

Report on controversial inquiry divides SLT council



The South Lake Tahoe City Council is doing a lot of talking behind closed doors. Photo/LTN

By Kathryn Reed

It's as though the South Lake Tahoe City Council is unraveling one thread at a time, with the holes of incompetency and distrust exposing themselves a little bit more each time the electeds meet.

Tuesday was the latest episode of "Dysfunction at 6,200 feet." On the May 1 agenda was the MRG contract. This is the firm led by Mary Egan that was hired last fall to do a cultural assessment of the city. The contract, though, until this week had never been brought before the council in open session.

By the time the agenda item came up for discussion Councilman Jason Collin had left the meeting, citing a work obligation.

It was impossible for the remaining four to have an honest, open conversation because the contract was first OK'd in closed session and those discussions must remain confidential.

In reality what the council was being asked was to approve paying an invoice. Even interim City Attorney Nira Doherty said it wasn't really a contract, instead she called it an agreement. The first agreement sent by Egan to Doherty stated the work would not exceed \$10,000, with another \$1,500 for expenses. The Nov. 16 amended agreement asked for another \$2,500 based on additional work.

Only the November agreement was in the council packet on Tuesday. Councilmembers Wendy David and Austin appeared flummoxed when Councilmembers Tom Davis and Brooke Laine knew about the October document and had a copy of it.

The first agreement said, "All participations (sic) will be told that their comments will be included in a summary written report that identifies important themes, and not include information attributable to any individual."

That report has never materialized. That is one argument Laine and Davis cited in not voting to authorize payment of the bill; they said the scope of work was not completed. David and Sass voted to approve payment of the original agreement. That motion failed on a 2-2 vote.

Ultimately it was decided that the mayor (David) and mayor pro tem (Davis) would work as a subcommittee of sorts to decide whether a written report should be provided by the firm as was stated would be done in the original agreement.

Doherty or someone from her law firm will provide the pros and cons of asking for the written report. Then the council as a whole will decide how to proceed.

Doherty told the council Egan's written report is likely to be a public document.

Depending on what is in the report, it's possible sections would be redacted based on it being a personnel issue.

Sass raised the specter of a lawsuit by former City Manager Nancy Kerry if information were released. This is based on a threat made by her attorney Jacqueline Mittelstadt regarding Sass potentially breaking the city's settlement agreement with Kerry with his comments at an April council meeting. Neither side is supposed to disparage the other.

Still, the report would be based on information gathered before Kerry's separation with the city earlier this year, so it would not likely be protected by the settlement agreement. It could just fall under normal personnel privacy.

One of the glaring things about this agreement is that the council agreed to hire MRG in closed session under an agenda item that had nothing to do with Kerry or the city in general.

The Sept. 5, Sept. 19 and Oct. 3 closed session items each stated: "(b) Public employee appointment and employment pursuant to Government Code Section 54957(b)(1) Title: City Attorney." At the Sept. 19 meeting it was announced that Doherty had been hired as interim city attorney to replace Tom Watson. On Oct. 3 the contract was approved and Doherty began her job.

It was at her first meeting that she learned of the directive by the council in one of those September closed sessions to hire MRG. The council did this with Watson in the room; Doherty was not there.

Doherty told the council on May 1 she had issues with how all of this went down. After the meeting, though, she would not elaborate other than to tell *Lake Tahoe News*, "I think it is best practice to have contracts approved in open session."

She would not say why the topic was not brought out into the open until now.

Sass was mayor at the time and in a battle with Kerry because he wanted more power than what comes with the ceremonial position.

Watson in a farewell salvo was in cahoots with Sass to have MRG evaluate Kerry. However, it was sold to the other council members as a cultural assessment of the whole city and to study a succession plan. That didn't happen.

Per Kerry's contract she had the right to know when she was being evaluated or investigated, and there were protocols in place to inform her. That didn't happen and it's something she could have sued the city over. In June 2017 she received a glowing review by this very council that voted to oust her.

Ultimately the Egan debacle became a witch hunt that resulted in Kerry being shown the door.

It was on Jan. 23, after Egan's work was completed, that a closed session item pertaining to Kerry's evaluation was placed on the agenda.

After weeks of turmoil, the council agreed to pay Kerry the nine month's severance in her contract based on there being no actual cause for the separation.

Beyond taxpayers' dollars being used to pay Kerry, the city is now in talks to hire an interim city manager who will make about \$100 an hour.

Still, though, what was uncovered by Egan has never been disclosed to the public. Nor were the allegations alleged ever substantiated by anyone. The council received a verbal report from Egan, that's it.

There are public records that might shed light on what happened, but the city is withholding those documents as was illustrated in this **April 30 Lake Tahoe News** column.

On a related note, the council was to discuss **Laine's**

allegations about Brown Act violations that were first brought to light on *Lake Tahoe News*. The council agreed to table that item until the **District Attorney's Office** completes its investigation.