

Unraveling the S. Lake Tahoe city manager debacle

By Kathryn Reed

Rumors are rampant, while facts are few when it comes to why South Lake Tahoe's city manager is not at work.

On the March 6 agenda is a closed session item stating: Public employee discipline/dismissal/release. This is the third meeting with this same agenda item.

An attorney other than Nira Doherty with Burke, Williams & Sorensen, the law firm that does most of the city's legal work, has been negotiating with City Manager Nancy Kerry's attorney for a resolution.

However, what isn't known is how the council has been able to give direction when a meeting has not taken place in the last two weeks.

If an email is sent out by the attorney to the council, it can be classified as confidential under client-attorney privilege. However, if the mayor or another council member were to issue an update to the rest of the council, that would be a serial meeting. That is illegal and violates state open meeting laws.

It would just add to the list of illegal maneuvers this council has been engaged in behind closed doors and out of public view since at least last fall. It would be up the district attorney to go after the council for Brown Act violations.

Lake Tahoe News asked Mayor Wendy David and acting City Manager Jeff Meston:

• *Who on the council is/are the point person/people in discussing a resolution with Nancy Kerry?*

- *Who is the attorney at the law firm representing the city?*
- *What is the time line to get this resolved?*
- *Apparently she didn't do anything so egregious since she's still getting paid and has the title, so how can the city justify this expense? It seems like a waste of taxpayer dollars – can you defend how it isn't?*
- *Does the new pending litigation on the next agenda have to do with Nancy Kerry? If not, what is it about?*

Neither David nor Meston responded to the email.

"Separation between a city manager and city council is a normal part of the municipal government world. The city and Ms. Kerry have been diligently working toward an amicable resolution to the current situation, and we are hopeful for a resolution soon," Jacqueline Mittelstadt, Kerry's attorney, told *Lake Tahoe News*. Mittelstadt was once city attorney for South Lake Tahoe and is well versed in dealing with the machinations of this city.

No one is officially saying why Kerry is leaving or whose idea it was, though her relationship with Councilman Austin Sass has been precarious at best. Per her contract, she is owed nine month's severance if she were to be let go without cause. Normally when a city manager leaves on her own volition at least one month's notice is given.

The settlement is likely to be a compromise based on clearly nothing criminal having occurred because that would have been handled differently, the fact that Kerry didn't initiate the departure, and that what *Lake Tahoe News* has been told by sources inside the city is that Kerry's biggest no-no's were being emotional (which appears to be more gender bashing than anything else), yelling (which every city manager has been known to do) and talking about someone being in rehab (even

this reporter knew about this person and her drinking issue was well known in the community for years).

Still, not a single employee ever filed a complaint against Kerry, so some speculate the negativity now being voiced is political in nature. This is an election year with the council seats of David, Sass and Tom Davis being up.

People inside and outside the city are saying they don't understand what is so egregious to have seemed to wipe out the good that Kerry has done for the city in her more than five years as city manager. That includes among other things saving the city more than \$40 million, bringing development to town and helping the city look better.

Internally, Kerry changed the culture in a way many say was a positive. People were given flexible schedules and she started an awards program for employees.

That good vibe has since been eroded with the back stabbing and distrust that now permeates the walls of city hall since the City Council chose to go down this path. Even department heads are jockeying for position. Not one of the five electeds has come forward to say what changed.

There has been zero leadership from the council – just silence. After all, Kerry was given a glowing review in June 2017 and a 5 percent raise. Now these electeds are ready to show her the door.

Once Kerry is officially relieved of her duties, the city is likely to hire a firm to find the next city manager. A request for proposal for a consultant to do that work would be the first step. That can cost upward of \$30,000. If the city opts to find a city attorney as well, it's possible for some expenses to be lessened if the consultant were to handle both positions.

The future of the city attorney could be decided March 20

based on interim City Attorney Doherty asking to have a discussion in open session.

It could be the end of the year before a permanent city manager is on board, same with city attorney.

