

South Tahoe paid parking on divergent paths

By Kathryn Reed

In the same week South Lake Tahoe's anti-paid parking advocates secured enough signatures to forward their petition to the El Dorado County Elections Department, members were given documents from a 2011 Southern California case that prohibits the initiative process from getting rid of parking meters in any city.

Bruce Grego, who has been retained to work as the attorney for Tahoe4Tahoe for free, had yet to review the documents when contacted by *Lake Tahoe News*. But he told *LTN* that in some ways it does not matter what they contain. "The bottom line is the government should do what the people want and they don't want this particular tax."

Tahoe4Tahoe collected 1,422 signatures from residents who said they want paid parking to be decided by the voters of South Lake Tahoe. City Clerk Suzie Alessi counted the signatures Jan. 15 and was to take them to Placerville that day. The county must now certify they are valid signatures of registered voters. Then it comes back to the city.



A pilot parking meter program started in 2011 on

Bellamy Court. Photo/LTN
file

“(The council) can enact the initiative without it going to the people, they could put it on the ballot, or they could have staff review the financial and legal impacts of what the initiative says,” City Attorney Tom Watson said. If the latter position were taken, the city staff has 30 days to do so and then present their findings to the council.

The legal work can be done in house, but it’s undetermined if the fiscal impact would have to be hired out.

Peggy Bourland, spokeswoman for Tahoe4Tahoe, deferred comment on the legal documents to Grego.

It was the City Attorney’s Office that provided the documents to the anti-paid parking group.

“It was simply legal research that my office performed anticipating the initiative may be moving forward,” Watson told *Lake Tahoe News*.

The case out of Ventura parallels what is going on in South Lake Tahoe. Residents didn’t want parking meters and drew up an initiative to ban them, and had the paperwork all set for the ballot.

Ventura went to court seeking its removal from the ballot and won.

Parking meter jurisdiction has been covered by the state Vehicle Code and upheld by the courts since the 1960s – including the California Court of Appeal.

The court said, “... since the subject of traffic regulation on the public streets and highways of the state is a matter of statewide concern, it is not a ‘municipal affair’ unless the state shall completely abandon all or some part of that field.

Under the constitutional and statutory provision here applicable, the initiative can come into play only through its use by all the people of the state, and not by some local segment thereof.”

Courts have ruled that parking programs are an administrative function of a city that does not require voters to have a say.

Grego, though, said, “This paid parking, is it really about traffic regulations or tax revenue? I think that is an important issue.”

Court docs repeatedly say all paid parking comes under the Vehicle Code, so it is a state rule, not a city regulation.

The way the local group – and others – could have legally tried to stop the process is through the referendum process. But the deadline to do so has long since passed. There is a 30-day window after ordinances are passed before they become law so challengers may file a referendum. They could have also asked to repeal the ordinance.

The last clause of Vehicle Code 22508 reads, “Any ordinance adopted pursuant to this section establishing a parking meter zone or fixing rates of fees for such a zone shall be subject to local referendum processes in the same manner as if such ordinance dealt with a matter of purely local concern.”

Paid parking has been discussed as a revenue generator for South Lake Tahoe since 2010. It wasn’t until after the council had adopted previous budgets that included parking revenue that the public became super engaged and enraged.

The first parking meters were installed in summer 2011 – 20 spaces on Bellamy Court near the state line. Last summer parking kiosks were put in on Venice Drive, near Lakeview Commons and by Lakeside Beach.

The council has not changed its mind – to date – about paid

parking. Councilman Tom Davis has always been against it and the others for it. The five will discuss the matter again on Feb. 18. A scenario being floated is to abandon the program on Sept. 30 – the end of the fiscal year. This would not impact the current budget. However, \$144,000 is projected to be needed to dismantle the program. That money would come from the 2014-15 budget.

Watson said, “The city obviously would like to listen to the community and I think the council has been doing that. On Feb. 18 we are going to bring back a comprehensive review of the program and make appropriate adjustments that folks here think or feel are necessary or appropriate.”

Grego said, “I hope this gets resolved in a more amicable fashion. We don’t need confrontation.”

Grego said when he was on the council he voted in November 2012 against paid parking. He was voted off the council that month and therefore did not have an opportunity to vote at the second reading. (He is planning to run for council again in November.)