



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH
RCW 42.17A

Corey Pearson, Executive Director,
VenuWorks; and Barbara Johnson,
then-President, Kennewick Public
Facilities District

Respondents.

PDC Case 26814

Report of Investigation

I. BACKGROUND

- 1.1 Kennewick Public Facilities District (hereafter, Kennewick PFD, KPFD, PFD, or District) is a Washington public facilities district which owns and operates the Three Rivers Convention Center and manages the City of Kennewick's Toyota Center, an indoor stadium in Kennewick, Washington. At the time the complaint was filed, the board members of Kennewick PFD were Barbara Johnson, President; John Neill, Treasurer; Ron Hue, Secretary; Renee Brooks, Board Member; and Calvin Dudney, Board Member.
- 1.2 Kennewick PFD has no employees, and contracts with VenuWorks of Kennewick, LLC (VenuWorks), an Iowa Limited Liability Company with its head office in Ames, Iowa, and a local office in Kennewick, Washington, for the management of Three Rivers Convention Center and the Toyota Center. Corey Pearson is an employee of VenuWorks and serves as the Executive Director for the facilities operated by KPFD. VenuWorks is a wholly owned subsidiary of VenuWorks, Inc., and is supported by a consulting and support services agreement with VenuWorks, Inc.
- 1.3 KPFD officials placed Proposition 17-4 on the 2017 General Election ballot, following the rejection of Proposition 16-8 in 2016. Proposition 17-4 was to fund "The Link," a facility that would include a Broadway-style theater, Toyota Center improvements, and other entertainment and event space, plus expansion of the Convention Center and other improvements authorized on the Three Rivers campus.

1.4 A Sample Ballot prepared by KPFD stated, “The Board of Directors of the Kennewick PFD adopted Resolution 118-17 concerning improvement and expansion of the Convention and Toyota Centers. The proposition would authorize a sales and use tax increase of $\frac{2}{10}^{\text{th}}$ of 1% (2 cents per \$10.00 purchased) to fund improvements to the Toyota Center and expansion of the Convention Center of the Three Rivers campus designated as the “Link” including additional parking and multi-purpose entertainment facilities. The tax would sunset upon repayment of any bonds issued to fund these improvements.”

1.5 Proposition 17-4 required a simple majority of 50% plus one vote to pass. City of Kennewick voters rejected Proposition 17-4.

II. ALLEGATIONS IN COMPLAINT

2.1 On October 19, 2017, a complaint was filed with the Public Disclosure Commission (PDC) by Victor Epperly alleging that Corey Pearson, Executive Director of VenuWorks and Barbara Johnson, then-President of KPFD, violated RCW 42.17A.555 by producing election-related materials for residents living within the boundaries of KPFD that were incomplete or incorrect, and thus supported passage of Proposition 17-4, and by taking other actions, as noted below, that supported passage of Proposition 17-4. **(Exhibit 1)** The complaint alleged that:

1. The Informational Mailer failed to accurately disclose the scope of work to be completed with funds generated by the ballot measure.
2. The Informational Mailer failed to disclose that the sales tax will generate far more revenue than is needed to pay the debt service on the revenue bonds.
3. The KPFD mailer contradicts what is stated in the ballot measure caption about expiration of the sales tax. The ballot measure states in the last sentence, “The tax would sunset upon repayment of any bonds issued to fund these improvements.” However, the District’s mailer states, “This is a sales tax, and it expires once the bond is repaid.”
4. The KPFD webpage, www.thelinktc.com, contradicts what is stated in the ballot measure caption.
5. The KPFD webpage, www.thelinktc.com, includes information under two tabs which is information external to the KPFD, and therefore cannot be considered unbiased information coming from the KPFD. One tab lists supporters or organizations that have endorsed the proposed sales tax measure. The second tab includes links to sites (Tri-City Herald) that have editorials or news articles that support the project.
6. Under the contact tab of the KPFD’s webpage, www.thelinktc.com, there is a reference to a Facebook page that shows for its contact address the business address of Three Rivers Convention Center, which is owned by the KPFD. Although it appears earlier postings

have been deleted, the Facebook page referenced on the KPFDF's website promoted a Yes vote on the Link project.

7. It appears KPFDF shared media information with the Pro committee, Citizens for the Link Entertainment Center, and VenuWorks, the company operating KPFDF's facilities, was the principal financial supporter of Citizens for the Link Entertainment Center.
 8. Even though the ballot measure caption does not say the sales tax will be used to cover operating costs of the improvements and expansions mentioned in the ballot measure, the Frequently Asked Questions of the www.thelinktc.com webpage states "almost every convention center is owned by a public entity. Because of the major impact these facilities have on local economies, they are best suited to be able to recoup costs of the facility by way of increased taxes."
- 2.2 The complaint alleged that the various misrepresentations cited in the complaint are in direct conflict with the text of the ballot measure, and were designed to mislead the voting public. The complainant said the State should move to overturn the election should the measure pass.

II. FINDINGS

- 3.1 On November 13, 2017, the PDC received a response to the complaint from Leland Kerr, an attorney with the Kerr Law Group, representing KPFDF officials. Mr. Kerr has since retired from the Kerr Law Group, and Eric Ferguson took over Mr. Kerr's responsibilities for representing the Kennewick Public Facilities District. The name of the law firm is now Kerr Ferguson Law Group. In May 2020, Mr. Ferguson delegated working with the PDC to attorney Craig Briggs. **(Exhibit 2)**
- 3.2 Before addressing each allegation, Mr. Kerr stated that Mr. Epperly's complaint neither directly nor indirectly alleged violations of RCW 42.17A.555, but rather, appeared to make argument on the merits of KPFDF's informational mailer rather than substantive allegations of violations. Following are Mr. Kerr's responses to the specific allegations:

Allegation 1: The Informational Mailer failed to accurately disclose the scope of work to be completed with funds generated by the ballot measure.

- 3.3 Mr. Kerr cited the PDC's Guidelines for Local Government Agencies in Election Campaigns, PDC Interpretation 04-02, which states the PDC holds it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies, including informing the community of the needs of the agency that the community may not realize exist. The Interpretation states local governments may expend funds for this purpose provided the preparation and distribution of information is not for the purpose of influencing the outcome of an election.
- 3.4 The complaint alleged the informational mailer described a Performance Theater with 2,300 seats, but failed to disclose that 2,000 of those seats are in a multi-purpose convention hall

and are temporary seats that roll away against a wall of the convention hall, not what one would expect for a performing arts facility. Mr. Kerr countered, the mailer was a fair and objective presentation of the facts, but due to its limited space, could not describe every element of the Project.

Allegation 2: The Informational Mailer fails to disclose that the sales tax will generate far more revenue than is needed to pay the debt service on the revenue bonds.

3.5 The complaint alleged that while the informational mailer described the scope of capital improvements that would occur if the measure passes, it fails to tell the reader the measure will generate far more sales tax revenue than is needed to pay the debt service on the revenue bonds. The complaint provided an example, saying the informational mailer states the sales tax will expire once the bond is repaid, implying the sales tax revenue would be used exclusively to pay off the bonds. The complaint states, over the expected 25-year term of the bonds, sales tax revenue will likely generate approximately \$158 million, based on a projected 3.5% annual growth rate for sales tax collections, resulting in \$74 million in sales tax revenue above what is needed to pay off \$84 million in bond debt.

3.6 Mr. Kerr replied, the standard is whether, in the abbreviated space available in the informational mailer, KPFD provided “an objective and fair presentation of the facts.” He said “the Informational Mailer succinctly states the project is to be funded by the statutorily available sales tax increase of 0.2% which will service payments of the bonds utilized to fund the Project, and which will expire once the bonds are repaid.” He described Mr. Epperly’s conjecture about the sales tax growth rate, the bond repayment schedule, and the amount that may actually be generated as pure speculation. He said the ultimate finance plan will not be determined until after the outcome of the election.

Allegation 3: The KPFD mailer contradicts what is stated in the ballot measure caption about expiration of the sales tax.

