

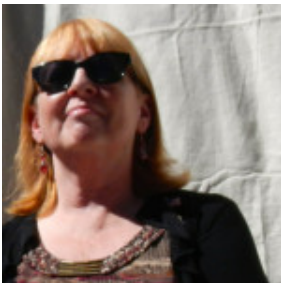
Conner seeks to have judge dismissed

By Kathryn Reed

Because JoAnn Conner believes the judge in her case against the city of South Lake Tahoe has already made up his mind, her attorney is trying to get the matter heard before another judge.

This means the hearing scheduled for today isn't going to happen.

Conner, who is a first-term city council member, at the end of last year took legal action against the city and City Manager Nancy Kerry in regards to being **censured** by her colleagues and being **banned from talking to staff**.



JoAnn Conner

“The law requires a judge not be biased and not to have predetermined the outcome of the case. If evidence arises where it appears to an ordinary person on the street that the judge has made a predetermination on an issue of the case or outcome of the case, it is essentially automatic disqualification because the litigants are entitled to a fair and unbiased judge,” Jacqueline Mittelstadt told *Lake Tahoe News*.

Mittelstadt, who used to be city's attorney, is representing

Conner.

At the **Dec. 15 hearing**, El Dorado County Superior Court Judge Steve Bailey said he would not deal with the censure issue because it is a political matter and not something for the court to decide. That is where Mittelstadt and Conner believe there is bias, and why they've asked Bailey to be replaced.

If Bailey is replaced, the matter will likely be heard on the West Slope.

If Conner were to prevail, she would likely have censure overturned – though the council could redo it. A censure is a hand slap with zero consequences when it comes to being able to do her job. She would also be given access back to the city offices as well as be able to directly communicate with staff via phone, email and in person.

Today, she can still have questions answered, but they must go through the city manager and/or city attorney.

The council has a card key to access the offices at the airport. However, it has been inconsistent through the years when it comes to which councils have had the access. It is up to the council to decide if they have the card keys.

Councilman Hal Cole on Dec. 30 turned his card in.

"If we need to see someone, we can make an appointment," Cole told *Lake Tahoe News*.

Mayor Wendy David said, "I usually don't need to even use it."

Council members have a mailbox behind the locked doors. There is talk of moving those into a public area, though the boxes would be locked. This would alleviate the need to bother city employees to get the mail.

Multiple emails were sent to City Clerk Suzie Alessi asking about the history of the card keys and why councilmembers have

access. She didn't respond to the inquiries.

Mittelstadt maintains she and Conner are willing to work with the city to resolve the matter outside of the courtroom.

"After the litigation was filed, the Thursday before the City Council's closed session, [City Attorney] Tom Watson called me. During that conversation, we discussed possible resolution with my providing a variety of suggested approaches. He said he would get back to me. He never did," Mittelstadt said in an email. "After the first hearing on the matter, in light of the judge's direction telling us that we should resolve the matter, I approached their outside counsel and referred to what the judge said. I indicated that we would be happy to discuss options to try to resolve the situation, and had tried to do so prior to his involvement. He said he was new to the matter but would consider it and get back to me. I have not heard from him either. Until the city is willing to come to the table and discuss resolution, we have no choice but to proceed with the litigation."

Watson told *Lake Tahoe News* it was not accurate that no one from the city has responded to Mittelstadt. But he would not elaborate because he said it would be inappropriate to do so because he works for all five electeds.

"I have heard nothing from Jacqueline and as I said before we are proceeding within the court process of the suit," David told *Lake Tahoe News*.