

SLT staff acts on its own; ignores council direction

By Kathryn Reed

South Lake Tahoe's human resource director lied to the City Council on Tuesday when it came to the salary for the interim city manager.

Councilmember Brooke Laine asked how the \$103.85 an hour salary that Tom Stuart negotiated came about when it's not what the council agreed to. His response: "It's in the top."



Tom Stuart

But the top was really \$15,833 a month as was **agreed to May 1**.

The monthly rate at the hourly wage that was approved is \$18,000. That is nearly 14 percent higher than what the council originally allocated.

The council let the dollar figure go and didn't call Stuart out on his lie. They just wanted to make sure there were no other payments coming from the city say for housing or a car allowance. And there won't be.

Still, what Dirk Brazil will be making starting next month is higher than what the council had agreed to.

The money to pay him will come from undesignated reserves. It can't just come out of the city manager's account because it

all got used up for this fiscal year and essentially into next year's, which starts Oct. 1, because the council paid the former city manager nine months of severance for reasons no one has explained.

What the council had a hard time grasping on May 15 is that Brazil will be an hourly employee, not salaried. Brazil will also be keeping track of his own hours, according to Stuart. However, Councilmember Jason Collin pointed out that Brazil will be working for the council and accountable to them.

The hourly bit has to happen because Brazil is a CalPERS retiree. He's allowed to double dip, so to speak, as long as he does not work more than 960 hours in a CalPERS fiscal year, which begins July 1. So, he could work unlimited hours in June per CalPERS, but the city will still be paying him more than 100 bucks an hour. The council did not set a hard limit on the pay/hours for Brazil to work in June.

The 960-hour mark would be reached in 24 weeks or about 5½ months, so mid-December, if Brazil works 40-hour weeks starting July 1.

It will be an adjustment for council members because they are used to calling-texting-emailing the city manager seven days a week, at all hours of the day and night and expecting an answer pronto. Now when they reach out it will be much like contacting the city attorney – it will be billable hours – at least if contact is not during the normal confines of the workday/workweek.

Brazil's contract has no definitive end date. It's supposed to be when a permanent city manager is hired.

But that process has been a bit convoluted. The council in April had asked for the city manager positions – interim and permanent – to be a priority over the city attorney. But Prothman Executive Recruitment, the firm that was hired to find both executives, has only started the city attorney

process.

Part of the reason for this came to light at Tuesday's council meeting. Staff arbitrarily agreed to stick with the salary range for the city attorney that had been on the books. They did so without council input. This meant Prothman could get started.

However, staff does not like the salary structure the former city manager had where some of her compensation was put into a 401(a)/457 instead of being subject to CalPERS. Her hourly salary was \$80.25 or \$166,928.94 a year. This didn't account for the \$50,000 a year put into the other retirement account. Staff doesn't like the lower annual salary listing because they don't all want that salary structure. Plus, it would be normal for staff to have a base salary less than city manager. If the city manager salary is really \$216,000 a year, that makes for a better place from which staff can negotiate raises.

The city benefited from the restructured compensation package because its CalPERS obligation was lessened.

The staff report for the permanent city manager lists a salary range from \$178,467.95 to \$216,928.82.

Ultimately the council decided they wanted the city manager ads to say something about being open to a nontraditional pay structure like the former city manager had.

Council also directed the HR chief to tell the recruiting firm to concentrate on the city manager hire. Normally it would be the council, the mayor in particular, who would communicate with the recruiting firm. After all, the firm is working for the council – not staff.

Calif. voters might send \$127 million to Tahoe

By Benjamin Spillman, Reno Gazette-Journal

California voters could approve spending \$127 million for projects at Lake Tahoe in a series of ballot measures this year.

The Tahoe money would be just a small part of two bond measures that would total \$13 billion, including \$492 million in spending on projects in the Sierra Nevada.

“This is an unprecedented amount of potential funding for projects in the Sierra Nevada,” said Chris Mertens, government affairs director for the Sierra Business Council in Truckee.