3.7 The complaint claims a problematic distinction between ballot measure language and KPFD mailer language, resulting in a promotional mailer, by noting the ballot measure states “the tax would sunset upon repayment of ANY BONDS issued to fund these improvements,” while the KPFD’s informational mailer states, “this is a sales tax, and it expires once THE BOND is repaid.”

3.8 Mr. Kerr stated the ballot measure addressed the broad range of financing options that would be available to the District after revenues are assured and amounts determined following passage of Proposition 17-4, while the mailer identified the maximum period allowed for bonds, 25 years. Mr. Kerr stated, Mr. Epperly is attempting to create a nuance where none is justified.

Allegation 4: The KPFD webpage, www.thelinktc.com, contradicts what is stated in the ballot measure caption.

3.9 Mr. Kerr stated the complaint makes the same arguments in Allegation 4 as in Allegation 3, except that Allegation 4 pertains to the District's webpage instead of to its informational mailer. He said Mr. Epperly is once again attempting to create a nuance where none is justified.

3.10 Mr. Kerr also addressed the allegation that District officials operated www.thelinktc.com in support of Proposition 17-4. He said this allegation is unfounded, pointing out the PDC's Guidelines state the District "may develop an objective and fair presentation of the facts" related to a ballot measure, including "agency needs" and "anticipated impacts," and then "post" that information to the District's website. Mr. Kerr noted the District's website is maintained in fulfillment of its responsibility to inform the general public of its needs. He said the District maintains a general informational website, and for the past three elections has maintained websites to provide information about its ballot measures.

Allegation 5: The KPFD webpage, www.thelinktc.com, includes information under two tabs which is information external to the KPFD, and therefore cannot be considered unbiased information coming from the KPFD. One tab lists supporters or organizations that have endorsed the proposed sales tax measure. The second tab includes links to sites that have editorials or news articles that support the project.

3.11 The complaint alleged the District's informational webpage included a tab listing six entities that expressed support for Proposition 17-4. They were: **(Exhibit 1, Page 9)**

- The Tri-Cities Americans hockey team;
- The Tri-Cities Visitors and Convention Bureau (Visit Tri-Cities);
- TRIDEC - The Tri-City Development Council;
- The Tri-Cities Regional Chamber of Commerce;
- The Tri-City Herald Newspaper; and
- The Entertainer magazine.

In addition, the complaint alleged a second tab provided links to sites that have editorials or news articles from the Tri-City Herald. **(Exhibit 1, Page 8)**

3.12 Mr. Kerr characterized the two tabs as "minor pages" on the District's informational website. He acknowledged that the six entities have expressed their support for Proposition 17-4, but noted there were no statements, links, or contact information included that would lead to information in favor of, or in opposition to, the ballot measure. He said the six entities listed as endorsing Proposition 17-4 were agencies or vendors that normally transact business with KPFD, and said their names are available as public records. Mr. Kerr said the tab with a reference to "articles" includes links to all letters-to-the-editor and articles published in the area's single newspaper, The Tri-City Herald. He said the articles contain

everything written both for and against The Link, without distinction and without editorializing. He said the list contained links to allow a complete, unbiased, and neutral forum showing all opinions expressed, either for, or against, Proposition 17-4, without any endorsement or support by the District given to any of the articles.

3.13 The District's website included links to three articles written by Wendy Culverwell for the Tri-City-Herald, a link to an editorial written by the editorial board of the Tri-City Herald, and a link to a letter-to-the-editor written by Nolan Kadinger. Following is a brief summary of each article/editorial/letter.

- Article written by Wendy Culverwell, May 10, 2017. (Exhibit 3) The article explains the District's plans to place a measure on the ballot that would be very similar to the 2016 proposal that failed, Proposition 16-8, with one notable exception. The 2017 proposal included a third sheet of ice in support of the area's youth hockey program. The article explained the District's plan to use the new ice rink for parallel uses when not being used for youth hockey, such as curling, figure skating, girl's hockey, and adult hockey. The article was written before the KPFDD board made a final decision to place Proposition 17-4 on the 2017 general election ballot. However, it provided readers with positive comments about what became Proposition 17-4, by Corey Pearson and Barbara Johnson of KPFDD, and Kris Waltze, President of the Tri-Cities Amateur Hockey Association, the group identified as the driving force behind the addition of an ice rink.
- Article written by Wendy Culverwell, June 29, 2016. (Exhibit 4) The article described The Link as a proposed \$35 million, 100,000-square-foot addition to the Three Rivers Convention Center campus that included a 2,300-seat Broadway-style theater, a convention center addition and a new lobby facing Vista Field. While the article was written in 2016 to describe Proposition 16-8 that failed, it was relevant to voters of Proposition 17-4 because of the similarity between the 2016 and 2017 proposals. The article described how the Kennewick City Council pledged in 2016 to build up to 1,000 new parking spots near the Three Rivers Convention Center complex if the 2016 measure passed, a feature included in the 2017 proposal.
- Article written by Wendy Culverwell, July 7, 2017. (Exhibit 5) The article explained that the Kennewick Public Facilities District was emboldened by the relatively narrow margin of defeat in 2016, and would be considering later in July whether to resubmit a request to voters for The Link project to expand Three Rivers Convention Center. The article explained how voters rejected earlier versions in 2013 and again in 2016, when it fell 292 votes short of a simple majority. The article noted how the Kennewick City Council must concur with the KPFDD's decision before it can be submitted to voters. Kennewick Mayor Steve Young said the City Council would like to see voters get another chance to invest in the convention center. He said city officials fear Three Rivers will lose convention and meeting business to other communities without an expansion and new amenities. He challenged the public facilities district to better educate the public about the request.

- Editorial written by Editorial Board of the Tri-City Herald, July 15, 2017. (Exhibit 6)
The article written by the editorial board of the Tri-City Herald said it would take thorough preparation, time and a more ambitious campaign than the 2016 effort to ensure the public has the right information, and to get the votes needed to publicly fund improvements to the Three Rivers campus. The editorial noted that Kennewick mayor Steve Young, while not endorsing the plan, said organizers will have to do a better job educating the public about the request. The editorial board said they agreed. The editorial said, after the 2016 loss, the board encouraged backers of The Link to try again because expansion at the Three Rivers Convention Center has been needed for a long time. The editorial board said they could not make a recommendation on a proposal that was still in the planning stages, but said if the KPFD board tries to put a measure on the ballot, it won't stand a chance without a strong marketing plan behind it.
- Letter-to-the-Editor written by Nolan Kadinger in 2017. (Exhibit 7) In a letter-to-the-editor, Nolan Kadinger, a Kennewick resident, said he was glad the people pushing The Link project were trying again to get this measure passed. He said he really believed it could pass, but said the biggest obstacle to focus on was building up a large voter base. The letter said not very many Kennewick citizens vote, and the ones that do are ultimately too conservative and suffer from, as he said he would put it, "tax phobia." He said KPFD needed to focus on encouraging people who would support the effort to vote. The letter concluded with a statement that if KPFD does these things along with what they are doing now, it would not be hard to see the District riding the wave to victory.

Allegation 6: Under the contact tab of the KPFD's webpage, www.thelinktc.com, there is a reference to a Facebook page that shows for its contact address the business address of Three Rivers Convention Center, which is owned by the KPFD. Although it appears earlier postings have been deleted, the Facebook page referenced on the KPFD's website promoted a Yes vote on the Link project.

3.14 Mr. Kerr acknowledged KPFD's webpage designer (Focal Point Marketing) included a link on the District's webpage to a Facebook page controlled by Citizens for the Link Entertainment Center, the political committee supporting Proposition 17-4. Mr. Kerr said the page was solely informational, did not urge a Yes vote for the ballot measure, and used publicly available illustrations of the project. Mr. Kerr acknowledged the Facebook page appeared to use the physical address of the project, 7016 Grandridge Blvd., Kennewick, Washington, as its address, but said the content was solely informational, and when the District became aware of its source, immediately removed the link from its website. Mr. Kerr said the District had no control over the content of the Facebook pages, and said it was a stretch to conclude the use of the project's physical address by the committee made the District's address the Committee's address, or that the posted material suggested a Yes vote for Proposition 17-4. Citizens for the Link Entertainment Center had its own address, separate from the District's address.

