



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcca.wa.gov

Nov. 16, 2018

Delivered electronically to “neupert@nkfr.org”

Subject: PDC Case 40302

Dear Stephen Neupert, Chief Dan Smith and Brian Snure, counsel for North Kitsap Fire and Rescue,

Enclosed is a copy of an electronic letter sent to Scott Henden concerning the complaint filed against North Kitsap Fire & Rescue (the District) alleging violations of RCW 42.17A.555 for using of public facilities to support a political campaign for a tax increase levy.

As noted below in the electronic letter to Scott Henden, the PDC has dismissed this matter in accordance with RCW 42.17A.755(1) and will not be conducting a more formal investigation into these allegations or taking further enforcement action in this matter.

However, pursuant to WAC 390-37-060(1)(b), this letter serves as a warning letter to the District concerning the requirement that election related information distributed by a public agency using public funds must be an objective and factual presentation of the facts and must not include language or photographs to provoke an emotional reaction in support of a ballot proposition. PDC staff expects North Kitsap Fire and Rescue and its staff will follow the PDC guidance in PDC Interpretation #04-02.

The Commission will consider this formal written warning in deciding on further Commission action if there are future violations of PDC laws or rules.

If you have questions, you may contact Alice Fiman at 1-360-586-4746 or toll-free at 1-877-601-2828, or by e-mail pdcc@pdcc.wa.gov.

Sincerely,

/s _____

Alice Fiman
Compliance Officer

Endorsed by,

/s _____

Peter Lavallee
Executive Director



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Nov. 16, 2018

Delivered electronically to “shenden@centurytel.net”

Subject: PDC Case 40302

Dear Scott Henden

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed Aug. 21, 2018. Your complaint alleged that the North Kitsap Fire and Rescue (the District), a public agency, may have violated RCW 42.17A.555 by using fire district facilities to produce and distribute a newsletter that provided citizens with information in support of Proposition 1, a four-year maintenance and operations levy for North Kitsap Fire and Rescue. You alleged this was a political campaign for a tax increase levy.

PDC staff reviewed the allegations listed in your complaint; the newsletters you provided; PDC laws, rules; and PDC Interpretation No. 04-02 Guidelines; and the Oct. 15 response from Brian Snure, an attorney with Snure Law Office and legal counsel for the District. As a result of staff's review, we found the following:

- The District adopted a Resolution in 2018, placing a four-year maintenance and operations levy on the Nov. 6, 2018 general election ballot titled Proposition 1.
- In late July 2018, the District produced and mailed out a newsletter, The Pulse, to district residents. The Pulse is produced and distributed annually and is sent out each year near the end of the summer.
- The 2018 edition of the Pulse included three pages of information about the upcoming maintenance and operations levy. Staff reviewed the information about the levy and found the majority of the content to be a factual and objective presentation in accordance with RCW 42.17A.555 and PDC Interpretation #04-02.
- However, staff found that the title of the article “Saving Lives with Property Taxes” to be a matter of opinion that could be interpreted as promoting passage of the levy, especially

when combined with the accompanying photograph of firefighters responding to an apparent emergency. In addition, the tone and tenor of the initial paragraph of the article, which began with the statement, “We know no one likes property taxes...” could also be interpreted as opinion and promotional.

- In October of 2018, the District produced and distributed a second edition of the Pulse Newsletter (Fall 2018); this was not a normal and regularly scheduled publication for the district. Three of the four pages of the edition provided information about Proposition 1, and the title of the article changed to “Proposition No. 1 November ballot includes measure that, if approved, will ensure local fire districts get resources needed to maintain levels of service,” and excluded the phrase “Saving Lives with Property Taxes.” The information also included the impacts of the levy on residents of the Poulsbo Fire Department and the District.
- In his response, Mr. Snure stated that the district’s Pulse newsletter is “mailed to every address (residential, commercial and post office boxes) in every zip code served by the two fire departments (North Kitsap and Poulsbo). The latest issue was sent to 24,583 addresses.” He stated “North Kitsap Fire & Rescue takes its responsibility to keep the public informed about operation and maintenance issues affecting North Kitsap Fire & Rescue seriously. We regularly use our newsletters to meet this obligation.”
- Mr. Snure stated that the District newsletter “that is the subject of the complaint is simply a continuation of North Kitsap Fire & Rescue’s efforts to educate the citizens of North Kitsap Fire & Rescue by notifying the public of the facts that resulted in the tax levy being placed on the ballot.”
- PDC Interpretation 04-02 provides guidance to public agencies and employees regarding the “objective and fair presentation of the facts” and how the presentation of facts must avoid “Overtly promotional or oppositional content (including inflammatory or emotionally-driven language; check marks and other indications of support; and gratuitous photos that tend to provoke an emotional reaction—e.g. an image of a body on an EMT stretcher, or a house exploding in flames).”
- The Interpretation advises public agencies to distribute election related information using the normal and regular manners of communication. The District only mailed one newsletter per year in the prior four years, as noted on the District’s website, but Mr. Snure noted there were two newsletters mailed by the District in 2013. He stated the District plans to mail two newsletters each year going forward, and that the single year editions of The Pulse for calendar years 2014 – 2017 was a cost-saving measure only.

Based on these findings, and the mitigating factors referenced above, PDC staff has determined that in this instance, sending the 2018 mailers does not amount to a material violation warranting further investigation.

Pursuant to WAC to WAC 390-37-060(1) the District will receive a formal written warning concerning the need for election related information distributed by a public agency using public funds, needs to be an objective and factual presentation of the facts, and to not include language or photographs to provoke an emotional reaction to support a ballot proposition. The formal written warning will include staff’s expectation that North Kitsap Fire and Rescue and its staff will follow the PDC guidance in PDC Interpretation #04-02.

The Commission will consider the formal written warning in deciding on further Commission action if there are future violations of PDC laws or rules.

The PDC has dismissed this matter in accordance with RCW 42.17A.755(1).

If you have questions, you may contact Alice Fiman at 1-360-586-4746 toll-free at 1-877-601-2828, or by e-mail at alice.fiman@pdc.wa.gov

Sincerely,

/s_____

Alice Fiman
Compliance Officer

Endorsed by,

/s_____

Peter Lavalley
Executive Director