It's possible the city would bring in an interim city manager to be a bridge. Retired city managers do this on a regular basis.

For now, Fire Chief Meston is the acting city manager. He was given the title after the closed session on the **Feb. 6 meeting**.

Opinion: EDC supervisors are disenfranchising voters

By Larry Weitzman

The El Dorado County Board of Supervisors couldn't wait the five years as the County Charter provides for charter review, but instead used their power to impanel another Charter Review Committee early (three years after the last Charter Review Committee).

The results of this new CRC are another run at increasing the Board of Supervisors power and longevity. Sounds like a bunch of politicians wanting more power for themselves at the expense of taxpaying citizens, a quintumvirate of sorts. How selfish.



Larry Weitzman

In the last Charter Committee, there was an attempt to remove terms limits, which the voters put in place to prevent dynasties and concentrations of power understanding the theory so well stated by Lord Acton who said, "Power corrupts and absolute power corrupts absolutely." In the deliberations of the prior Charter Review Committee the attempt at eliminating of term limits was shot down and no such recommendation to the Board of Supervisors was made. Term limits create more participation in government by more citizens.

In another attempted power grab, the new Charter Review Committee recommended to the Board of Supervisors to make our now elected auditor and treasurer appointed. It would also eliminate the election of other "non-constitutionally" elected county officials such as the recorder-clerk. Having an elected, independent auditor/controller and treasurer is one of the main purposes of having a charter county instead of a general law county. Charter counties provides for more voter control of government.

While only 14 of California's 58 counties have charters, they include about 70 percent of California's population. All of the populous counties in California are charter counties. It also provides the voters with greater checks and balances.

While there were some other duplicate and redundant recommendations which I will discuss in a later column, these two, the elimination of term limits and the elimination of an elected auditor/controller and treasurer, are the most significant. There are tantamount to a disenfranchisement of

the voters.

It is unlikely that either recommendation will have success in our active voter participation and high voter turnout county, but there is another significant reason why these two items should not be placed on the ballot and that is the incredible waste of money. Sinister, evil forces will advertise to acquire more control of the county under banners like smoother, less confrontational government or such an idea will "allow a government that can get along or work better together." Sounds like a dictatorship. Our country is founded on the principle of checks and balances. The elimination of an independent auditor/controller will be like having the fox guarding the hen house adjacent to his Kentucky Fried Chicken restaurant.

Interestingly, Sacramento County has a non-elected auditor-controller who serves at the pleasure of their Board of Supervisors and is riddled with debt. So much so that its annual statement of net county position which totals net county assets against total liabilities the total net position number is a negative \$300 million. In El Dorado County where the auditor is truly independent as he is elected by the people, the total net position number is a positive \$242 million.

As to the treasurer, I once wrote a column about the county selling off delinquent property tax rolls for small short-term gain instead of waiting for longer term, much greater penalty of over 90 percent of the original tax. An inside deal that would have been bad for the county and allow some private people who were "connected" to make tidy profits, of course at taxpayer expense. It was the elected treasurer who alerted me to this "inside job."

Elections like this will cost money, a lot of money, with one side creating specious arguments of why you should surrender your voting franchise, while the forces of good will have to

spend money explaining why term limits are important and why our elected officials should remain elected. Even in our little county, hundreds of thousand dollars will be spent on what will be a hopefully fruitless attempt at trying to strip you of you voting franchise.

Think about the other uses of this money: fixing roads, helping fight crime, helping seniors, protecting them from predators. But no, because of the Charter Review Committee's obsequiousness (remember the CRC is appointed by their respective supervisors), El Dorado County will possibly have an election that will waste a large amount of money while certainly enriching political operatives and spin doctor types in creating slogans and lies as to why you want to give up you hard fought voting rights.

