



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: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

May 30, 2018

vepperly@charter.net

Victor Epperly
8930 W Canyon PL
Kennewick, WA 99336-7961

Subject: Complaint filed against Officials of Kennewick Public Facilities District, PDC Case 5562

Dear Mr. Epperly:

Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received June 1, 2016, alleging that officials of Kennewick Public Facilities District (Kennewick PFD, PFD, District, or KPFD) authorized the use of public facilities for the purpose of promoting Proposition 16-8, an alleged violation of RCW 42.17A.555. As evidence of this authorization, your complaint cited promotional activities undertaken by Tyler Borders and “Go-Big Tri-Cities” that you believed were carried out with the support and assistance of Corey Pearson, Executive Director of VenuWorks, the company under contract with the Kennewick PFD to manage the facilities under its control.

Your complaint stated that Kennewick PFD officials were made aware of this promotional activity, at a minimum, from statements made by Corey Pearson at a March 24, 2016 KPFD board meeting. Your view was that to the extent PFD officials authorized information being communicated in support of the ballot proposition, that authorization constituted a violation of RCW 42.17A.555 because it failed to accurately portray the anticipated impacts of Proposition 16-8.

The complaint was considered in light of the following statute:

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.”

PDC staff reviewed your complaint and responses submitted by or on behalf of the Respondent. Staff also reviewed: contracts between the KPFD and two facilities management companies; emails, communications, and other documents sent or received by KPFD staff or officials, or by the District’s contractor, VenuWorks, that refer or relate in any way to Go Big Tri-Cities or Tyler Borders; minutes of the April 28, 2016 KPFD board meeting; PDC Campaign Finance reports and data submitted by Go Big Tri-Cities; and a preliminary response to a separate complaint that you filed concerning Tyler Borders and Go Big Tri-Cities. Staff also interviewed Tyler Borders, Director of Go Big Tri-Cities; Rustin Hall of ALSC Architects; Barbara Johnson President of the PFD board; and Corey Pearson, Executive Director of VenuWorks.

As a result of the investigation, staff found the following:

- The minutes of the March 24, 2016 Kennewick PFD board meeting reflected a description by Corey Pearson of past experiences of Tyler Borders when he provided consulting services for campaigns. The statements in the minutes did not reflect campaign work done for Proposition 16-8. The PFD did not vote to place Proposition 16-8 on the ballot until April 28, 2016, and the campaign to support the measure started after that date.
- A Facebook page located at www.facebook.com/linktc included a significant level of overtly promotional content related to the Proposition 16-8 expansion proposal. The author of the page spoke as a person deeply involved in the expansion proposal, making statements such as "we are working with bond council," (sic) and referring to "our architecture firm," and "our executive director." The author of the page was Tyler Borders. It was part of the promotional activities of Mr. Borders and Go Big Tri-Cities. No evidence was found that Kennewick PFD officials participated in or approved of the content on the page, or that PFD public facilities were used to create the page. Kennewick PFD officials are not responsible for the accuracy of the content of the page.
- Staff assessed whether PFD officials provided any concrete support for Proposition 16-8 campaign activity conducted by VenuWorks or “Go-Big Tri Cities.” Staff reviewed copies of all contracts Kennewick PFD entered into with VenuWorks, and found no evidence that VenuWorks was being paid to promote ballot propositions benefiting the PFD.
- To assess whether Kennewick PFD provided any tacit support for activities to promote Proposition 16-8, PDC staff requested copies of all emails, communications, or other documents sent or received by Kennewick PFD staff or officials that refer or relate in any way to "Go Big Tri-Cities" or Tyler Borders. The District responded with 89 email conversations that included Mr. Borders as a sender or recipient. The District also provided communications in the possession of VenuWorks.
- The messages reviewed by PDC staff showed that Mr. Borders, in his role as a consultant with VenuWorks, was involved in the PFD’s efforts to develop The Link expansion proposal. No evidence was found that the email exchanges included discussions between

PFD officials and Mr. Borders about Mr. Borders' Facebook page that promoted Proposition 16-8.

- The email correspondence showed that Mr. Borders engaged in multiple conversations about the ballot measure with representatives of the PFD's architectural firm, ALSC Architects. These conversations were separate from the contacts ALSC had with the PFD for initial conceptual design work. The emails showed that ALSC provided animation services to Mr. Borders that he used in marketing the expansion on Facebook.
- Staff determined that ALSC provided Go Big Tri-Cities with animation services to assist its political advertising that constituted in-kind contributions totaling \$7,522.50. ALSC was not paid for these services by the Kennewick PFD. Rustin Hall stated that ALSC had an interest in the ballot proposition passing, and decided to provide these services to Mr. Borders at no cost to assist the efforts of Go Big Tri-Cities. The failure to timely report this in-kind contribution was addressed during a PDC enforcement hearing held April 26, 2018 for Go Big Tri-Cities.
- Staff interviewed Barbara Johnson, President of the Kennewick PFD, and found that the PFD had no formal relationship with Tyler Borders. The research presented by Mr. Borders to the PFD board was done at the request of VenuWorks through a contract Mr. Borders had with VenuWorks. The PFD included information on its website about the proposed facility, distributed fact sheets at an open house for the public, and made presentations to the Chamber and for media that requested information. Ms. Johnson stated that PFD officials did not work with Mr. Borders to create his promotional Facebook page.
- Staff interviewed Corey Pearson, and found that VenuWorks hired Tyler Borders to conduct survey work on its behalf, to determine what the residents of Kennewick felt the community was lacking, and what they were looking for in public facilities. Mr. Pearson said the research work was paid for by VenuWorks because it hoped to benefit from expanded facilities to manage. Mr. Pearson confirmed that Tyler Borders attended the PFD meetings on behalf of VenuWorks.
- Mr. Pearson said VenuWorks used some of the visual representations of what was being proposed in the ballot proposition on its website, at the local fair, in its materials promoting use of the facility, and in a press kit to show their intentions to the public. He said this work was separate from any campaign work done by Go Big Tri-Cities.

As noted above, Tyler Borders conducted research on behalf of VenuWorks and assisted in making presentations to the PFD board about a potential ballot proposition. In addition, Mr. Borders and Go Big Tri-Cities promoted passage of Proposition 16-8. None of these activities involved the use of PFD resources.

After a careful review of the alleged violations and relevant facts, PDC staff have concluded the investigation. Staff found insufficient evidence to demonstrate that officials of the Kennewick Public Facilities District authorized the use of public facilities for the purpose of promoting Proposition 16-8, in violation of RCW 42.17A.555.

Because staff's investigation has not revealed sufficient evidence to establish a violation of any laws under the PDC's jurisdiction, with the concurrence of the Chair of the Commission, I am dismissing your complaint against the officials of the Kennewick Public Facilities District serving on the PFD board in June 2016.

If you have questions, please contact Phil Stutzman, Sr. Compliance Officer, at 360-664-8853, or toll-free at 1-877-601-2828 or by e-mail at phil.stutzman@pdc.wa.gov.

Sincerely,



Peter Lavallee
Executive Director

cc: Leland B. Kerr, Counsel for Kennewick PFD Officials
Corey Pearson, VenuWorks
Tyler Borders, Go Big Tri-Cities