

Opinion: SLT's transparency remains elusive

By Kathryn Reed

"If they don't trust you, they'll keep asking for public records. There is nothing you can do but produce those records."

Those are the words of attorney Leah Castella of Burke, Williams and Sorensen, the outside law firm the city of South Lake Tahoe uses. Castella was at the special City Council meeting on April 30 to give the electeds and senior staff an update on ethics training, the Brown Act and state Public Records Act. The training is mandatory every two years.



A message delivered to the South Lake Tahoe City Council on April 30 by counsel. Photo/LTN

This training is even more relevant in this era when **Councilwoman Brooke Laine** has made accusations of Brown Act violations occurring and when *Lake Tahoe News* has not been able to obtain public records.

This is an email sent April 13 to *Lake Tahoe News* by City

Clerk Suzie Alessi, "This email is in response to your public records request (below) dated April 4, 2018. Please be advised that due to the voluminous nature of your request and the process of obtaining and reviewing relevant records, the records which are subject to disclosure will be provided to you within two weeks. We will endeavor to provide the records sooner if possible. (Gov. Code § 6253(c).)"

Normally the requests are due 10 days after being submitted.

Those two weeks, which were in addition to the initial two weeks, have come and gone without another email from Alessi.

Alessi was sitting in on the ethics/public records training when Castella said public records are a constitutional right – as in it's the right of the seeker to be provided them. Castella also said the institution not providing them would be liable for the attorney fees incurred by the person or entity seeking the records.

Lake Tahoe News was seeking text messages of certain electeds and staff, with Alessi being one of the people whose texts are being requested.

This request came after *LTN* earlier this year sought phone records. That request was denied, though the denial came months after the request. These are the **phone records** that Alessi provided. Essentially it a blank piece of paper.

Transparency it is not.

Interim City Attorney Nira Doherty emailed *LTN* citing the following information as authority for not disclosing the phone records: "Rogers v. Superior Court, 19 Cal.App.4th 469 (1993) Court of Appeal denied reporter's petition for writ of mandate on the grounds that the telephone numbers of calls placed by city councilmembers were covered by the deliberative process privilege and not subject to disclosure under CPRA request."

What is interesting about the public records regarding the texts being delayed is that another request, a lengthier one, was submitted after *Lake Tahoe News*' by some "friends" group.

However, it was not until April 16 that council members were sent an email to bring their city issued phones to the next day's meeting. This comes after the deadline to respond to *LTN*'s request and after Alessi sent the email to *LTN* saying the text messages would be delayed.

An additional interesting piece to all of this is that Councilman Austin Sass claimed that on April 6 his cell phone, tablet and backpack were stolen from his vehicle that was parked outside St. Theresa Church where his wife works. As of April 30 they had not been recovered.

It seems peculiar the devices go missing after data from them had been sought by *Lake Tahoe News*.

The electronic devices are city owned. While Sass might not want certain communications revealed and thought he could prevent that from happening if he were to no longer be in possession of them, those devices can be automatically backed up. The city's IT department can retrieve the information without the device and without the user knowing.

Another thing the attorney told the group is that using a personal device for public work is not a great idea because that information can also be subject to public review.