Allegation 7: It appears KPFD shared media information with the Pro committee, Citizens for the Link Entertainment Center. VenuWorks, the company operating KPFD's facilities, was the principal financial supporter of Citizens for the Link Entertainment Center.

- 3.15 Mr. Kerr stated the allegation, KPFD officials shared media information with Citizens for the Link Entertainment Center, is pure speculation. He said since 2016, the District has provided information about the project at open houses, to the media by way of media packets, to public records requestors, and to all persons requesting information. He said the information was typically provided with thumb drives containing copies of the District's photographs, renderings, site plan drawings, and informational mailer.
- 3.16 Mr. Kerr said the District's materials Mr. Epperly alleges were in the possession of Citizens for the Link Entertainment Center have been in the public domain since 2016, constitute public records under RCW 42.56.010, and have been treated as public records by the District. He said, consistent with the Commission's Guidelines for Local Government Agencies in Election Campaigns (Interpretation 04-02), the District's photographs, renderings, site plan drawings, and informational mailer were: "(1) made in the ordinary course of the agency's business; (2) were not 'staged' for campaign purposes; and (3) were made available to the campaign on the same terms and conditions as any other member of the public would receive for photos or videos."
- 3.17 Mr. Kerr said the "principal contributor" to Citizens for the Link Entertainment Center, was VenuWorks, an Iowa corporation, located at 4611 Mortensen Road, Suite 111, Ames, Iowa, and was not VenuWorks of Kennewick, LLC, a Washington limited liability company under contract to operate KPFD's facilities, with offices located in KPFD's facilities. Mr. Kerr said none of the facilities operated by VenuWorks of Kennewick, LLC were used to make contributions, in an effort to keep a conscious separation between support of Proposition 17-4 by VenuWorks of Iowa, and the administrative services provided by VenuWorks of Kennewick, LLC.

Allegation 8: Even though the ballot measure caption does not say the sales tax will be used to cover operating costs of the improvements and expansions mentioned in the ballot measure, the Frequently Asked Questions of www.thelinktc.com webpage states "almost every convention center is owned by a public entity. Because of the major impact these facilities have on local economies, they are best suited to be able to recoup costs of the facility by way of increased taxes."

- 3.18 Allegation 8 suggests wording in the District's Frequently Asked Questions implies sales tax revenue generated by the ballot measure will be used to cover operating costs of the proposed improvements and expansions, and then promotes the ballot measure by stating convention centers owned by public entities are justified in recouping their costs through increased taxes. The FAQs do not state or imply sales tax collections will be used to pay operating costs for the expanded facilities, but they do express the opinion that public entities, such as the District, are justified in recouping their costs through increased taxes.

3.19 Mr. Kerr responded as though the complaint was alleging the ballot measure caption was inadequate or improperly written, and noted challenges to ballot captions must be made pursuant to RCW 29A.36.090 within the allowed time period, which had expired as of the date the complaint was filed. Mr. Kerr noted the standards for establishing the concise description required in the ballot caption are addressed in the same manner. He stated the ballot caption is not misleading or false.

3.20 Mr. Kerr said Mr. Epperly's allegation of an "indirect conflict between the text of the ballot measure and the representations made in the informational materials provided by the District" is unsupported in fact and presents no alleged violation of RCW 42.17A.555.

Additional Findings

On May 18, 2020, PDC staff made supplemental inquiries of KPFD concerning the allegations in Mr. Epperly's complaint. On July 16, 2020, Craig Briggs responded to staff's questions, on behalf of KPFD. Barbara Johnson did not have information regarding staff's inquiries, which were answered by Corey Pearson, based on the best of his knowledge, in recalling the events during the relevant period. **(Exhibit 8)**

Allegation 5

3.21 Staff asked the District why it listed six entities on its website as supporters or endorsers of Proposition 17-4. Mr. Pearson said the intent was to show there was support for the increase in sales tax from the business community. He said the endorsement letters were sent to the District by the entities, representing large numbers of businesses. He said the District provided links to relevant news stories to give the perspective of the business community. He said the news stories had both positive and negative responses, but overall, were positive. The six entities listed as endorsers were:

- Tri-Cities Americans hockey team;
- Tri-Cities Visitors and Convention Bureau;
- TRIDEC-The Tri-City Development Council;
- The Tri-Cities Regional Chamber of Commerce;
- Tri-City Herald Newspaper; and
- Entertainer magazine.

All but Entertainer magazine were users of the District's facilities.

3.22 Approval for listing the six endorsers in the District's materials was not something that came from the KPFD board, but from Mr. Pearson directly. He said that duty was the responsibility of the Executive Director.

- 3.23 The District did not solicit the endorsements it received, but held events to educate potential endorsers, and some of those groups came forward requesting an opportunity to support the proposition, while others did not come forward.

Allegation 7

- 3.24 The District provided Citizens for the Link Entertainment Center copies of the District's photographs, renderings, architectural or site plan drawings because this information was within the public domain, and anyone who requested it was provided a copy without being required to make a formal public records request. Citizens for the Link Entertainment Center was treated in the same fashion as other informal requesters, whether a private citizen or an entity.

III. SCOPE

- 4.1 PDC staff reviewed the complaint submitted by Victor Epperly. Staff also reviewed the responses provided by Lee Kerr and Craig Briggs, on behalf of the District, and Corey Pearson on behalf of the District's Officials, Corey Pearson and Barbara Johnson. Staff also reviewed the articles in the Tri-City Herald referenced in the complaint.

IV. LAW

RCW 42.17A.555 states, in part: No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities: ... (3) Activities which are part of the normal and regular conduct of the office or agency." during the previous seven days.

WAC 390-05-271(2) states that RCW 42.17A.555 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

WAC 390-05-273 defines "normal and regular conduct" as conduct that is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. The rule states that no local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

Respectfully submitted this 7th day of January 2021

Electronically Signed Philip E. Stutzman

Philip E. Stutzman
Compliance Officer

EXHIBIT LIST

- Exhibit 1** Complaint filed by Victor Epperly October 19, 2017.
- Exhibit 2** Response to complaint, Lee Kerr, received November 13, 2017.
- Exhibit 3** Article written by Wendy Culverwell, May 10, 2017.
- Exhibit 4** Article written by Wendy Culverwell, June 29, 2016.
- Exhibit 5** Article written by Wendy Culverwell, July 7, 2017.
- Exhibit 6** Editorial written by Editorial Board of the Tri-City Herald, July 15, 2017.
- Exhibit 7** Letter-to-the-Editor written by Nolan Kadinger in 2017.
- Exhibit 8** Response to supplemental inquiries, Craig Briggs, received July 16, 2020.

This complaint is against the Kennewick Public Facilities District (KPFDD) with its proposed ballot measure 'Kennewick Public Facilities District Proposition 17-4' which requests voter approval of 0.2 of 1 % sales tax to fund construction of The Link project. It's asserted that:

