

SLT city attorney bill far exceeds contract limit

By Kathryn Reed

South Lake Tahoe is in uncharted territory with having a firm doing its legal work instead of having an in-house attorney, as had been the protocol for 50-plus years until last fall.

When Tom Watson submitted his resignation in August which became effective in September, the city also employed a deputy city attorney and a legal secretary. The city still has a legal secretary.



Nira Doherty

Burke, Williams & Sorensen LLP out of Oakland was brought on board to take the place of Watson and his deputy.

This firm had been used as outside counsel, so the city was familiar with their work. Plus, Nira Doherty, the attorney assigned to South Lake Tahoe, had been the deputy city attorney before becoming a partner with the private law firm. She had also worked as outside counsel for the city, so her familiarity with local issues was a bonus.

Outside counsel is usually brought in for specific cases much like in the medical profession when a specialist is needed because the general practitioner's knowledge has been exhausted.

The firm's contract calls for 80 hours of legal work a month at a rate of \$19,500/month or \$234,000/annually. They actually bill in six-minute increments.

However, the actual monthly bills from the law firm are:

- October – general municipal services – \$40,046.24
- October – retiree association lawsuit – \$16,726.12
- November – general municipal services – \$34,097.44
- November – retiree association lawsuit – \$6,037.38
- December – general municipal services – \$21,961.44
- December – retiree association lawsuit – \$4,762.84.

That's a total of \$123,631.46 for three months. Without the retiree lawsuit fees, the total is \$96,105.12. Either way, the monthly bill exceeds what the contract calls for. Multiply that last quarter by four and the annual bill will actually be \$384,420.48.

Watson was making more than \$160,000 a year. His hours per week, month, year were unlimited. Even if one tacks on 25 percent for benefits, that total is just more than \$200,000 a year. An in-house attorney is essentially available 24/7, with no overtime.

Lake Tahoe News through a public records request asked about the details of the bills from Burke, Williams & Sorensen. City Clerk Suzie Alessi responded that that information was protected by client-attorney confidentiality.

Lake Tahoe News then requested all phone records and all emails every city employee and every council member has had with anyone at Burke, Williams & Sorensen. Redacted emails would be acceptable. The deadline per the Public Records Act has not been met, so the information will likely be published

at a later date.

Ironically, though, it is Doherty who has some say over what records are released. She is not a fan of the media, not even when she was on the city's staff full time. She has a history of not responding to questions no matter the forum in which a reporter asks.

All of this is relevant because this is taxpayer money. The public has a right to know what it is paying for and if it is worth it. The council also has an obligation to explain its actions.

Doherty's review was on the Jan. 23 council agenda, as was the city manager's. There was no reportable action regarding either official.

Mayor Wendy David had no response to *LTN's* question as to why nothing is on the Feb. 6 agenda about the city attorney when the city manager's review is on it again.

At some point the council has to decide what it is doing regarding the city attorney position – in-house, outside counsel, and if outside, is this the attorney and/or law firm to stick with?

Each of the City Council members was asked a series of questions and given a deadline. Only Tom Davis responded. He told *Lake Tahoe News*, "I too have the same questions. I will be asking that these items be put on the agenda so we can discuss in public with the council."

Here are the unanswered questions:

- Regarding the future of the city attorney position ... when does the council expect to make a decision regarding retaining the current law firm and/or interim attorney or deciding to have someone in-house full time?
- How was the current firm/attorney hired without an RFP?

How is that not a violation of Government Code?

- Is the reason there is no contract for the current firm on the next agenda because you realized there needs to be an RFP? If that isn't the reason, what is the reason?

- Is there an expiration date, so to speak, in the current contract?

- What happens when the financial limits of the contract are met? Does that mean the city is without legal counsel? Please explain how that works.

- There was no reportable action from the last council meeting regarding the city attorney's review. Why? What is the next course of action?

- How does the council justify the expense of this firm?

- How often do each of you contact anyone at the law firm on a weekly/monthly basis? Please estimate how much time is by phone, email, text or in person?

- Do you find this form of city attorney more efficient or in-house counsel more efficient? Why?

A question just for Councilman Jason Collin was:

- Do you believe you should recuse yourself from any discussions regarding the city attorney when you socialize with her and are good friends with her husband? Why or why not?