Our County Charter was created about 24 years ago to protect the voters, increase their power, participation and say in government and the CRC wants to recommend to the Board of Supervisors that the voters have their participation and power diminished. Besides the elimination of voter participation in the selection (election) of government officials meaning the creation of more unelected bureaucrats and an enlarged spoils system, it will be a huge waste of money along with the enrichment of the political class. This is exactly what former CAO Terri Day did and attempted to do in her zeal to have more control, such as the hiring of her unqualified friends, giving away county money and creating a climate of fear while not attending to county business and ignoring the warnings of independent, elected county officials. Daly's ignorance, while occurring five years ago, will eventually cost the county tens of millions of dollars.

Larry Weitzman is a resident of Rescue.

Calif. may tweak program that's pushing up gas prices

By David R. Baker, San Francisco Chronicle

Even as drivers debate repealing California's recent gasoline tax hike, an often-overlooked state program has quietly helped push fuel prices higher.

Dubbed the low carbon fuel standard, the program is designed to fight climate change by forcing oil companies to lower the "carbon intensity" of the fuels they sell in California.

For years, it had little effect on gasoline prices, tacking on an estimated 3 or 4 cents per gallon.

Read the whole story

How do pro athletes recover so quickly?

By Amanda MacMillan, Outside

Lindsey Vonn made history last month with her 64th World Cup win—the most ever for a female skier—after spending most of 2014 rehabbing a torn ACL. Even more remarkable: she had not one but two major knee surgeries in the past two years.

Many people who tear their ACLs are told it can take at least

a full year, post-surgery, to get 100 percent of their strength and function back. For them, Vonn's return to the slopes, just 10 months after her second operation, may have seemed a bit hasty.

So what is it about the pros? Do they recover more quickly because they're better athletes, or because they get better care? According to John Xerogeanes, M.D., chief of sports medicine and professor of orthopedic surgery at Emory University Hospital, it's usually a bit of both.

Read the whole story

Vail Resorts a contender in any U.S. 2030 Olympic bid

By Jay Hamburger, Park Record

Vail Resorts could medal in any U.S. bid for a Winter Olympics.

The Colorado-based ski behemoth has properties in three of the places that are seen as contenders to become the bid city once the United States Olympic Committee mounts an effort to secure another Winter Olympics, perhaps as early as the event in 2030.

Reno-Lake Tahoe, Salt Lake City and Denver are three of the places that are considering a bid. Vail Resorts has properties in each of the three locations.

A Vail Resorts representative said the firm would be "proud to be a part of hosting a Winter Olympic Games in any one of the three regions of Colorado, Utah or Tahoe." Kelly Ladyga, the

vice president of corporate communications, said Vail Resorts will work with Olympic efforts in any of the areas.

Read the whole story

Letter: A review of SnowGlobe regulations

To the community,

SnowGlobe appears to be following the letter of their contract with the city of South Lake Tahoe with the possible exception of holding an after party in Bijou Park. They have also generated revenue for local businesses, employed local residents and donated to local charities. What is not apparent are the current and existing city, county and TRPA plans and regulations which are being ignored and not enforced outside the existing exemption employed by the City of South Lake Tahoe.

When the city of South Lake Tahoe negotiated this event, they entered into the contract the standard exemption (a temporary activity permit) which in theory would allow the city to exempt SnowGlobe from having to meet the normal noise regulations, including those required by the TRPA under the existing MOU between the City and TRPA. (Project Description[1])

PROJECT DESCRIPTION

This is a temporary activity to be held on Monday December 29, 2014 through Tuesday December 30, 2014 from 3:00 pm – 10:00 pm and Wednesday, December 31, 2014 from 4:00 pm to 12:30 am. The SnowGlobe Music Festival is a three day event encompassing local, regional, and national musical artists on three stages. The event will include food and merchandise vending; alcoholic and non-alcoholic items will also be sold. Additional entertainment includes a fireworks show and rail jam exhibition.

Submittal:

- Special Event Application received
- Site Plan received October

Note: This is an MOU project and an Exempt/Qualified Exempt Activity as defined in TRPA Code of Ordinances. Temporary Activities within the City of South Lake Tahoe are included in the list of activities in TRPA Code § 2.5-1 to be reviewed by the City of South Lake Tahoe under the Memoranda of Understanding (MOU). Temporary activities are reviewed for compliance with TRPA code Chapter 22 criteria and the South Lake Tahoe City Code.

