

SLT allocates \$100,000 to fight Conner in court

By Kathryn Reed

South Lake Tahoe is committing \$100,000 of taxpayer money to fight the lawsuit filed by Councilwoman JoAnn Conner. Conner is asking the court and her attorney for a payment plan because of her income level.

The City Council and City Manager Nancy Kerry – the five defendants – met in a special closed session on Dec. 21 to discuss how to proceed. The two reportable actions include the money coming out of the general fund to pay for the outside counsel and that up to \$10,000 of that dollar figure will go to Kerry's own attorney. Both votes were 4-0.

"There won't be duplicative work. Mine will be working in consult in cooperation with them," Kerry told *Lake Tahoe News* of her attorney Stacy Sheston of Best, Best and Krieger out of Sacramento.

Conner named Kerry separately in the filings.

It is normal for the individual parties in a lawsuit to have separate counsel who work together.

Conner is seeking to have the **censure** by the council overturned, as well the ban on her **talking to staff** be ruled invalid.

The city has insurance to handle most lawsuits. It doesn't apply in this instance.

"Insurance does not defend in cases such as this, where there are no damages – financial – and the plaintiff is a member of the governing body. We did submit the cases, as we are required to do, but were advised there was no coverage

available,” City Attorney Tom Watson told *Lake Tahoe News*.

That is why the council had to adjust the budget to take \$100,000 out of the general fund. What services might be hurt from that expenditure remain to be seen. There is also no guarantee the litigation won't cost more than the allotted \$100,000.

Per city policy Conner's attorney has the right to be reimbursed for the costs associated with the actual censure hearing. Attorney Jacqueline Mittelstadt, who is the former city attorney for South Lake Tahoe, submitted a bill for \$4,802.01. She charged \$400 per hour.

In contrast, the firm the city hired – Kronick, Moskovitz, Tiedemann & Girard – at most is charging \$300 per hour.

On Friday, Conner was at the El Dorado County Courthouse in South Lake Tahoe asking to be allowed to pay court fees on a payment plan. She is also on a payment plan with Mittelstadt. Mittelstadt would not say what hourly rate she is charging Conner, only that she is paying “my normal hourly rate.”

“She is not receiving free legal advice. She is obligated to pay me for all of my service,” Mittelstadt told *Lake Tahoe News*. “Having a payment plan is very different than not having to pay for services provided.”

If Conner were to be charged a different rate than what Mittelstadt has charged the city, it could be construed as a gift, according to the Fair Political Practices Commission. The FPPC oversees campaign donations for candidates and gifts for politicians.

“Generally, a discount or rebate not made in the regular course of business is a gift,” Jay Wierenga with the FPPC told *Lake Tahoe News*.

The gift limit is \$460 from a single source in a calendar

year.

FPPC documents say, "A gift is any payment or other benefit provided to you that confers a personal benefit for which you do not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public."

Mittelstadt told *Lake Tahoe News* if she prevails, she would ask the court to have the city pay her legal fees.

Kerry said the city is not allowed to ask for its fees to be reimbursed. The City Attorney's Office bills at \$200 per hour.

Mittelstadt believes the two sides could work things out without the court being involved. Limited talks occurred before the lawsuit was filed. However, Conner doesn't believe she has done anything wrong and the city believes it has taken the appropriate actions.

"There is nothing planned to meet outside of the legal process right now," Mayor Wendy David told *Lake Tahoe News*.

The next court date is Jan. 4.