[Read the whole story](#)

SLT council OKs controversial consultant contract

By Kathryn Reed

On a 4-1 vote Tuesday the South Lake Tahoe City Council agreed to pay the consultant who was hired to evaluate the city, study the culture and look into the succession plan.

The MRG contract has been an issue for months. It started with

not being approved in open session last fall when it was entered into. It wasn't until **earlier this month** that the council even brought it out into the open.

At that meeting it was agreed Wendy David and Tom Davis would be the council's subcommittee to decide whether a written report should be provided by the firm as was stated would be done in the original agreement, with legal counsel providing the pros and cons to do so.

There was no public discussion May 15 about the written report, nor was it even agendaized for a closed session discussion. In other words, at least some members of the council made the decision not to have a written document be provided without the full council's consent. Nor was the issue mentioned in the staff report.

It is the mayor – David – who decides what is on the agenda.

Egan provided a verbal accounting of her findings to the council in closed session. What she had to say has never been disclosed.

Clearly, a succession plan was not part of the report because the council went on to let the city manager go without a plan to replace her based on open session conversations and that it won't be until June that an interim city manager who isn't staff will be on the city payroll.

The council's interim appointment of the fire chief didn't last long, as he told the council early on he wanted out.

Jeff Meston was not at Tuesday's meeting because he's on a business trip. Sitting in as acting city manager was Police Chief Brian Uhler. However, that decision was never discussed by the council. It was the fire chief who made the appointment. (The next council meeting should be overseen by Dirk Brazil, who was hired to be acting city manager.)

On May 15 the MRG contract was on the consent agenda, but was pulled by a member of the public for discussion.

Councilmember Brooke Laine, who was the lone dissenter on Tuesday's vote, said the scope of work in the agreement was not completed. She further stated, "The scope was changed and approved by somebody. It was not the council. Maybe that person needs to be responsible for the additional costs."

David said Mary Egan, principal with MRG, did complete the work she was hired to do.

Councilmember Jason Collin said, "I appreciate the work she did for us. It was consistent with the scope."

Councilman Austin Sass was of the belief the contract from MRG that requested even more money should be paid.

While Davis agreed to pay the lower, original amount, he sided with Laine in questioning how the scope of the agreement got changed.

This contract is part of the basis for Laine's allegations that the council has violated the Brown Act. The El Dorado County District Attorney's Office is investigating those allegations.

Calif. considers charge to create safe water fund

By Tess Townsend, Water Deeply

Gaps in funding for water treatment are a major problem in California. Water providers operate independently, relying

virtually entirely on customer fees to cover costs. For agencies with scale, money and access to quality water sources, this model works well. But absent those resources, contamination persists for years without resolution.

About half a million people in the state receive water from a system that is out of compliance with safe drinking water standards, according to a November analysis by PPIC Water Center. Most of those failing systems are small – serving just a few thousand or a even a few hundred residents. While state bonds and grants can help systems build treatment facilities, there's no state source of funding to subsidize ongoing operation costs for water providers that can't afford them.

A piece of legislation, introduced last year as Senate Bill 623 and later included as a trailer bill in the governor's proposed budget, seeks to solve this structural problem by raising a \$140 million annual Safe and Affordable Drinking Water Fund, from a combination of charges on agriculture and residential water users. Money would go toward ongoing operation and maintenance costs for treatment in under-resourced districts. The charge on residential users would amount to about \$1 a month for most households served by the 1,000 or so agencies collecting fund revenue.

Read the whole story

**EDC auditor candidates
distinguish themselves**



Joe Harn and Mike Owen are running for El Dorado County auditor.

By Kathryn Reed

Even though Joe Harn and Mike Owen went to El Dorado High School, with four years separating them, friends they are not. Owen wants Harn's job.

June marks the second consecutive election that Owen has tried to unseat Harn as auditor-controller of El Dorado County.

Harn is endorsed by District Attorney Vern Pierson. Owen is endorsed by Sheriff John D'Agostini.

Harn has been auditor since 1994. Owen once worked for the county and is now owner of a winery on the West Slope.