Unfortunately, the City did not realize that this MOU has defined limits. TRPA requires the city to meet existing requirements for the exemption to apply. These requirements include not holding events that are contrary to existing community plans and which meet defined noise restrictions.

(see the following current TRPA Ordinances[2])

21.2.4. Prohibited Uses

Proposed uses not listed in applicable plan area statements, community plans, redevelopment plans, Area Plans, and specific or master plans are prohibited. Also, proposed special uses for which the findings in subsection 21.2.2 cannot be made are prohibited uses.

22.6.1. Community Plan Area

An adopted community plan may set plan standards for temporary activities that are equal or superior to the standards in Section 22.7. Upon adoption of the community plan, the community plan standards for temporary activities, if any, shall supersede the standards in this chapter.

22.7.5. Noise

Temporary activities are exempt from the noise limitations set forth in Chapter 68: *Noise Limitations*. Notwithstanding the foregoing, prior to approving a temporary activity that may exceed such limitations, TRPA shall provide notice and an opportunity to be heard. TRPA may approve such temporary activities provided it finds that:

- A.** The activity is not injurious or disturbing to the health, safety and general welfare of persons or property in the neighborhood, and the general welfare of the region, and the applicant will take reasonable steps to protect against such injury; and

TRPA Code of Ordinances

Adopted by Governing Board December 12, 2012 | Amended December 24, 2017 | Page 22-3

CHAPTER 22: TEMPORARY USES, STRUCTURES, AND ACTIVITIES

22.8 Seasonal Projects Distinguished

22.7.6 Traffic Mitigation

- B.** The activity is in a plan area designated commercial, public service, or tourist; is limited to no more than ten hours duration, and is between the hours of 8:00 am to 10:00 pm; or the activity is a race or exhibition, is limited to no more than six hours in duration, and is conducted during daylight hours.

² Tahoe Regional Planning Agency, Code or Ordinances, Effective February 2013

The city established a Bijou/Al Tahoe Community Plan in October of 1995 and has amended this plan as recently as

September 2010. In this plan there are defined goals for the use and development of the area described. The plan describes developing the area as a family friendly residential area. It also includes limits to allowable noise levels as a means of meeting these defined goals. (see following from the Community Plan[3])

C. BIJOU/AL TAHOE COMMUNITY PLAN GOALS AND OBJECTS

A fundamental cornerstone of this Community Plan is the conviction that Bijou/Al Tahoe should serve as a family oriented and recreation center, as well as the Town Center for the local community. To accomplish this goal, policies must encourage diversification of recreational and commercial attractions to create the high quality development expected in a family oriented resort area. Public service oriented uses should be further concentrated in this area to enhance the Town Center Concept.

MAXIMUM CUMULATIVE NOISE LEVEL: The maximum cumulative noise equivalent levels for this Community Plan Area is as follows:

Land Use Districts	CNEL
1-3 (Bijou, Harrison, Lucky, Payless)	60
4 (Town Center)	60
Shorezone	55
US 50 Corridor	65

The following performance standards for the stationary noise sources or projects will be used to evaluate specific project impacts.

Noise Level Descriptor	Daytime (7am-7pm)	Evening (7pm-10pm)	Nighttime (10pm-7am)
Hourly Leq dB	DST 1-4 SHRZIN 60dB 55dB	DST 1-4 SHRZN 55dB 50dB	DST 1-4 SHRZN 55dB 45dB

Each of the noise levels specified above should be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

The MOU between the TRPA and the city of South Lake Tahoe clearly states that if a violation is discovered, the city must immediately notify the TRPA and take appropriate actions. Unfortunately, it is the city itself that may be violating the requirements of TRPA's temporary activity permit. Ironically, the city appears to not have reported their violation or the violations of SnowGlobe with respect to TRPA's existing noise limits or the limits defined in the established Bijou/Al Tahoe Community Plan.