- 1) The informational mailer that was sent to the voters failed to disclose the scope of work adequately so as to provide the voters with sufficient information to make an informed decision.
 - a. The mailer describes a Performance Theater with 2,300 seats.
 - b. It fails to disclose the fact that 2,000 of those seats are in a multi-purpose convention hall and are temporary seats that roll away up against one wall of the convention hall. Not what you would expect for a performing arts facility.
- 2) The information mailer describes the scope of capital improvements, yet nowhere does it say that the sales tax will generate far more revenue than is needed to pay the debt service on the revenue bonds.
 - a. Rather, it states 'this is a sales tax, and it expires once the bond is repaid.'
 - b. This implies the sales tax would be used exclusively to pay off the bonds.
 - c. We know excess revenues will be generated because sales tax collections in Kennewick have averaged 3.5% growth.
 - d. We know that revenue bonds typically have a level repayment schedule. The difference between the two numbers is excess cash, which has not been accounted for in the KPFDD media blitz.
 - e. Over the 25-year period the KPFDD says will be the term of a bond, the sales tax will be collected. At a 3.5 % growth rate for the sales tax revenue would be on the order of \$158 million vs. the \$84 million or so for the total debt service on the revenue bond.
 - f. The difference of \$74 million dollars is a significant amount of money that the KPFDD has not informed the public as to its use.
- 3) The mailer provides information that contradicts what is stated IN THE BALLOT MEASURE.
 - a. The ballot measure titled 'Kennewick Public Facilities District Proposition 17-4' states in the last sentence 'the tax would sunset upon repayment of ANY BONDS issued to fund these improvements'. Whereas the mailer states 'this is a sales tax, and it expires once THE BOND is repaid ...'
- 4) The web page THELINKTC.COM contradicts information that is in the ballot measure caption as well.
 - a. The ballot caption states a specific sunset date for the sales tax as being upon repayment of ANY BONDS issued to fund these improvements, yet under the Frequently Asked Questions tab on the web page it states 'this tax will expire with the repayment of THE BONDS IN 25 YEARS.'
 - b. Without the specific time frame in years, the date the BONDS are paid off can be extended well beyond what the public expects.
- 5) The web page THELINKTC.COM has information under two tabs which is information external to the KPFDD and therefore cannot be considered unbiased information coming from the KPFDD.
 - a. One tab is SUPPORTERS, or organizations that have endorsed the proposed sales tax measure.
 - i. The Tri-cities Americans hockey team
 - ii. The Tri-cities Visitors and Convention Bureau (Visit Tri-cities)
 - iii. TRIDEC – the Tri-City Development Council

- iv. The Tri-cities Regional Chamber of Commerce
- v. The Tri-city Herald newspaper
- vi. The Entertainer magazine
- b. The second is links to sites that are editorials or news articles that support the project.
 - i. All the opinion articles and news articles are from the Tri-city Herald
- 6) Under the Contact tab of the web page TheLinkTC.com, there is a reference to a Facebook page Facebook.com/earlier linktc. Although in response to the Complaint filed against the Kennewick PFD (Case 5562), the site is active and it shows a business address that is that of the Three Rivers Convention Center, which is owned by the Kennewick PFD. Though it appears as though earlier postings have been deleted, the site host had promoted a 'YES' vote on the Link project.
- 7) There appears to be sharing of media information with the PRO committee named 'Citizens for the Link Entertainment Center' (The Committee).
 - a. Recent TV ads paid for by The Committee have used the same architectural renderings that the KPFD made and used to promote the project in earlier TV ads.
 - b. These same TV ads appear to have used the KPFD mailer in their ads as well.
 - c. Venue Works is the principle funder of the 'Citizens for the Link Entertainment Center'.
 - i. The PAC has reported \$30,000 of funding for the PRO committee in Washington PDC filings coming from Venue Works.
 - ii. Venue Works has their office in the Convention Center which is owned by the Kennewick Public Facilities District.
 - iii. Venue Works provides support services to the KPFD Board of Directors, in addition to operating the facilities.
- 8) Nowhere in the ballot measure caption does it say that the sales tax will be used to cover operating costs of the improvements and expansions mentioned in the ballot measure. Contrary to this omission from the ballot caption it is stated in the Frequently Asked Questions of THELINKTC.COM web page that 'almost every convention center is owned by a public entity. Because of the major impact these facilities have on local economies, they are best suited to be able to recoup costs of the facility by way of increased taxes.'

All of these misrepresentations of The Link project that are indirect conflict with the text of the ballot measure have been designed to mislead the voting public. Things like providing indirect support to a PRO committee, and citing information on THELINKTC.COM web page that is external to the KPFD organization will undoubtedly affect the outcome of the election. As provided in statute, the State should move to overturn the election should the measure pass.

This is even more important as complaints were filed over a year ago with the PDC against the Kennewick Public Facilities District (Case 5562) and Go Big Tri-cities (6952). There has been no disposition of these complaints and the Kennewick Public Facilities District has been blatant in its efforts to violate State Law.

OVERVIEW



**SALES TAX IMPACT -
2¢ ON EVERY \$10!**

- From everyone from all communities who spend in Kennewick -

A KENNEWICK PUBLIC FACILITIES DISTRICT PROJECT

TO LEARN MORE VISIT- THELINKTC.COM

WHAT THE LINK PROPOSITION INCLUDES:

PERFORMANCE THEATER - 2,300 SEATS

- Concerts
- Lectures
- Comedy
- Broadway
- Family Entertainment

CONVENTION CENTER EXPANSION

- Multipurpose room
- Added community trade shows

NEW ICE HOCKEY & SPORTS ARENA

- Hockey for youth
- Multipurpose area for all sports (volleyball, gymnastics, soccer and more)
- Ice skating

PARKING EXPANSION

- New lighted parking lot
- 1,000 additional parking spaces.

ECONOMIC IMPACT

- \$66M economic impact
- Generates new tax revenue providing additional money for roads, parks, police and fire departments

TOYOTA CENTER RENOVATIONS

- New arena seating
- Handrails added arena
- Expanded concourse
- Additional ADA seating

PROJECT FUNDING

The Link project will be 100% funded by a proposed 0.2% sales tax increase. That's 2¢ on every \$10!

This is a sales tax, and it expires once the bond is repaid - returning the tax to its normal rate.

In addition, funding **The Link fuels commerce**. Every new concertgoer, convention attendee, and young athlete contributes to our local economy by frequenting shops, hotels and restaurants, **which raises additional money for our roads, parks, Police and Fire Departments.**

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THE LINK

ENTERTAINMENT
CENTER

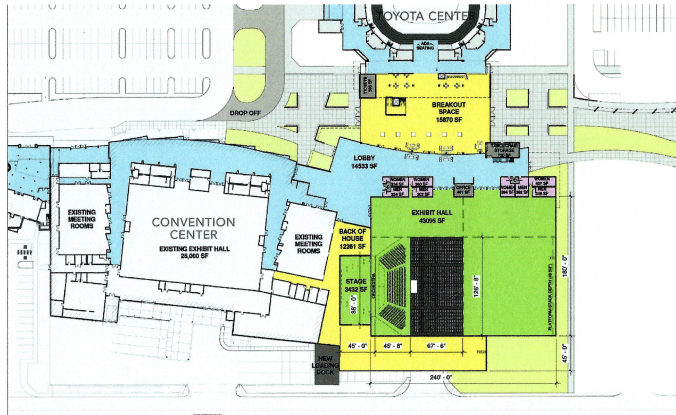
KENNEWICK PUBLIC FACILITIES DISTRICT

VISIT THELINKTC.COM



The Link is a proposition of the **Kennewick Public Facilities District** to renovate, expand and connect the Toyota Center and add a new **2,300 seat performance-style theater**, youth ice hockey and sports arena, along with a lighted parking area and **1,000 additional parking spaces**.

2,300 SEAT THEATER ► RENOVATIONS ► YOUTH SPORTS ARENA





☐ John H. Trumbo

☐ Write-in

Local Issue

Kennewick Public Facilities District Proposition 17-4

The Board of Directors of the Kennewick Public Facilities District adopted Resolution 118-17 concerning improvement and expansion of the Convention and Toyota Centers. This proposition would authorize a sales and use tax increase of 2/10th of 1% (2 cents per \$10.00 purchased) to fund improvements to the Toyota Center and expansion of the Convention Center of the Three Rivers Campus designated as the "Link" including additional parking and multi-purpose entertainment facilities. The tax would sunset upon repayment of any bonds issued to fund these improvements. Should this proposition be:

☐ Approved

☐ Rejected

Sample Ballot

[HOME](#) [What's in it for me?](#) [About the LINK](#) [Frequently Asked Questions](#) [Photos](#) [Articles](#) [Contact/ Suggestions](#) [Supporters](#)

Articles

<http://www.tri-cityherald.com/news/local/article149859399.html>

<http://www.tri-cityherald.com/news/local/article86789667.html>

<http://www.tri-cityherald.com/news/local/article160239669.html>

<http://www.tri-cityherald.com/opinion/editorials/article161433063.html>

<http://www.tri-cityherald.com/opinion/letters-to-the-editor/article152409229.html>





Be the first of your friends to like this



The Link—Entertainment Center
8 hours ago

The Link Entertainment Center (Proposition 17-4) will bring a 2,300-seat performing arts theater, renovations for the Toyota Center, a youth hockey and sports arena, convention center expansion, 1,000 additional parking spots around the Three River Campus and more to the Tri-Cities!