A requirement to be a county auditor in California is to be an active certified public accountant in good standing with the California Board of Accountancy. Last fall when Owen started actively campaigning for the June election he **falsely claimed** he had kept his CPA license active.

One of Owen's allegations in his campaign material is that Harn doesn't pay bills on time. Legally a county auditor couldn't do that even if he wanted to.

While Harn's campaign material says El Dorado has zero debt, the truth is the county has a sizable unfunded liability for CalPERS and it has loans to repay such as for the new sheriff's facilities – both things the average person would consider debt.

Owen questions Harn's demeanor, citing **past grand juries** that said the entire county was dysfunctional. Those reports led to Harn being investigated by the California Attorney General. That **case was dropped** and Harn was never asked to testify.

Owen has his own baggage. Campaign financial reports submitted to the El Dorado County Elections Department indicate he was penalized at least \$600 for violating the California Political Reform Act. Owen's campaign financial report for the period ending April 21 indicates he paid prior year campaign committee fees to the secretary of state in 2018. The Political Reform Act requires candidates pay a \$50 annual fee to the state if they have an active local campaign committee. In 2018 Owen paid \$450 to the secretary of state for "prior years' annual fees."

Of the \$450 paid, \$300 was a penalty for failing to pay on time. In 2017, Owen paid \$400 to the secretary of state, again \$300 was a penalty for failing to pay on time.

His campaign financial reports call the payments filing fees when actually the majority of the payments are for state imposed late payment penalties.

On top of all of that, Owen's winery in Camino, Crystal Basin Cellars, has had various tax liens recorded for failure to pay property taxes on time. Owen has also had to pay penalties to the county for not paying his business taxes on time.

The election is June 5, with several county offices on the ballot.

Supreme Court to rule on First Amendment right to silence

By Robert A. Sedler, *The Conversation*

New Hampshire's state motto "Live free or die" is, for many residents, a stirring evocation of the independent spirit of colonial America.

But not all New Hampshirites agree with this well-known slogan that is emblazoned on the state's license plates. In 1975, George Maynard was sent to jail because he didn't believe in it.

Maynard and his wife were Jehovah's Witnesses, a Christian denomination that teaches that true believers will enjoy eternal life. The couple felt that the state's motto violated this tenet. So Maynard covered up the "or die" part on his vehicles' license plates.

Police gave him three different tickets for illegally altering the plates. When he refused to pay the fines, which totaled \$75, he was given a 15-day jail sentence.

Maynard then filed a lawsuit that reached the U.S. Supreme Court. In 1977, the Supreme Court ruled that the First Amendment gave Maynard the legal right to cover up those two words. In other words, the First Amendment – which guarantees the right to free speech – can also give people the right to remain silent.

Flowing from free speech

I am a legal scholar, so when I learned that the Supreme Court will decide two right-to-silence cases this term the Maynard case came to mind.

The Maynard decision was not the first time the court ruled in favor of a Jehovah's Witness' right to be silent. Both decisions hinge on the justices' determination that the First Amendment includes, in the court's words, the right "to avoid becoming a 'mobile billboard' for the State's ideological message."

It may sound contradictory to say the right to be silent flows from the right to speak, but it is not.

The First Amendment protects a person's right to convey his own message, to voice her own ideas and not to be compelled to publicly disclose personal beliefs and associations. When the government tries to compel a person to speak its message, these rights are seriously damaged.

The right to free speech is likewise violated when people are required to associate themselves with an idea with which they disagree.

This issue first came before the Supreme Court in 1943, when a West Virginia school board expelled a Jehovah's Witness student for refusing to recite the Pledge of Allegiance because saluting the American flag salute would violate the biblical command "Thou shall not bow down to graven images."

The court, then lead by Chief Justice Robert H. Jackson, agreed. The First Amendment prevents the government from forcing citizens to express patriotism by saluting the flag.

"If there is any star fixed in our constitutional constellation," Jackson wrote, "it is that no official, high or petty, can prescribed that what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith

therein.”