(MOU violation requirements[4])

Upon discovery of a TRPA Code violation associated with a permit issued by TRPA, Public Entity shall immediately notify the designated TRPA Code Administration staff in writing. TRPA may also perform inspections and determine if a violation exists. Settlements of TRPA Code violations involving civil penalties must be approved by TRPA.

Upon discovery of a TRPA Code violation associated with a permit issued by Public Entity, the Public Entity shall have authority and responsibility to take any and all administrative steps to enforce the standards of the TRPA Code as authorized by this MOU, including the processing of Code violations involving unpermitted activities. If a TRPA Code violation cannot be resolved by the Public Entity on-site, the Public Entity shall contact TRPA to institute TRPA's compliance procedures.

The issues become further complicated when we add the city boundaries into the equation. The city exemptions apply within city limits but require an exemption with El Dorado County for areas that are unincorporated. The houses behind STPUD, along Black Bart and directly adjacent to the SnowGlobe venue are unincorporated. The County also has noise restrictions for these areas and we have found no evidence of any exemptions having been filed with El Dorado County. Residents would be within their right to file a complaint if noise levels went above defined levels.

(El Dorado Noise Regulation[5])

The County has also established noise standards for activities associated with actual construction of a project and restricts major noise producing activities to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and to the hours of 8:00 a.m. to 5:00 p.m. on weekends and federal holidays. In community regions and adopted plan areas, maximum noise levels from construction activities during these hours shall not exceed 75 dBA L_{max} at residential land uses, and shall not exceed 90 dBA L_{max} at commercial, public facility, or industrial land uses.

The County Ordinance establishes that it is unlawful for any person to willfully make, emit, or transmit or cause to be made, emitted, or transmitted any loud and raucous noise upon or from any public highway or public thoroughfare, or from any public or private property to such an extent that it unreasonably interferes with the peace and quiet of another's private property.

Table 4: Maximum Allowable Noise Exposure for Transportation Noise Sources

Land Use	Outdoor Activity Areas ¹ $L_{dn}/CNEL$, dB	Interior Spaces	
		$L_{dn}/CNEL$, dB	L_{eq} , dB ²
Residential	60 ³	45	--
Transient Lodging	60 ³	45	--
Hospitals, Nursing Homes	60 ³	45	--
Theaters, Auditoriums, Music Halls	--	--	35
Churches, Meeting Halls, Schools	60 ³	--	40
Office Buildings	--	--	45
Libraries, Museums	--	--	45
Playgrounds, Neighborhood Parks	70	--	--

Notes:

¹ In Communities and Rural Centers, where the location of outdoor activity areas is not clearly defined, the exterior noise level standard shall be applied to the property line of the receiving land use. For residential uses with front yards facing the identified noise source, an exterior noise level criterion of 65 dB L_{dn} shall be applied at the building facade, in addition to a 60 dB L_{dn} criterion at the outdoor activity area. In Rural Regions, an exterior noise level criterion of 60 dB L_{dn} shall be applied at a 100 foot radius from the residence unless it is within Platted Lands where the underlying land use designation is consistent with Community Region densities in which case the 65 dB L_{dn} may apply. The 100-foot radius applies to properties which are five acres and larger; the balance will fall under the property line requirement.

² As determined for a typical worst-case hour during periods of use.

³ Where it is not possible to reduce noise in outdoor activity areas to 60 dB $L_{dn}/CNEL$ or less using a practical application of the best-available noise reduction measures, an exterior noise level of up to 65 dB $L_{dn}/CNEL$ may be allowed provided that available exterior noise level reduction measures have been implemented and interior noise levels are in compliance with this table.

Source: El Dorado County. 2004. *El Dorado County General Plan, Public Health, Safety, and Noise Element*. July 19.

