

# Bear box battle forces S. Tahoe to bid project for 3rd time

By Kathryn Reed

To avoid another lawsuit when it comes to bids and contracts (like Lakeview Commons), the South Lake Tahoe City Council voted for the safe bet – to start the process all over. When the bids go out again for bear boxes to be installed on public property it will actually be the third time.

This is because the first time the bid documents were released they included a photo of a trademarked bear box. That's a big no-no. Not only that, but it was a box from a company planning to submit a bid.



Bear boxes may be installed in public areas throughout South Lake Tahoe.

Photo/NPS

Then bids went out again, with nine entities responding to that request. One of the respondents commented on the type of material needed for durability reasons, citing the low bid not

being the right standard.

Gary O'Neill, purchaser for the city, told the council on March 20 that he only contacted the low bidder to see if they would upgrade the material to galvanized steel.

"The additional cost did not affect the lowest bidder," O'Neill said at Tuesday's meeting.

The four councilmembers – Mayor Claire Fortier was absent – were not comfortable with bid requirements changing midstream before a contract was awarded and without all applicants weighing in on the change to know how, if at all, it would affect their bids.

"It troubles me how the timing of this happened," Councilwoman Angela Swanson said. "It's an irregularity in the bidding process that I'm uncomfortable with."

What is being bid on is providing the city with 200-plus bear boxes that will be installed throughout town on public property. This was originally supposed to happen a few years ago when the Department of Resources Recycling and Recovery named South Lake Tahoe one of four cities in California to share a \$1.5 million grant. The news came in October 2008 and nearly five months to the day later the money was frozen.

In May 2010, the city got word it could go forward with spending the \$394,000 grant. It wasn't ready to do so and asked for an extension. Now the deadline to spend the money is May 2012.

A primary reason the matter was pulled from the consent agenda is because on March 16 protests were filed by Tahoe Bear Box Co. and BearSaver – two bidders. They believe Carson Valley Welding, the low bidder and whom staff recommended the city contract with, is infringing on their trademark and don't have containers that are bear resistant.

Randy Stanaway of Tahoe Bear Box said, "It was unclear if you wanted the cheapest box or the best value." He said if criteria were strictly the lowest bidder, he would have put in a different bid.

It's customary for public projects to award the bid to the lowest reasonable bid. However, the bid documents didn't mention lowest bidder, just best value.

When questioned by the council, O'Neill said the only criterion staff used was price.

Stanaway admitted to the council he is affiliated with BearSaver as well, saying it's one product, but two distributors. He said two bids are turned in to meet the needs of entities like the U.S. Forest Service that require a minimum of two bids.

Stanaway made accusations that Carson Valley Welding's boxes would not last long.

Don Heldoorn, owner of Carson Valley Welding, took great issue with this statement. He assured the council the hinges and locks on his boxes – what he says get used the most – have a lifetime warranty, the actual boxes have a 10-year warranty, and all come with anti-graffiti powder.

Robert Huckaby, attorney for Carson Valley Welding, also spoke at the meeting. He said there is no trademark issue and that his client would indemnify the city against any trademark claims.

City Manager Tony O'Rourke after the meeting told *Lake Tahoe News* there is no official can in the industry as some claim. He said when he worked in Beaver Creek a bear box was designed specifically for that community.

Now the process begins all over, with the idea the money will still be available for the boxes to be distributed at city

owned beaches, public buildings like the recreation complex, ball fields and perhaps bus stops.

The remainder of the grant is earmarked for a Chevy Silverado hybrid pickup to replace the current pickup that gets 4 miles to the gallon.

**In other action:**

- The council heard a presentation from trails planner Garrett Villanueva of the U.S. Forest Service about the proposed bike park at Bijou Community Park. No action was taken.
- The land swap with the California Tahoe Conservancy was unanimously approved.
- An agreement with R0 Anderson Engineering for design, permitting and financial consulting service for the Harrison Avenue project was approved. This includes working on turning the newly acquired property at Modesto and Harrison avenues into a parking lot and possibly expanding the city lot closer to El Dorado Beach. The Planning Commission will review more detailed Harrison Avenue plans on April 12, with the council having the topic on its April 17 agenda.
- It was agreed to proceed with a feasibility study to look at how South Lake Tahoe and Lake Valley fire departments could share or consolidate resources. Councilmembers Tom Davis and Angela Swanson were appointed to that committee because they are the reps on the ambulance JPA that involves the same two agencies.
- Steve Knoll was appointed to the Parks and Recreation Commission.

