

Financial cracks emerge in South Tahoe ice rink deal

By Kathryn Reed

Even though the South Lake City Council in August voted to change the recreation bonds from non-taxable to taxable to allow the private ice rink operators to legally make a profit, the board with the ultimate power to ensure that happens didn't have its first meeting about the issue until Monday.

And now it's a race to get the legal, financial and political agreements in order so the bonds are sold before March 1. Changes can only take place March 1 and Sept. 1 – the debt payment dates.

Discussion was delayed by Measure R proponents (aka the JPA board) because they did not want voters last month to confuse rewriting the original Measure S to allow a different disbursement of funds with changing the actual bonds. The two are completely separate issues.



The recreation
JPA board (Hal
Cole - Norma
Santiago -
Debbie
Henderson)
listen to
county Auditor

Joe Harn.

Photo/LTN

But not trusting the voters to understand the difference has created this accelerated pace to not only refinance the bonds, but to make them taxable.

Even though Dec. 5 was the first time the JPA board officially heard the proposal, the financial advisor who was officially hired that same day is already on the Dec. 13 agendas for the South Lake Tahoe City Council and El Dorado County Board of Supervisors.

While there is no proving meetings occurred between John Upton, the lone paid employee of the South Lake Tahoe Recreation Facilities Joint Powers Authority, and the three board members, Hal Cole (South Lake Tahoe rep), Norma Santiago (El Dorado County), and Debbie Henderson (Tahoe Paradise Resort Improvement District) seemed well versed about the issue. Had Upton spoken to each member individually, it would be considered a serial meeting and thus a violation of California's opening meeting law. The public's business is supposed to be conducted in public.

With Cole showing up 35 minutes late – saying he didn't know about the meeting until someone called him when he was a no-show at 1pm Dec. 5 and that he hadn't seen the agenda – he was the most adamant the financial advisor be paid a fixed price over the discounted hourly rate that was proposed at the meeting.

Mark Northcross with Northcross-Hill-Ach in Marin County was the financial advisor in 2001 when bonds for the South Shore recreation measure were first sold. He's the guy being used this time, too.

Northcross told *Lake Tahoe News* he was first contacted by Upton this summer. Northcross said he is the one who brought

up the issue of the IRS having a problem with a private entity making a profit off tax-exempt bonds and that they would need to be changed.

The board on Monday agreed to hire Northcross on a \$37,500 contingency fee. This means he only gets paid if the bond sale goes through. Stradling, Yocca was hired as bond counsel at \$50,000 under the same contingency agreement.

However, County Auditor Joe Harn told the board the county shies away from these types of agreements, and instead opts for time and materials contracts.

"The fewer people who have a financial interest in the bond closing, the better," Harn said. Harn is also the JPA's treasurer.

Cole said he prefers knowing what the cost will be upfront; believing the financial advisor will operate within set parameters (that will be decided at the Jan. 20 JPA meeting) and therefore the JPA has no risk involved.

However, Northcross at the meeting said his excitement for being back in South Tahoe made him want to reduce his hourly fee. Normally it's \$300/hour. He said he'd charge \$275/hour, with a cap of \$15,000. The cap, he later told *Lake Tahoe News*, could then be negotiated if more work were needed.

Despite this offer of a reduced price, the JPA board didn't even discuss it, nor did the members do any math to figure out how many hours might be needed to do the job and what the better deal would be. The JPA was more concerned with knowing the price than getting the best price.

South Lake Tahoe's city attorney, Patrick Enright, and finance director, Christine Vuletich, were in the audience. They didn't offer any advice.

Northcross and Harn had a brief conversation while waiting for

Cole to arrive – knowing they were within earshot of this reporter. Northcross said to Harn that while refinancing may save 3 to 4 percent, or \$15,000 annually, many in his field say not to go forward until the benefit is 5 percent. He didn't share that with the JPA board.

The current interest rate on the bonds is a bit more than 5 percent.

All of this work could save property owners about 75 cents a year on their \$18 bill for Measure S/R.

But City Manager Tony O'Rourke followed Harn at the podium, saying it's not just about the JPA taxpayers to consider.

"We want to enable private investment at the ice rink – that benefits the taxpayer," O'Rourke said. With the city losing \$100,000 on the rink in some years, it wanted to unload it, even though taxpayers paid for it through Measure S property fees.

The JPA board also agreed to allocate up to \$15,000 to have a current bond rating secured – a necessary requirement to go forward. The last rating was AA-minus. That money comes out of the JPA's administrative budget – though it's still taxpayer money.

Another big question mark is what entity will sell the bonds. Northcross said going with BBVA Compass bank might be the best option instead of the traditional bond market.

Northcross pointed out that depending on what deal is struck, it's possible the city will have to come up with \$400,000 to pay down the debt in order to make it all work. There are certain legal requirements with reissuing the bonds and the taxpayers not incurring a financial burden.

O'Rourke said if it came down to that, "We'll have discussions with the operator (of the rink)."

If there is a buy down cost, that wouldn't be known until February – which would leave only a matter of days for the city to come to a deal with the ice rink operators.

And if the city is left footing the bill, that would be those same taxpayers incurring the costs that O'Rourke said are saving money with the ice rink not being controlled by the city.

"We wouldn't be here if the ice rink contract weren't a problem," Cole said early in the meeting.

Dates to know:

- Dec. 13: South Lake Tahoe City Council and El Dorado County Board of Supervisors at their respective meetings hear presentation from Mark Northcross
- Jan. 17: South Lake Tahoe and El Dorado County discuss and vote on legal documents and official financing
- Jan. 19: Tahoe Paradise board votes on legal documents and official financing
- Jan. 20: JPA board votes on legal documents and official financing
- Feb. 28: Bond sale expected to close.