Despite having an exemption to city noise regulations, the city of South Lake Tahoe is likely violating TRPA noise requirements for a temporary activity permit as defined by the MOU between the TRPA and the city of South Lake Tahoe. The city is also not following the established noise limits defined in the Bijou/Al Tahoe Community Plan. Finally, the city is likely violating El Dorado County noise restrictions. None of the existing regulations allows for loud sounds above ~60 dBs after 10pm and El Dorado County limits sound after 5pm on federal holidays and weekends.

If the city continues with the existing contract with SnowGlobe, they will likely be violating local regulations (as

they have these past seven years). Should they proceed with the contract as it is currently written, the city risks being sued by SnowGlobe for breach of contract if either the TRPA or El Dorado County elect to enforce existing noise regulations. If the city does elect to renegotiate the contract, they will need to either meet the existing regulations with lower decibel (dB) levels and earlier sound cut-off times or arrange to exempt the SnowGlobe event from TRPA noise limits, county noise limits and the city's own community plan. Immediately ending the contract may be the easier choice for the city of South Lake Tahoe as the 2018 event will violate these existing regulations as things currently stand. Even if the contract can be renegotiated, it is unlikely SnowGlobe will be able to lower sound levels and shut down earlier given existing contracts they likely have with their artists.

Scott Ramirez, South Lake Tahoe

Snippets about Lake Tahoe

- South Lake Brewing is having a fundraiser for Sierra-at-Tahoe's avalanche dogs on March 16 from 6-10pm. In addition to beer, there will be pizza, music and a raffle. Dogs on leash welcome.
- Here is the Sierra roadwork schedule for the week from Caltrans.
- Power to Your Pelvis – Taking Control of Your Pelvic Floor will be a free talk on April 12, 6-7pm by Barton Health physical therapist Chris Kozlowski. It will be in the board room at Lake Tahoe Community College.
- South Lake Tahoe is on **this list** of pet-friendly

vacation spots in the U.S.

• Jerry Blackwill, vice president of strategic planning for the Truckee Donner Railroad Society and board president of the Sierra State Parks Foundation, will discuss constructing the Transcontinental Railroad: Central Pacific Railroad on March 9 at 5pm at the Tahoe Maritime Center in Tahoe City. Suggested donation of \$5.

Truckee's Engel posts personal best slalom finish

By U.S. Ski Team

Mark Engel (Truckee) scored a career-best World Cup slalom result, finishing 19th in Kranjska Gora, Slovenia, on Sunday.

Austria's Marcel Hirscher once again crushed the field, winning by 1.22 seconds over Norway's Henrik Kristoffersen in second and Switzerland's Ramon Zenhaeusern in third.

With the victory, Hirscher won the overall World Cup slalom title, and leads Kristoffersen by 289 points in the overall standings.

Up next, the men head to Kvitfjell, Norway, for downhill and super-G races March 10-11.

Meeting to focus on bring art to the South Shore

There will be a South Shore Arts town meeting on March 13 from 5:30-7:30pm at Tahoe Mountain Lab on Harrison Avenue.

There will be an informal pre-gathering with light refreshments from 5-5:30pm.

It will be facilitated by the Nevada Arts Council and the Tahoe Arts Alliance. The goal is to bring residents, businesses, and nonprofits together for a conversation to assess the current “state of the arts” on the South Shore.

With public input, organizers will then begin to explore, expand and prioritize the community’s vision for the arts and culture.

Nevada women will be key in 2018 elections

By Ramona Giwargis, Las Vegas Review-Journal

Growing up in a religious Southern California household, Jazzmyne Lizarraga-Valle couldn’t even talk about sex.

But three months ago, the aspiring teacher proudly held a sign that read “Reproductive Freedom For All” as she marched among thousands of people in Nevada’s Women’s March. The event marked the height of a movement that put women in the spotlight and reinforced their role as a force to be reckoned with – particularly at the polls.

The 2018 midterm elections will be a defining moment for women in Nevada. State voters could elect their first female governor. They could choose a second female senator to represent them in Washington. And they might choose a woman to be the next lieutenant governor.

Read the whole story