Have a SUGGESTION? TELL US, WE'RE LISTENING! <small>Your personal info remains private</small>	
<p>Write your feedback here...</p>	<p>Complaint</p> <p>Suggestion</p> <p>Question</p> <p>Compliment</p>
<p>Optional: provide an email if you'd like a response. We'll keep it secret</p>	
<p>Add a photo (up to 2MB)</p>	<p>Send</p>
<p>POWERED BY</p>	



Leland B. Kerr
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November 7, 2017

RECEIVED

NOV 13 2017

Sent via Electronic Mail & USPS First Class Mail

Public Disclosure Commission

Mr. Phil Stutzman, Sr. Compliance Officer
PDC Compliance & Enforcement Staff
Washington State Public Disclosure Commission
711 Capitol Way #206
PO Box 40908
Olympia, WA 98504-0908
E-Mail: pdcc@pdcc.wa.gov

Re: Case No. 26814 -- Kennewick Public Facilities District ("KPPFD") – Victor Epperly
(*Alleged Violations of RCW 42.17A.555*)

Dear Mr. Stutzman:

As a follow-up to our recent discussion, our office represents the Kennewick Public Facilities District ("the District"), and it is responding on their behalf to the above-referenced Complaint by Mr. Epperly.

As is evident from Mr. Blackhorn's initial identification of three (3) allegations, Mr. Epperly's allegations, neither directly nor indirectly, allege a violation of RCW 42.17A.555 and appear to be more argument on the merits than substantive allegations. Based upon our recent email exchange, and in fear of answering questions that have not been asked, I have addressed each of the allegations contained in Mr. Epperly's Complaint to the extent that they are relevant.

1. **Allegation No. 1 - Information Mailer fails to adequately disclose the Scope of Work.**

Mr. Epperly's first allegation, taken in its broadest context, does not allege a violation of RCW 42.17A.555.

The Public Disclosure Commission's *Guidelines for Local Government Agencies in Election Campaigns (Public Disclosure Law Re: Use of Public Facilities in Campaigns ("PDC Guidelines"*, under Section 2 of the Basic Principles, states:

"The Public Disclosure Commission holds that it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies. This includes informing the community of the needs of the agency that the community may not realize exists.

Ltr. to Mr. Phil Stutzman
Washington State Public Disclosure Commission
Re: Case No. 26814, KPFD – Victor Epperly (*Alleged Violations of RCW 42.17A.555*)
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Local governments may expend funds for this purpose provided that the preparation and distribution of information is not for the purpose of influencing the outcome of an election."

This is consistent with the legislative mandate of affirming the State's longstanding policy of promoting informed public discussion and understanding of ballot propositions (RCW 42.17A.555).

This is also consistent with the PDC's historical holdings that with respect to election related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate (PDC's Guidelines, Basic Principles, 7.a.).

WAC 390-05-271(2) specifically states that:

"RCW 42.17A.555 does not prevent a public office or agency from (a) making facilities available on a non-discriminatory, equal access basis for political uses, or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency."

The standard is whether the Informational Mailer contained "an objective and fair presentation of the facts for each ballot measure."

The Informational Mailer does exactly that. Due to its limited space, obviously, every element of the Project cannot be described. The critical elements are whether it gives an objective and fair presentation with a description of the elements to be included, and equally important, the cost and source of payment for those improvements.

The limited space on the Informational Mailer is supplemented by its website which does address Mr. Epperly's concern about where the potential seats would be located.

2. **Allegation No. 2 - The Informational Mailer fails to disclose that the sales tax will generate more revenue than is needed to pay the debt service on the revenue bonds.**

This allegation, likewise, fails to allege any violation of RCW 42.17A.555.

As stated above, the standard is whether within the abbreviated space available within the Informational Mailer, the District provides "an objective and fair presentation of the facts."

The Informational Mailer succinctly states that the Project is to be funded by the statutorily available sales tax increase of 0.2% which will service payments of the bonds utilized to fund the Project, and which will expire once the bonds are repaid. Mr. Epperly's conjecture regarding the sales tax growth rate, the bond repayment schedule, and the amount that may actually be generated

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is pure speculation. The ultimate finance plan, the value, length, maturity and interest rate for issued bonds are presently incapable of determination and will not be determined until after the outcome of the election.

3. **Allegation No. 3 - The Mailer contains information regarding expiration of the sales tax that contradicts the Ballot Measure.**

This allegation, likewise, fails to state any violation of RCW 42.17A.555. As pointed out above, it is premature to determine the financing structure until the availability of sales tax revenues are assured and their amount determined. At that point, the District will have several options to pursue, one of which will be to issue bonds for the statutorily established maximum period of 25 years. Other options, depending upon the amount of sales tax generated may allow for bonds having a much shorter maturity. Therefore, the mailer identifies the maximum period, while the ballot caption addresses the broader options available to the District. Mr. Epperly is attempting to create a nuance where none is justified. The Washington State Supreme Court recently in *Washington Association for Substance Abuse and Violence Prevention (WASAVP) v. State*, 174 Wn.2d 642, 664, 278 P.3d 632 (2012) dealt with a similar issue in regard to the ballot caption for I-1183, concluding "...our Supreme Court has repeatedly held that arguably misleading nuances in ballot titles do not invalidate a law duly enacted by voters where no voter was likely to be deceived." The Court went on to find that the ballot caption "was not palpably misleading or false and accurate" thereby concluding "The Court noted 'numerous occasions' in which it had rejected ballot title challenges based on nuances between terms."

Mr. Epperly's challenge of the ballot caption is misplaced and untimely.

Under RCW 29A.36.071 and RCW 29A.72.050, the ballot caption must contain a concise description of the measure with a ballot title not to exceed ten words, and a concise description not exceeding seventy-five words, which must be "sufficiently broad to reflect" the proposition subject and "sufficiently precise to give notice" of the proposition subject matter, and that the description of the proposition be true and impartial and clearly identify the proposition.

Proposition 17-4 meets that criteria. RCW 29A.36.090 provides an exclusive procedure by which any person dissatisfied may object to a ballot title and seek its amendment to conform with the requirements of the Statute. That Statute requires a challenge to a ballot caption to be filed within ten (10) days of the filing of the ballot caption with county auditor (RCW 29A.36.090).

The ballot caption was filed by the Benton County Prosecuting Attorney's Office on August 23, 2017. Obviously, more than ten (10) days has expired since that filing, and any challenges to the ballot caption are not time barred.

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4. **Allegation No. 4** - *The District's web page entitled "THELINKTC.COM" contains information contradictory to the ballot measure caption.*

Mr. Epperly makes the same argument as above by attempting to create a nuance between the maximum period for payment of bonds as provided by statute, and the District's intent that the sales tax expires upon the payment of any bonds issued upon the improvements. That allegation, likewise, fails to allege any violation of RCW 42.17A.555.

Addressing Mr. Blackhorn's expansion of this allegation that the District operated THELINKTC.COM website "in support" of the ballot proposition is equally unfounded.

The PDC Guidelines point out, the District "may develop an objective and fair presentation of the facts" related to a ballot measure, including "agency needs" and "anticipated impacts," and then "post" that information to the District's website (Guidelines, technology, websites, emails, computerized calling systems, Section 21).

As addressed above, the maintenance of the District's website is in fulfillment of the District's responsibility to inform the general public as included in the basic principles adopted by the Public Disclosure Commission. Just as the PDC Guidelines identified for the Informational Mailer, the website must provide an "objective and fair presentation of the facts relevant to the ballot proposition". In addition, maintenance of the website is a part of the normal and regular conduct of the District. The District not only maintains a general informational website at www.threeriversconventioncenter.com, it has for the last three elections, maintained informational websites.

