

City attorney hampers efforts to have South Lake Tahoe voters decide pot initiative

Updated Dec. 4, 4:15pm: City Attorney Tom Watson has given the title and summary to Steve Kubby.

By Kathryn Reed

While hundreds of hours, including multiple public meetings, were spent devising South Lake Tahoe's medical marijuana ordinance, there is an effort under way to tweak the law that is on the books.

Steve Kubby, a local medical marijuana advocate, wants the voters in the city to have the opportunity to revise the ordinance. This is the second time he has started the ballot process. The first time was aborted in early 2012 when he planned to move to Canada. Those plans changed and he has resumed his quest to alter the language of the law.

But it has hit a few roadblocks on the way to the June ballot. City Attorney Tom Watson last week said he would not write the title and summary for the initiative, which is required before signatures can be sought.

A flurry of emails was exchanged during the weekend and through Monday between Kubby, Watson, City Manager Nancy Kerry and Mayor Tom Davis. Kubby told *Lake Tahoe News* he received a call from a city official Dec. 3 saying in all likelihood Watson would issue the title and summary some time today. This would still allow time for the question to be posed to voters in June.

If this happens, it will be the second time this week Watson has done a 180 regarding title and summaries. Late last month

he said "no" to writing the documents for the group wanting a paid parking question on the ballot. At the time he told *Lake Tahoe News* he could not be an advocate for that group. However, on Dec. 3 he summoned Tahoe4Tahoe members to his office.

"The topic of discussion was refining the petition request to be resubmitted for the title and summary that the city attorney is required by law to provide the petitioners. The meeting was productive and the committee remains focused on getting this issue in front of the voters for the June ballot," Peggy Bourland of Tahoe4Tahoe told *Lake Tahoe News*.

Watson did not return a call to *LTN*. *Lake Tahoe News* sent Watson a series of questions on Dec. 1 to which he has not responded. These are the questions:

- Can you tell me if you have had to deal with Title and Summary issues before you came to South Lake Tahoe? If so, did you ever write one? If yes, what was different about those compared to the two that just came before you?
- If you have not dealt with Title and Summary issues before, was your decision for the two recent decisions made on your own or did you consult others? If you consulted others, who did you consult?
- What would the two SLT petitioners need to do to get you to write a Title and Summary? What is stopping you from helping them get the verbiage correct for you to write the Title and Summary?
- On the marijuana issue, how can one city attorney say yes one year and another say no to almost the identical wording nearly two years later?

The law states that the city attorney "shall" write the title and summary. In other words, he must. If passed by the voters, it can always be challenged in court if someone believes it

violates the law.

“We are presenting an alternative to the current policy which we believe is illegal and unconstitutional and overly oppressive for patients,” Kubby said of his initiative.

His initiative would allow the market to determine the number of dispensaries and delivery services that could operate in the city, reduce fines, not mandate people disclose they are growing marijuana, increase rules regarding odor and limit local law enforcement working with federal agents.

The last item could be where a legal challenge would arise.

The exact wording is, “Elected, appointed, hired employees, officers, and officials of the city of South Lake Tahoe shall not directly or indirectly cooperate with or assist federal, state, or county officers or officials, volunteers, or employees who eradicate marijuana, act for seizure or forfeiture, or demand entry without a warrant or to defeat any liberally construed purpose of this act, nor may any state or local agency contract to eradicate marijuana that is being grown, manufactured or stored under the provisions of this act. Knock and talk shall be the first act taken by the above officers/employees. Violation of this clause shall be a misdemeanor, punishable by fine and up to one year in prison.”

While Kubby worked on the ordinance that is on the books along with the three operators of the collectives that were open at the time and the former city attorney and manager, he was under the impression certain items would be removed. They weren't.

Kubby said he believes the current ordinance has negative health and safety consequences for people who use and grow marijuana for medicinal purposes.

Here is a copy of the revised ordinance Kubby is proposing.