Carrying the government’s message

The first case that will return this issue to the Supreme Court’s scrutiny in 2018 is National Institute of Family and Life Advocates v. Becerra. It involves religiously based “crisis pregnancy centers” in California that try to discourage women from seeking an abortion.

New legislation requires those centers to post notices about other women’s health services available in the state, including abortions.

The pregnancy centers have sued the state, contending that the law forces them to speak the government’s message. California contends that the law is a reasonable regulation of licensed medical facilities.

It will be up to the Supreme Court to decide if the clinic’s claimed right “to avoid becoming the courier for the State’s ideological message” is a valid interpretation of the First Amendment.

Disagreeable association

The second right-to-silence case before the Supreme Court this term, Janus v. American Federation of State and County Municipal Employees, tests the related guarantee that people cannot be forced to be associated with an idea they do not hold.

Forty years ago, the court ruled that a union can require non-members to pay an “agency fee” for their representation by the union. The union may not use any part of the agency fee to advance ideological purposes unrelated to the union’s primary function of collective bargaining.

Now, with Janus v. AFSCME, non-union public employees contend that the required agency fee violates their First Amendment

rights because it is not possible to separate bargaining collectively from advancing ideological purposes.

For government workers, they say, issues like salaries, pensions and benefits are inherently political for government workers. And some employees may not agree with the union's position on those matters.

The unions contend that since all employees benefit from the union's collective bargaining efforts, allowing workers to opt out of paying the agency fee would enable "free riders."

Regardless of how the court rules in these two cases, the American right to silence is on trial this year. Both Janus and National Institute of Family and Life Advocates will be decided by the end of June, when the court closes its present term.

Robert A. Sedler is a distinguished professor of law at Wayne State University.

Nev. AG's office launches website to aid sex assault victims

By Ramona Giwargis, Las Vegas Review-Journal

Nevada Attorney General Adam Laxalt this week unveiled a website for sexual assault victims as part of his initiative to reduce the backlog of untested rape kits.

The website, which has been under construction for months, features resources for survivors, law enforcement contact

information and details on Nevada's initiative to test thousands of backlogged rape kits. It also includes statistics on testing, DNA matches and arrests made. The data will be updated monthly.

[Read the whole story](#)

Rules for gender diverse students in Nev. get OK

By Meghan Delaney, Las Vegas Review-Journal

After multiple delays, Nevada top education official on Friday approved guidance for school districts on how to handle students with gender diverse identities.

State Superintendent of Instruction Steve Canavero heard more than 65 comments in the third public hearing on the state regulation, mandated by an anti-bullying law passed by the Nevada Legislature in 2017. Just before 2pm, after almost five hours, Canavero adopted the 16-page regulation and explained the next steps.

"It goes to the Legislative Commission, which is a committee of legislators that will have the opportunity to hear this regulation and, ultimately, their vote would enact the regulation and codify it into Nevada Administrative Code," Canavero said.

[Read the whole story](#)

Feud threatens to topple iconic Tahoe City sculpture



John Betts' sculpture at the Y in Tahoe City.

Photo/TTD

By Tony Bizjak, Sacramento Bee

For decades, a muscular sculpture of three leaping, gape-mouthed trout has perched at the entrance to Lake Tahoe's west shore in Tahoe City, offering homage to the alpine basin's wildlife and its natural environment.

Now, the artwork is days from extinction. Crews this week will disassemble it and place it in a warehouse indefinitely, perhaps permanently, even though no one really wants it to happen.

The problem: The artist who created the 20-foot-tall piece and

local transportation officials are feuding.

Read the whole story

Report: Legal pot not big revenue for government

By Geoff Mulvihill, AP

A report finds that legalizing and taxing marijuana boosts revenue for state and local governments, but not by much.

The credit rating agency Moody's Investor Service says in a study released last week that legalizing recreational use of marijuana brings governments more money than it costs to regulate it.

Despite high taxes on the legal sales of the drug, the revenue accounts for a small portion of government budgets.

Read the whole story