As such, it supplements the single jurisdiction-wide objective and fair presentation of the facts regarding the ballot measure as identified in the PDC's Guidelines.

5. **Allegation No. 5** - *The web page, THELINKTC.COM, has "external" information, and therefore, cannot be considered unbiased.*

Again, there is no specific allegation of a violation of RCW 42.17A.555. Mr. Epperly's allegation falls into two prongs, both associated with minor pages in the website. The first is a list of entities expressing support for the Proposition. As identified in the PDC Guidelines (Section 15 "Lists"), the six entities listed have expressed their support for the Proposition. There are no statements, links or contact information included which would lead to information in favor of, or in opposition to, the ballot caption. This is a list of agencies or vendors that normally transact business with the District and is available under the Washington Public Records Act (RCW 42.56).

Mr. Epperly's second reference is to "articles" which are links to all of the letters to the Editor and articles published to date in the Area's single newspaper--The Tri-City Herald. These "articles" contain everything written both for and against The Link, without distinction and without

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editorializing. This list contains a link to allow a complete unbiased and neutral forum to see all of the opinions expressed, either for, or against, the Proposition without any endorsement or support by the District given to any of these letters or articles.

This is consistent with the PDC Guidelines (Technology [websites, emails, computerized calling systems], Section 21) which states:

"Agency websites may permit viewers to make selections to learn about the anticipated impacts of a ballot measure for a specific division, or otherwise allow readers to explore issues in greater or lesser detail."

The use of this platform is consistent with PDC Guidelines for the use of agency facilities which "is permitted when the facility is merely a 'neutral form' where the activity is taking place, and the public agency in charge of the facility is not actively endorsing or supporting the activity that is occurring."

6. **Allegation No. 6 - Reference in Facebook page to Three Rivers Convention Center Address.**

It is alleged that on the District webpage (THE LINKTC.COM), appeared a link to a previous Facebook site which showed "a business address" of the Three Rivers Convention Center. Upon investigation, the District learned that the webpage designer (Focal Point) had included the attachment identified in the Exhibits supplied by Mr. Epperly. On its face, it was solely informational and did not urge a vote For The Link and used publicly available illustrations. Following the page link, it did go to a site maintained by The Link Entertainment Center which identified the location as 7016 W. Grandridge Blvd., Kennewick, Washington, the physical address of the Project. None of the contents of those pages contained anything other than informational materials. The District, however, immediately upon its discovery of its source, removed the link to that page. While the District has absolutely no control over the content of that page, it is a stretch to suggest the conclusion of the physical address of the Facility constituted either a "business address" or suggested a "yes" vote for the Proposition.

7. **Allegation No. 7 - Sharing of Public Records Information.** The Complaint alleges that "it appears to be sharing media information with the PRO committee". This allegation is pure speculation and does not allege a violation of RCW 42.17A.555. The District as part of its public information, has since early 2016, made available to the public at open houses, to the media by media packets and to public records requestors, thumb drives with copies of the photographs, renderings, site plan drawings and its mailer to all those that have requested it.

This information has been in the public domain since 2016 and constitutes public record under RCW 42.56.010 and has been treated by the District as such. This is consistent with the PDC Guidelines in that they are "(1) made in the ordinary course of the agency's business, (2) were not

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'staged' for campaign purposes, and (3) are made available to a campaign on the same terms and conditions as any other member of the public would receive for photos or videos."

Under the same allegation, Mr. Epperly makes an unrelated reference to a contribution to the PAC in support of the Proposition (Citizens for the Link Entertainment Center) from Venuworks. That contribution was from Venuworks, an Iowa corporation, at 4611 Mortensen Rd., Suite 111, Ames, Iowa. Venuworks of Kennewick, LLC, is a Washington limited liability company contracted to provide management services for the District. All contributions were made by Venuworks of Iowa, and none of the facilities of Venuworks of Kennewick, LLC were utilized to keep a conscious separation between the support of this Proposition by Venuworks and the administrative services provided by Venuworks of Kennewick, LLC.

8. **Allegation No. 8** - The ballot caption does not address sales tax to be used for Operating Costs.

This allegation, likewise, does not allege a violation of RCW 42.17A.555. As addressed above, any challenge to the ballot caption must be made pursuant to RCW 29A.36.090 within the time period provided therein, which has long passed. Likewise, the standards for establishing the concise description required in the ballot caption is, likewise, addressed above. This allegation fails to state the violation of any statutory requirements and certainly not the standards established by the Washington State Supreme Court in *WASAVP v. State* of "palpably, misleading or false", as cited above.

Mr. Epperly's allegations of an "indirect conflict between the text of the ballot measure and the representation made in the informational materials" provided by the District are not only unsupported in fact, they present no alleged violation of RCW 42.17A.555 over which the Public Disclosure Commission has jurisdiction. The allegations should, therefore, be dismissed.

If you have any questions or concerns in this regard, please don't hesitate to give me a call.

Sincerely yours,



Leland B. Kerr
KERR LAW GROUP

LBK/kad

cc: Ms. Barbara Johnson, President of KPFD
Mr. Corey Pearson, Executive Director

Kennewick's convention center proposal now includes third ice rink

By Wendy Culverwell

wculverwell@tricityherald.com

MAY 10, 2017 06:40 PM,
UPDATED MAY 11, 2017 12:45 PM

Kennewick convention center expansion has a new twist. The project will add a third ice rink at the Three Rivers convention complex. BY MCCLATCHY

Kennewick voters will soon hear a new pitch to expand the Three Rivers Convention Center. The \$35 million proposal now includes building a third ice rink to serve the area's growing youth hockey community.

Last August, Kennewick voters rejected "The Link," a 110,000-square-foot package of upgrades that included more space and a Broadway-style theater.

The [request failed](#) with 52.5 percent of voters in opposition in the Aug. 2 primary. A simple majority is needed for approval.

"We were so close last time. It makes sense to try again," said Corey Pearson, executive director of the Three Rivers complex and the Kennewick Public Facilities District.

Pearson briefed the Kennewick City Council during a workshop Tuesday on plans to bring the enhanced version of The Link back to voters.

The City Council must authorize the request before it can appear on the ballot. It made no decisions Tuesday, but indicated it supports the original expansion plan as well as the addition of a third ice rink. The facilities district board will refine its plan when it meets May 18.

The board is evaluating potential election dates, but does intend to ask voters to approve a two-tenths of a percent sales tax increase that would add two cents to a \$10 purchase in Kennewick, the maximum allowed.

Pearson said the facilities district can accomplish all the projects included from the 2016 plan, while adding in a \$5 million ice rink, if it is careful about phasing and retools bond reserve requirements.

The Tri-Cities Amateur Hockey Association is the driving force behind the addition of an ice rink. It would be the third at the Three Rivers complex, where both the Toyota Center and the Toyota Arena can be configured for skating.

TCAHA is based at Pasco's TRAC and uses the Toyota Center as an overflow, racking up more than 400 hours of ice time there last year. Franklin County, which owns TRAC, is considering closing the [aging and unprofitable ice rink](#) when its TCAHA contract expires at the end of 2018. Without a replacement, TCAHA faces a ruinous shortage of ice time.

Kris Waltze, president of the youth hockey group, said it needs more ice, not less.

"We need it even if TRAC doesn't go away," he said.

Waltze, along with board member Russel Del Gesso, said a third sheet of ice at Three Rivers would put Kennewick on the national map for hockey-related tournaments and events. A recent regional event drew 30 teams and generated demand for 800 hotel rooms per night for four nights.

"We could make it the mecca for hockey in Washington," Waltze said.

The hockey association enthusiastically endorses adding a new rink at Three Rivers and sent a letter to members this week updating them on the ice rink situation.

"Not only will this additional sheet of ice provide necessary hours for our youth program, it could also help to provide additional resources and support for parallel activities," Waltze wrote, noting that curling, figure skating, girls hockey and adult hockey could all benefit.

The new building could be converted to support indoor soccer matches in the summer, when the hockey program is less active and only requires a single rink.

"It's not just a hockey thing. It would be multi-use," Waltze said.

