

South Lake Tahoe City Council schedules meeting to fire city manager for undisclosed reasons

By Kathryn Reed

South Lake Tahoe city officials appear to be operating in a vacuum of lawlessness and deceit, and with no transparency.

A special City Council meeting has been scheduled for Feb. 12 at 9am. The only item on the agenda is in closed session: Public employee discipline/dismissal/release.

The council is only in charge of two employees – the city manager and the city attorney.

Until Nira Doherty started sitting in the city attorney chair on a full time basis the council as a whole had not had a problem with City Manager Nancy Kerry. For nearly six years she received glowing reviews, including as recently as June 2017. At that time she was also given a 5 percent raise.

The City Council on Sept. 19 in closed session agreed to hire Burke, Williams & Sorensen out of Oakland to replace City Attorney Tom Watson, who left at the end of September. Doherty, who had been a deputy city attorney for South Lake Tahoe before going to work for that law firm, had been doing work for the city as special counsel.

She is the interim city attorney who keeps spending taxpayer money beyond what is contractually allowed. (The questions in this **Feb. 3 story** still have not been answered.)

Kerry was placed on indefinite paid leave after the Feb. 6 council meeting. There still has been no reason given.

The following day the city sent out a press release stating Fire Chief Jeff Meston would be interim city manager. *Lake Tahoe News* sent an email to Tracy Sheldon, who handles PR for the city, asking what the difference between interim and acting is because Mayor Wendy David had told *LTN* that Meston was the acting city manager.

Within 10 minutes Sheldon sent a correction to the press release stating acting was the correct word.

Doherty had signed off on the original press release.

In the legal/government world there is a huge difference between acting and interim. And had anyone been made interim city manager, it would have to be announced in open session. Plus, there are protocols to removing a sitting city manager.

There was no item on any council agenda in open or closed session about Kerry between the June review and the Jan. 23 review. That June review was done by consultant Ted Gaebler pro bono, after saying it would cost \$1,500.

An agreement from Mary Egan of Municipal Resource Group is dated Oct. 9. That public document was sent by Egan to Doherty and provided to *LTN* by the city.

Austin Sass was mayor at the time. It is well known Sass and Kerry had their differences; he was also having issues with his council colleagues. Sass, who sits on the Tahoe Regional Planning Agency Governing Board, is not well regarded by his colleagues there or among that agency's staff.

Sass has made it known he would prefer a strong mayor form of government instead of what the city has had for 52 years, which is a city manager led government. It was a contentious year with him in the mayor's seat.

If Egan's company sounds familiar it's because she has done work for El Dorado County.

El Dorado County entered a contract with Municipal Resources Group in 2014 to eliminate the "climate of fear" and create a Climate Action Plan. As was noted in **Larry Weitzman's column on Nov. 3, 2014**, "The purpose of the contract was to address the alleged problems supposedly enumerated in the 'Climate of Fear' study created by the law firm of Van Dermyden Maddux, a study which cost \$140,000." It was then CEO Terri Daly who kept wanting these studies.

While the City Council agreed to have Egan come do the assessment, no one will say whose idea it was.

For legal/Government Code reasons it could not be called an investigation. The word evaluation isn't even in the agreement. Still, what it amounted to was a witch hunt to find dirt on Kerry. And this came just months after that stellar review done by an outside firm.

The agreement letter with MRG describes the scope of work as "assessment of the city leadership effectiveness, the culture of the senior management team, succession planning status and related issues." It further states the plan was to interview department heads, Kerry, Doherty and the five council members. That happened later in October.

Egan refused to respond to *Lake Tahoe News'* inquiries about who first contacted her from South Lake Tahoe and why there was no written report.

One has to wonder how this council and future electeds are supposed to know what the succession plan is or anything else. And succession plans are usually handled in-house.

Egan told Doherty her report would be available in early November. The contract was for \$10,000, with another \$1,500 in expenses.

"There are no invoices/payment records that exist," City Clerk Suzie Alessi told *Lake Tahoe News*.

This is because Egan's bill went to Doherty's law firm, who then billed the city via her monthly agreement. That in part accounts for the higher monthly legal bills she submitted in October and November. The city has refused to release itemized invoices from Doherty's firm.

Paying the consulting firm via the law firm was also a way to hide from the public where taxpayer money is being spent and that Egan was even hired.

There was never any reportable action out of closed session about the firm being hired, which is where it had to be talked about because it was never discussed in open session. A Brown Act violation.

The Brown Act is California's public meeting law that ensures the public's business is conducted in public and not behind closed doors. The only items allowed in closed session are personnel and litigation. And when action is taken in closed session, it has to be reported out in open session.

So the public is left wondering when Egan's services were discussed or if a rogue councilmember or city attorney went on his or her own to hire the firm.

Because the agreement was sent to Doherty and lists her law firm it appears she is the one who at taxpayer expense launched a covert probe of the city manager.

Doherty, David and Meston were asked: How is this contract legal? How is this not a violation of the Brown Act?

The response – silence.

Egan was at the Jan. 23 meeting to talk in closed session about her findings. The department heads reached by *LTN* on Feb. 9 did not want to talk about their sessions with Egan.

One would hope if Egan had found anything egregious about Kerry – which is what the inquiry was focused on – that it

would have been brought to council's attention immediately, not three months later.

It's normal in any work environment for co-workers to not all get along, even for people to not like their boss. People switch jobs all the time for a variety of reasons. Just as there is no perfect employee, there is not a perfect boss.

"In my department we are sad. We are saddened about the anonymous comments by past and current employees (as reported in other media)," Lauren Thomaselli, recreation superintendent, told *Lake Tahoe News*. She was not interviewed by Egan and didn't know about her until this week.

"(Kerry) never intended to hurt or put off anyone. The person I know would never intend to have that impact on somebody, especially a coworker or colleague. She is known to really stick her neck out for employees and support us any way she can," Thomaselli said.

The latest edict from the city as of Feb. 9 is that the public is supposed to go through City Clerk Alessi if they want to contact a member of the council. This has never been the policy in all the years this reporter has covered city government.

Alessi, as an elected official, really has no boss other than the public – just like the council. That is why it might be difficult to reach her since she has been known to not work regular hours, has missed multiple council meetings, and takes off as much time as she wants without being held accountable to anyone. All of that is legal as an elected official.

Per Kerry's contract she is owed nine month's severance unless she is fired for cause. A settlement of some sort could be possible. Kerry could also sue for what appears to be multiple reasons. With the council being her boss, she has rights as an employee that are likely to be proved to have been violated.

David was asked what the process is after next Monday's meeting. No reply.

David as mayor appears to have adopted Sass's way of doing business with transparency and lawfulness not mattering. After the council meeting earlier this week she said there was no reportable action, but went on to tell **LTN** about Kerry being placed on leave and Meston stepping in. So, she either lied about there being no reportable action or she violated the Brown Act by talking about what went on in that meeting on Feb. 6, or maybe both.

And David, who is mayor and therefore the de facto leader of the council, will not say why she is behind firing the city manager.