took place.

Steve Kubby

Here are the relevant facts:

1. Sometime around 2002 someone stole $7,007,000 from the general fund, without the knowledge or consent of the City Council.

2. Those funds were deposited to the Redevelopment Agency, again without the knowledge or consent of the City Council.

3. The purpose of this theft was to cover the financial failures of the RDA and the Park Avenue development.

4. The public was kept in the dark about this serious matter, while the City Council conspired to cover up the theft with a fraudulent "loan" agreement to pay back the stolen funds with TOT revenue, which was already due to the city anyway.

5. Not one penny of the $7,007,000 stolen funds has actually been repaid.

6. No investigation or effort has been expended to find out how this theft occurred, to report this crime to the authorities, or to disclose this crime to the people of South Lake Tahoe.

7. Redevelopment has been deliberately and criminally misrepresented to the public and those responsible for this economic debacle continue to hold decision making positions on the City Council and the RDA.

8. The recommendations of the El Dorado County Grand Jury have been virtually ignored.

9. There is a pattern and practice of stealing funds from road repairs and maintenance, in order to prop up the RDA, that has resulted in an unfunded liability of somewhere between 150 to 250 million dollars, just to get our roads back up to par.

10. An honest accounting of the city will show that it is hundreds of millions of dollars in debt. Currently, the city does not calculate huge, escalating, unfunded liabilities which include: road maintenance and repairs, retirements, health benefits, and unresolved litigation over past RDA mistakes.

11. The official policy of the city is to praise redevelopment and ignore past failures and criminal efforts to cover up those failures. The city attorney and city manager can no longer ignore the theft of $7,007,000 from the General Fund, nor can anyone continue to argue that the loan agreement of March 16, 2004 is legal or anything other than a fraudulent attempt to cover up a crime by agreeing to pay back a loan with money that was already due to the general fund.

12. The city of South Lake Tahoe could face astronomical lawsuits for its past redevelopment sins, because its claim of

blight, can be shown to be bogus. That is exactly what is happening now in the case of National City, a suburb of San Diego, where the City Council wanted to seize their property under eminent domain to facilitate construction of a 24-story condominium building. To make the seizure legal, the city declared the property to be blighted and needing to be cleared for new construction.

As reported by Dan Walters for the Sacramento Bee, “taking property in that way was given broad clearance by the U.S. Supreme Court in its now-famous – or infamous – Kelo decision having to do with a similar case in Connecticut. But to exercise that power, National City still had to meet the state’s requirement that it prove blight.”

One property owner, the Community Youth Athletic Center, resisted and challenged the city’s blight designation. The center, which gives boxing lessons to underprivileged youth, received support from groups opposed to the broad exercise of eminent domain. And San Diego Superior Court Judge Steven Denton sided with the gymnasium as well.

Last month, Denton issued a 50-page ruling that found National City’s claim of blight to be bogus. “Because most or all of the conditions cited as showing dilapidation or deterioration are minor maintenance issues, the court cannot determine with reasonable certainty the existence or extent of buildings rendered unsafe to dilapidation or deterioration,” he wrote.

Dana Berliner, a lawyer for the Virginia-based Institute for Justice, an anti-eminent domain organization that backed the Community Youth Athletic Center, put it this way: “Their blight designation was a total sham.”

Denton’s decision, if it survives, is important because it indirectly upholds state redevelopment reform laws that have tightened up the definition of “blight” and compelled local redevelopment agencies to prove its existence to continue

their activities.

Redevelopment agencies have chafed at those reforms, fearing that they won't be able to comply as they seek to renew redevelopment projects facing expiration. And that's become an issue in the legislative wrangle over Brown's proposal.

The governor wants the property tax money that redevelopment agencies skim off the top of the local tax pool. The redevelopment industry has offered, in effect, to give the state some money if the state will ease the blight requirements on project extensions. But Brown's not biting, at least so far.

The National City decision offers a cogent example of why redevelopment should either be abolished, as Brown proposes, or redirected toward cleaning up real blight, not the imaginary kind.

The City Council has forced nearly 50 businesses to close, based upon questionable claims of blight. If those claims can be successfully challenged in court, the city, our businesses, our homeowners and our residents will all find ourselves in a world of hurt and economic ruin. Perpetuating this cover up of the theft of $7,007,000 will only make our day of reckoning more painful. This is a serious matter that demands serious attention.

I will look forward to your response and plan for addressing the theft and the coverup.

Here are the relevant, smoking gun, document.

Respectfully submitted,

Steve Kubby, South Lake Tahoe