Barbara Johnson, president of the Kennewick Public Facilities District Board, said that as the city and district plan a second campaign for The Link, it's important to get it right. Including hockey facilities could make the request more appealing to voters, she said.

"We've got a lot of people in the community that really support youth hockey," she said.

[The Link package includes](#) a 2,300-seat Broadway-style theater capable of hosting touring productions as well as a 50,000-square foot expansion of the convention center and a 30,000-square foot lobby to connect the Toyota Center to the convention center and theater complex.

Wendy Culverwell: [509-582-1514](tel:509-582-1514), [@WendyCulverwell](https://www.instagram.com/WendyCulverwell)

Kennewick ties Three Rivers parking plan to Aug. 2 vote

By Wendy Culverwell

wculverwell@tricityherald.com

JUNE 29, 2016 06:12 PM,

UPDATED JUNE 29, 2016 06:23 PM

The Link is a proposed \$35 million, 100,000-square-foot addition to the Three Rivers Convention Center campus and includes a 2,300-seat Broadway-style theater, a convention center addition and a new lobby facing Vista Field. *FILE*

The Kennewick City Council pledged this week to build up to 1,000 new parking spots near the Three Rivers Convention Center complex.

In an unusual session following its scheduled workshop Monday night, the city council passed a resolution declaring support for developing new parking on city-controlled land.

The city owns about 15 acres near the coliseum and convention center and has an agreement to buy 14 acres on three parcels from the Kennewick Irrigation District.

The city will pay nearly \$2.4 million for the land. The deal is part of a larger transfer under which the city will begin providing domestic water service to the Elliott Lake neighborhood.

The parking resolution commits the city to partner with the Kennewick Public Facilities District and the Port of Kennewick to provide more parking to support both the convention complex and the proposed Vista Field redevelopment.

The resolution explicitly links the city's parking commitment to voters approving a two-tenths of a percent sales tax increase to upgrade the convention center complex in the Aug. 2 primary election. Ballots will be mailed by mid-July.

"In the event of a majority approval of ballot proposition 16-8 for the Link Theater, Toyota Center improvements and Convention Center expansion, the city of Kennewick affirms its commitment to provide additional parking for the growing needs of this entertainment district," it reads.

The proposed \$35 million, 100,000-square-foot expansion is called The Link.

It would modernize the Three Rivers campus with a 2,300-seat Broadway-style theater, a 50,000-square-foot convention center addition and a 30,000-square-foot new lobby that would reorient Toyota Center to face Vista Field.

The proposal needs a simple majority to pass. It would add two cents of sales tax to a \$10 purchase, raising an estimated \$3.5 million per year. The council previously supported the Kennewick Public Facilities District's move to submit the plan to voters.

Council members said even without the expansion, parking is a longstanding issue at Three Rivers — it's frequently in short supply when the convention center and Toyota Center hold events at the same time. Attendees are forced to use parking lots of nearby businesses.

Mayor Steve Young said the problem has become worse in the year since the 116-room SpringHill Suites hotel opened adjacent to the convention facility. On behalf of the city, he apologized to visitors forced to park off-site.

“We recognize it has been a problem. Sometimes, the huge problems take time to solve.”

The resolution passed unanimously, with four of the seven council members present. Council members John Trumbo, Greg Jones and Bob Parks were excused.

Wendy Culverwell: [509-582-1514](tel:509-582-1514), [@WendyCulverwell](https://www.instagram.com/WendyCulverwell)

Kennewick wants voters to rethink The Link

By Wendy Culverwell

wculverwell@tricityherald.com

JULY 07, 2017 06:19 PM,
UPDATED JULY 10, 2017 09:28 AM

The Kennewick Public Facilities District will consider resubmitting The Link project for expansion of Three Rivers Convention Center to the voters when it meets this month. BOB BRAWDY *TRI-CITY HERALD*

Nearly a year after Kennewick voters last rejected a sales tax increase to expand the Three Rivers Convention Center complex, supporters are making plans for a third try.

Emboldened by the relatively narrow margin of defeat, the Kennewick Public Facilities District board will consider asking voters to approve the project it calls “The Link” when it meets this month.

Voters rejected earlier versions in 2013 and again in 2016, when it fell 292 votes short of a simple majority.

“We felt like we were so close,” said Barbara Johnson, the board’s chairwoman.

The board asked a subcommittee to study the plan and recommend what it put before voters. Link supporters signaled their revived interest by [updating the campaign profile photo](#) on its Facebook page in late June. The proposal could appear on the Nov. 7 ballot this year or on the April or August 2018 ballot, said Corey Pearson, executive director for the facilities district and the Three Rivers campus.

The board’s next regular meeting is at 5 p.m. July 27 at the Three Rivers Convention Center. It could discuss the plan then, or hold a separate session to review it in depth. It is up to the district’s board to put the measure before voters, but the Kennewick City Council must concur with its decision.

Mayor Steve Young said the seven-member elected City Council would like to see voters get another chance to invest in the convention center. Without endorsing the plan, he said city officials fear Three Rivers will lose convention and meeting business to other communities without an expansion and new amenities.

That said, Young challenged the public facilities district to better educate the public about the request. Many voters were confused about the nature of the tax, many confusing it with the property tax, when it was included in the August 2016 primary.

The new proposal will probably echo the 2016 version, but with the notable addition of a new ice rink.

As Franklin County contemplates closing its aging and unprofitable ice rink at TRAC in Pasco, the Tri-Cities Amateur Hockey Association is [pushing Kennewick to add another ice rink](#) at Three Rivers to keep up with growing demand for ice time.

Backers believe the \$5 million ice rink could be added to The Link package without added cost by shifting the construction schedule and adjusting reserves required for the overall project.

Johnson, the chair, said the board is evaluating if an ice rink will pencil out. If it does, she said support from fans of youth hockey could help when ballots are counted.

The 2016 package included the addition of 50,000 square feet to the convention center and 30,000 square feet to the Toyota Center. The project takes its name from its key feature, a 2,300-seat “Broadway-style” theater linking the two existing buildings. The package carries a \$35 million price tag.

The Link is [distinct from the proposed Vista Arts Center](#), an 800-seat theater complex envisioned for nearby Vista Field by the nonprofit Arts Center Task Force..

Under Washington law, public facilities districts are authorized to ask voters to authorize a sales tax increase of up to 0.2 percent, or two cents on a \$10 purchase. If approved, the tax applies to most retail sales and services within the jurisdiction. For the Kennewick district, that’s the city of Kennewick. Some transactions, [chiefly sales to Oregonians with proof of residence](#), are exempt.

It would generate about \$3.5 million per year. The money would be used to repay bonds issued to pay for the project up front. The 2016 version included a provision to end collections after 20 years. That provision would likely remain in any new package.

The Washington Legislature authorized cities, towns, metro areas and counties to form public facilities districts to promote economic development by giving them a revenue source to finance, design, construct, remodel, maintain or operate public facilities.

Kennewick established its district in December 2000. Richland and Pasco both have districts and a separate regional district covers all three cities.

Local voters have not been friendly to the concept.

A 2013 ballot measure advanced by the regional facilities district for an aquatics center in Pasco failed despite wide support in Pasco itself. Pasco considered moving ahead with the idea, but [the concept lost steam](#) this spring when the Legislature failed to act on a bill that would have helped clarify roles and responsibilities.

Kennewick voters, of course, rejected the convention center expansion twice. With 11,845 votes cast last summer, The Link needed 5,923 “yes” votes to pass. [It fell 292 votes short](#), failing by a margin of 52.5 percent to 47.54 percent.

Richland’s public facilities district is focused on The Reach interpretive center and has not pitched a sales tax to its voters.

Wendy Culverwell: [509-582-1514](tel:509-582-1514), [@WendyCulverwell](#)

Our Voice: The Link will require better marketing

BY THE HERALD EDITORIAL BOARD

JULY 15, 2017 02:16 PM

A vision of The Link from last August's failed proposal. *HERALD FILE*

Supporters of expanding the Three Rivers Convention Center may be thinking of that proverbial phrase, "three is a charm."

