

SLT council prolongs city manager chaos



Former South Lake Tahoe Mayor Hal Cole, right, gives his opinion Feb. 12 about the city manager debacle. Photo/Kathryn Reed

By Kathryn Reed

Nancy Kerry remains the city manager of South Lake Tahoe, but at this point it is in name and paycheck only.

The City Council on Feb. 12 discussed her future for about 2½ hours in closed session. The only item on the agenda was “public employee discipline/dismissal/release.” There was no reportable action.

“She is the city manager and is getting paid as the city manager. She has not been terminated and if she is, that will be reportable action,” interim City Attorney Nira Doherty told *Lake Tahoe News*.

Under the Government Code reportable action includes change in employments status, salary increases/decreases and a settlement.

At this point, it's likely a settlement will be the ultimate outcome. Kerry per her contract is guaranteed nine month's severance if she is let go without cause. Like all employees, she is also entitled to any unused sick time and vacation days.

Expressions on the five council members' faces upon the end of the session Monday ranged from anger to sadness to frustration. All briskly walked past *Lake Tahoe News*.

What has led to the bad blood has not been disclosed to the public. If it were a criminal allegation, that would have been handled differently.

All the public has been told is that **Mary Egan of Municipal Resource Group** came in last October to assess the culture of the city. Sources have told *Lake Tahoe News* this was spearheaded by then-Mayor Austin Sass who had a vendetta against Kerry. City officials have said Egan did not give them a written report. She talked about her findings in closed session Jan. 23.

Two weeks later Kerry's evaluation was again on the closed session agenda. It is not known if new information came forward in that time period or if council wanted to digest what they had heard from Egan. The outcome of the **Feb. 6 meeting** was that Kerry was immediately placed on indefinite paid leave, with Fire Chief Jeff Meston stepping in as acting city manager.

It was obvious by comments before the public was kicked out of the council chambers on Feb. 12 that not all the council members are happy with how the city's business is being conducted.

"I'm not even sure why we are here. You need the employee," Councilwoman Brooke Laine said. She hinted to being surprised about finding out about the meeting on Friday.

"We had a discussion that we would bring this back March 20. Why are we here?" Councilman Tom Davis said. "I want the opportunity to see if she wants this in open session."

Kerry was not invited to the Feb. 12 session – with or without her own legal counsel.

It is up to the employee being disciplined whether she would want the hearing in open or closed session. The council legally cannot unilaterally make the decision for open or closed.

Sass questioned whether having it in open session would violate the rights of others.

To that, Davis said, "No employees have come forward."

To this date there have been no complaints filed against Kerry. The only former employee to have sued the city during Kerry's five-plus tenure was Stan Sherer, who was the Community Services director. That case was **settled in 2014**.

There are protocols in place if someone wants to file a grievance against the city manager. The Human Resources Department and city attorney would do so. Complaints can also go to council members, who are the boss of the city manager. Whistler-blower laws and other state and federal laws are also in place to protect employees from their boss.

After the curt exchange among the council, Mayor Wendy David with the assistance of Doherty said it was time to go into closed session so as not to violate the Brown Act.

There is a question, though, whether that in itself was a violation of the open meeting law. Discussing the merits of the meeting, whether the accused should be in the meeting and

whether it all should be heard in the open do not fall under the protections of the Brown Act. Litigation and personnel are closed session items. Policy surrounding all of that is not completely protected.

Five people were in the audience Monday, with three speaking. Public comment was taken before going behind closed doors.

Former Councilman Bruce Grego advocated for the dispute to be aired in public.

David Kurtzman, who years ago was elected to the local school board and therefore understands these processes, said it would best for the city to retain outside counsel – not the current law firm on retainer – to sort through the chaos.

This might bring trust and transparency to a process that has been shrouded in secrecy and innuendo.

Former Mayor Hal Cole spoke of how during his 20-plus years on the council consultants were brought in to do evaluations of the city manager, but all had a defined scope of work. He questioned where that was the case with Egan.

“I have never seen one done with such haste or so disrespectfully,” Cole said.

He spoke of how he was a member of councils that got rid of city managers and city attorneys, but it “was done respectfully.”

It is not known when the council will discuss the issue further. Nor is it known if the direction given was for the city attorney to negotiate a deal with Kerry.

Also not known is why all of this is happening after Kerry had only received positive evaluations, as recently as June 2017.