

Opinion: Transparency like a lead wall in EDC

By Larry Weitzman

If the new El Dorado County “Good Governance” manual were an airliner, it would have already crashed and burned. A total disaster, at least when it comes to conducting county business with transparency. All windows have been shuttered as if to protect from a coming catastrophic storm. It appears that such a storm is brewing.

Here’s the deal. Over a month ago, pursuant to a Public Records Act request, I asked for all outside legal costs and billing with respect to the Austin v/ El Dorado County, et al. litigation. As of the date of this writing I have received no information as to billing or payments since the June 2017 bills from the law firm Abbott and Kindermann, who is defending EDC. At that time the total billing amounted to about \$189,000.



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Since that date I have received nothing further. So, what seems to be the problem? Why hasn’t the county come forward with this expense? Who in the county would have the billing since June and why is it being kept secret?

An examination of the of the Abbott contract with EDC shows that the EDC contract administrator is the county counsel. He

is the county official who deals with the outside lawyers. He should be receiving the billing and dealing with all questions regarding the contract and the services rendered thereunder. Oversight of the county counsel is the responsibility of the Board of Supervisors.

The contract provides in paragraph 4, "Billing" that "The law firm shall submit to county itemized statements of services rendered and costs monthly." The purpose being that EDC and the Board of Supervisors can keep track of the cost of this litigation so it can be properly managed.

In the process of writing this column and after much prodding, I finally received sanitized answers, but not complete answers. Instead of being given redacted bills, I received an email with some numbers stating the amounts due for the months in question, new billing for each month and one note of a payment being credited. The actual bills, redacted or otherwise are still being withheld. So much for transparency and open government.

In adding up the amounts paid through June 2017 and the new billing, it appears my estimate of \$300,000 was accurate with the actual amount totaling about \$286,000 from the unverified information received and that amount was for the filing of one demurrer and one court appearance. Imagine the cost of a trial. One could easily speculate a cost for the trial in the millions of dollars.

As far back as February 2015, three years ago, when I spoke to the Board of Supervisors and directly at my Fourth District supervisor, Mike Ranalli, I advised the board of this impending time bomb of the county's failure to comply with the law regarding the Mitigation Fee Act. I continued to advise the Board of Supervisors in speaking directly to them and in my columns, many of which were filed into the public record and more specifically to my supervisor, Ranalli, especially after the Walker appellate court decision of August 2015 that

said that a failure to file the continuing five year Nexus studies as required under the MFA mandates the county to refund all unexpended funds in the MFA accounts (money collected from home builders, whether individuals or companies for TIM fees, park fees, etc.). At that time of the Walker decision unexpended funds in MFA accounts amounted to over \$30 million which as mandated by the MFA and by the Walker court decision requires the county to refund to the property owners of record upon which properties those fees were collected from. It was cut and dry, no ifs, ands or buts.

County counsel of course told the board what they wanted to hear, that I am wrong and I don't know what I am talking about. Ranalli listened to what he wanted to hear, he didn't do his own research, for if he did he would have found out the county counsel was wrong. In the county's demurrer to strike the Austin complaint which cost the aforementioned \$286,000, the court said there was no statute of limitation defense and the county has already admitted in several official documents that they were in violation of the MFA's requirement to file Nexus studies which would then mandate the refund to the property owners of record all unexpended MFA fees collected by the county which at the time of filing the lawsuit totaled about \$33 million and that doesn't include later money collected or illegally expended. As the court said, every time the county collected money without the filing of a timely Nexus studied, it effectively restarted the SOL.

On Jan. 30, 2018, Item 18 was an agenda item for the re-appointment of county counsel. The same county counsel who said the county would prevail in the Austin matter. He's been wrong about that. The same CC who said the Walker case didn't apply to EDC. He was wrong about that. The same CC who told the board not to worry about the MFA or the problems stemming therefrom. He's been wrong about that. The same CC who said he would get the \$6 million in the Missouri Flat Master Circulation and Financing Plan fund for road maintenance and

upon which the board increased the budget for road maintenance by \$2 million. It didn't happen. The same CC who didn't follow the law in the annexation of Latrobe Fire by EDH Fire. And I am sure I am just scratching the surface.

But that didn't stop Ranalli from waxing poetic about the fine qualities of CC during board discussion which was effectively no discussion of his legal abilities and counsel. You can be sure Ranalli had no idea of the legal defense costs regarding the Austin case and perhaps that was by design of the CC. Ranalli voted not only yes to CC's reappointment but also gave him a raise to an annual base salary of \$200,000 plus benefits which adds another 25 to 30 percent to county costs. The county would be better off without this CC than with him. But Ranalli voted yes to the CC's reappointment plus the raise. Ranalli loves to spend other people's money. But you will have a vote with respect to Ranalli continuing his job as supervisor in four months. Supervisors should not take their jobs so lightly.

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