But it will take more than luck to get the votes needed to approve yet another attempt to publicly fund improvements to the Three Rivers campus.

It will take thorough preparation, time and a more ambitious campaign to ensure the public has the right information about whatever plan ends up being put forth to the community.

The Kennewick Public Facilities District Board is scheduled to meet July 27 to discuss [the possibility of asking voters to once again approve the idea](#).

Last year's proposal would have added 50,000 square feet to the convention center and 30,000 square feet to the Toyota Center, and built a 2,300-seat Broadway-style theater called "The Link" connecting the two buildings. The rub, of course, was that to make the \$35 million project a reality, Kennewick voters needed to approve a two-tenths of 1 percent sales tax increase. The measure failed 292 votes shy of a simple majority. In 2013, an effort to expand the convention center also failed at the ballot box.

While the [loss last August](#) was disappointing to those pushing for it, the close margin has encouraged them to try again.

It will be up to the board to put the measure before voters, but the Kennewick City Council will have to concur with the decision.

Mayor Steve Young, while not endorsing the plan, said organizers will have to do a better job educating the public about the request. We agree.

Last year there were people who questioned on Facebook why the Tri-Cities needed another movie theater and why the public should pay for it. Young said many people did not understand the nature of the sales tax, confusing it with a property tax.

After the loss, [we said that lessons can be learned from failure](#) and we encouraged the backers of The Link to regroup and try again.

Expansion at the Three Rivers Convention Center has been needed for a long time.

Events at our Tri-City facility have been on the decline because groups opt instead to go to Yakima or Spokane where there is more capacity, and that means our community is losing out on tourism dollars.

Convention attendees fan out to hotels, restaurants and shops whenever they visit, benefiting that community's economy. The Tri-Cities could have a bigger slice of the convention pie if our center were able to hold larger groups.

But that argument does not sway some people. There were plenty of citizens who completely understood the proposal last year, and were adamantly opposed.

Some said it wasn't right for all Kennewick shoppers to pay for something not everyone can afford to use, and that those with lower incomes would be unfairly burdened.

Others thought the proposal didn't do enough to address potential traffic congestion. And there always will be people philosophically opposed to more taxes regardless of the project or public service provided.

Still, the vote was close last year, despite some confusion over the issue.

If Kennewick PFD Board members decide to make another run at The Link project, they need to have a response ready to counter all the arguments against it they know will come up during the campaign.

We can't make a recommendation on a proposal that is still in the planning stages. But we can say that if the board tries to put a measure on the ballot, it won't stand a chance without a strong marketing plan behind it.

Letter: Build voter support for Link project

I am glad that the people pushing The Link project are trying again to get this measure passed, and I really do believe it can pass. But, the biggest obstacle that they should be focused on is building up a large voter base.

As it stands, not very many Kennewick citizens vote, and the ones that do are ultimately too conservative and suffer from “tax phobia,” as I would put it. You need to focus on encouraging people who would support you to vote (I know plenty of people who would support you), and letting the uber-conservatives know (I really should say drilling it into their heads) what the taxes are like, because as it stands they will hear the word “tax” and cower in fear.

Do these things along with what you are doing now, and it is not hard to see you riding the wave to victory.

Nolan Kadinger, Kennewick



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July 16, 2020

Mr. Phil Stutzman, Compliance Officer
Public Disclosure Commission
711 Capital Way S. #206
Olympia, WA 98504-0908

RE: Complaint No. 26814 Responses to PDC Supplemental Inquiries and Production of Documents Pertaining to Focal Point's Advertising Expenditures for the 2017 Educational Campaign related to the 2017 Proposition for 0.2 % Sales Tax for the Lenk Expansion

Dear Mr. Stutzman:

In response to your supplemental inquiries and requests for documents dated May 15, 2020 and sent to this office via word document on May 18, 2020 please find enclosed the following document germane to your inquiries and requests:

- 1) Mr. Pearson's responses to PDC's supplemental inquiries for Complaint No. 26814.

Please note that the responses to the PDC's supplemental inquiries for Complaint No. 26814 have been reformatted from its original form but has maintained consistency by bifurcating the responses into separate complainant allegations as posed originally by the PDC. Ms. Johnson did not have information regarding the inquiries specific to Complaint No. 26814, which were answered by Mr. Pearson based on the best of his knowledge, in recalling the events during the relevant period.

The Kennewick Public Facilities District looks forward to working with the PDC to reach a suitable resolution to Complaint No. 26814. If you have any questions, please do not hesitate to contact our office.

Sincerely,

Craig A. Briggs
KERR FERGUSON LAW, PLLC

CAB/sla

Mr. Pearson PDC Complaint Responses to PDC Supplemental Inquiries Posed By Mr. Phil Stutzman

**26814 (Epperly)
ALLEGATION 5**

- 1) Why did the District list the six entities on its website as supporters or endorsers of Proposition 17-4?
 - a. The intent was to show that there was support for the increase in sales tax from the business community. These letters were sent to us by the entities representing large numbers of businesses and we also linked to news stories to give their perspective. The news stories had positive and negative responses in them but were positive overall.
 - b. The six entities were the:
 - i. Tri City Americans;
 - ii. Tri Cities Visitors and Convention Bureau;
 - iii. TIDEC;
 - iv. Tri Cities Regional Chamber of Commerce;
 - v. Tri City Herald; and
 - vi. The Entertainer magazine.
- 2) Were the six entities users of the District's facilities?
 - a. The Tri City Americans, Visitors and Convention Bureau, TRIDEC and The Tri City Herald did use facilities for limited purposes. The Tri City Americans use the facilities for their hockey games and other promotional events for the team. The Visitors and Convention Bureau used our facilities for its annual meeting and events. TRIDEC also utilized the facility for certain events it held, and the Regional Chamber of Commerce held luncheon events at the facilities.
- 3) Who approved listing the six entities on the District's website?
 - a. This was not something that came from the board but from Mr. Pearson directly; that duty was the responsibility of the executive director.
- 4) What outcome did the District hope to achieve by listing the six entities as supporters or endorsers of Proposition 17-4?
 - a. As noted above in answer to question 1), the intent was to show that there was support from the business community for a sales tax increase.
- 5) Did District officials seek or receive permission from the six entities before listing them as supporters or endorsers of Proposition 17-4?

26814 (Epperly) PDC Responses-1
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Kennewick, WA 99336
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- a. Endorsers were not solicited; events were held to educate potential endorsers and some of those groups came forward requesting to support the proposition and others did not.
- 6) Did the District officials seek or receive permission from other entities, or individuals, to list them as supporters or endorsers of Proposition 17-4?
 - a. The events held to educate potential endorsers did include certain groups that did not endorse Proposition 17-4. The process here was the same as the Executive Director would have adhered to regarding any other group that had an interest in the matter whether that was Kiwanis, the Tri City Americans Hockey Team, or any other group.
- 7) Describe the results of those contacts?
 - a. The results of those contacts (through educational events) were that some groups came forward to ask to support Proposition 17-4 and other groups did not choose to support Proposition 17-4.
- 8) Why were links to the articles referenced by Mr. Lenk in his reply to Mr. Kerr's response to the complaint not included on the Districts website?
 - a. The link was to the Tri City Herald editorial board, we did not link to specific letters only to the Tri City Herald as a professional organization.

26814 (Epperly)
ALLEGATION 7

- 1) Did the District provide Citizens for the Link Entertainment Center, or its representatives, copies of the District's photographs, renderings, architectural or site plan drawings etc?
 - a. Yes, this information was within the public domain and anyone who would have requested it would have been provided a copy of that information outside of a formal public records request. The Citizens for the Link Entertainment Center was treated in the same fashion as any other informal requestor would have been whether that was a private citizen or entity.
- 2) To whom was the information given?
 - a. This information was provided to the Citizens for the Link Entertainment Center and would have been provided to any other agency or individual requesting information within the public domain.
- 3) Was the information provided pursuant to a public records request?
 - a. No, the process was to simply provide that information when a request was made if it concerned information falling within the public domain.

26814 (Epperly) PDC Responses-2
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