

Shining light on SLT's contract with law firm

By Kathryn Reed

It is normal for government bodies to have an attorney with their best interests in mind review all contracts.

That doesn't appear to have happened last fall when the South Lake Tahoe City Council entered into an agreement for Burke, Williams & Sorensen to provide city attorney services on an interim basis.

Mayor Wendy David told *Lake Tahoe News*, "I'm not aware of an outside attorney reviewing the contract."

So, this means there was no independent review of the contract.

It was signed by outgoing City Attorney Tom Watson, who was leaving because he was tired of the city. No one thought to question if he would have the city's best interests at heart at that juncture and whether it was appropriate for him to handle the contract for his successor.

The contract was also signed by then Mayor Austin Sass and Eric Vail of the law firm.

That contract states, "Burke will not employ or otherwise incur an obligation to pay other counsel, specialists or experts for services in connection with this agreement without prior written approval of the city attorney."

In other words, the law firm has carte blanche to hire whomever it wants for presumably whatever reason and the city has no say because the firm is the city attorney.

That open ended allowance is how Nira Doherty, who is the law

firm's designee to be South Lake Tahoe's interim city attorney, was able to approve the contract with Municipal Resource Group. Mary Egan, who heads MRG, is the one who came in last fall at the urging of Sass to assess the culture of the city.

Even so, with the council taking action in closed session to approve the agreement it needed to be reported in open session. It never has been. All that the city has provided to *Lake Tahoe News* is the agreement MRG sent to the city, not the actual contract.

While city officials have told *LTN* at some point the contract is going to come back to correct that Brown Act violation, this could be a violation of the California Constitution in regards to approving a contract retroactively.

Doherty allowed the council to violate the Brown Act by not insisting the MRG contract be reported in open session. Brown Act violations are misdemeanors; every council member could be charged.

The MRG agreement called for Sass to arrange meeting space at the Marriott for Egan to conduct her interviews with council and department heads.

Lake Tahoe News has asked for detailed bills regarding the law firm, but to date has only received totals. The contract with the firm says, "As a condition precedent to any payment to Burke under this agreement, Burke shall submit monthly to the city separate statements of account which clearly sets forth by dates the designated items of work for which the billings are submitted." So, clearly, those details exist.

There is also a question as to what role Doherty really has. In October, she filled out the state Form 700 disclosing economic interests. Under office/agency/court she listed city of South Lake Tahoe, with her position being city attorney.

This makes it appear she is an officer of the city.

The contract with the law firm further states, "No member of the governing body of the city, and no other officer, employee or agent of the city who exercises any functions or responsibilities in connection with the carrying out of any project, to which this agreement pertains, shall have any personal interest, direct or indirect, in this agreement."

That would mean Doherty would have a conflict with said agreement because she does have a personal and direct interest.

California Government Code 1090 says, "Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by anybody or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity."

If she is an officer of the city as written on Form 700, it appears she violated the Government Code by devising a contract with the city in which she benefits. This is a felony.

Doherty is on vacation. At this week's council meeting she said she would be unavailable for comment during this time.

Doherty has asked for her law firm's contract to be on the March 20 council agenda.