



KETCHIKAN GATEWAY BOROUGH

1900 FIRST AVENUE, SUITE 210 • KETCHIKAN, ALASKA 99901

• 907/228-6625 • fax 907/228-6684

OFFICE OF THE BOROUGH MANAGER

Date: October 9, 2009

To: Dan Bockhorst
Manager

Fr: Cynna Gubatayao
Assistant Manager

Re: Possible Electioneering at Mike Smithers Pool

Per your request, I reviewed the security video for Mike Smithers Pool to look for evidence of electioneering on the part of Borough employees. The video for the front desk and lobby area also captures the entrance to the stairwell that leads down to the office rented by the Ketchikan Killer Whales. This is the video I reviewed. Other cameras capture the entrances to the locker rooms and the back door, and were not reviewed. We have also talked about phone logs and e-mail accounts. I have not received phone logs yet. I do have e-mail accounts, but have not been able to review them yet.

I have reviewed the front desk video from early morning Wednesday Sept. 30 to end of day Tuesday, October 6. This is approximately 90 to 100 hours of video. Wednesday and Thursday showed no signs of any unusual activity. On Friday, October 2 at 9:20am, UPS delivered several boxes of signs and window clings. From this point on through Tuesday October 6 at 8:00pm, I have documented every instance where a sign is visible in or around the desk and lobby area of the Mike Smithers Pool. Attached is a list of these instances, with names replaced with letters and or numbers. For example, various employees are referred to as Staff A, Staff B, etc. Pool employees helped me identify most of the customers in the video, and they are referred to as Customer #1, Customer #2, etc. The persons in the video who are associated with Ketchikan Killer Whales are referred to as KKW A, KKW B, etc.

It is my understanding that the Killer Whales ordered election materials consisting of signs and window clings, and that they were originally supposed to be delivered to the home address for a Killer Whales coach on Wednesday Sept. 30, or Thursday Oct. 1. When the packages were not delivered, the Killer Whales Coach called the local UPS office and had the shipment redirected to the Pool. Attached is documentation of this assertion.

When the materials arrived at the Pool, the Killer Whales coach was not there. Staff called to let the coach know about a delivery, possibly before they realized what the boxes were. It is not clear if he asked Borough staff to open a box to check the contents, or if they asked him for permission. In any event, Staff did open one box of window clings at that time. Staff did not open the boxes of signs, but did assist with taking them downstairs to the Killer Whales office.



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Although the signs can be seen passing through the lobby on numerous occasions, it does not appear that Borough staff was 'electioneering'. Ketchikan Killer Whales was distributing signs from their office in the pool building. Based on information from staff, it appears staff was asked to give materials to specific customers while the KKW coach was out of the office or on the pool deck coaching. On five occasions on Friday, and a sixth on Saturday afternoon, various Borough staff handed signs to customers. On all six occasions, it looks like customers either asked for the materials, or had their hands full and staff was assisting them in some way.

Pool and Recreation Center Staff and Supervisors have been very helpful and forthcoming with information. Pool staff reviewed every incident I listed and helped me clarify what was happening and identify people in the videos. It is unfortunate that the materials were even at the pool, and I do not believe staff was actively 'electioneering'. At this time, I do believe that the pool and recreation center supervisors showed poor judgment in allowing Killer Whales to distribute the materials from the pool building.

As soon as I receive phone logs I will let you know. However, I am not sure how phone logs will be helpful unless we know the phone number(s) we are looking for. I will start reviewing e-mails now and will keep you informed of what I find.

	Staff Person									
	A	B	C	D	E	F	G	H	I	J
30-Sep Wed. Sept 30 - 6:46am to 5:21pm - no signs at all, no unusual activity										
1-Oct Thurs Oct 1 - 6:24am to 5:15pm - no signs, no unusual activity										
2-Oct Friday Oct 2 - 9:00am to 4:45pm See below:										
9:20 Small box delivered (UPS), Staff A takes into office. (Contents unknown at this point).										
9:25 Several large boxes delivered to front side of receptionist desk - Staff B signed										
9:29 Staff C takes 1 large box downstairs										
9:30 Staff D & Staff A open a package of window clings at counter										
9:30 Staff takes another large box downstairs - Staff B										
9:32 Staff C standing in office doorway, window clings in hand, puts under counter - Staff C & her personal supply										
9:33 Staff A in doorway, window clings in hand, leaves building to put window clings in her car parked across the street.										
9:34 Staff C takes large box downstairs										
9:35 Staff C takes another large box downstairs										
9:36 Staff C takes another large box downstairs										
9:37 Staff A returns to building, carries last box downstairs										
9:38 Staff A discusses pool model with unidentified customer										
9:52 Staff E arrives, goes into office.										
9:57 Staff E, Staff A, & Staff D go downstairs (opened a box and took a few signs per Staff A)										
10:00 Staff E, Staff D, Staff A come up from downstairs, carrying signs. Take them into office, Staff E leaves.										
10:05 Staff B - has signs(inside out) - left bldg										
10:06 Staff C places sign on counter - Customers #1 & #2 in lobby.										
10:08 Staff D removes sign from counter										
10:09 Staff D had sign in hand - Customer #3 asks about it										
10:37 KKW A arrives in the building										
10:39 Staff C takes signs into the office										
10:39 Staff C leaves office w/sign headed downstairs										
10:40 KKW A goes down stairs Staff F assists with carrying down supplies and a box.										
10:53 Customer #4 asks for sign, Staff D hands it to her.										
11:05 KKW A re-enters the building from outside - walked around building										
11:05 Customer #5 arrives & checks in. KKW A hands her a window cling before they enter the building (by the time she gets to counter she already has the window cling)										
11:07 Staff A hands Customer #3 a sign.										
12:16 Customer #6 (a recent former P&R employee) comes up stairs w/baby & child. Staff G walks by, talks to cust, goes downstairs.										
12:18 Staff G comes back upstairs w/sign for Customer #6										
12:21 Customer #6 leaves w/children and sign										
12:25 KKW A brings empty box for signs to Staff D's office, leaves again 12:29 to go downstairs.										
13:18 Customer #7 comes up from downstairs w/sign and leaves bldg										
13:31 Staff F takes 'sticks?' out of Staff D's offices, goes downstairs										
14:09 Customer #8 walks in, shakes hands w/KKW A, KKW A goes into Staff D's office. Staff B goes into Staff D's offices. Staff B hands over window cling and sign. Customer #8 leaves. - (Prearranged w/KKW A to pick up?)										
14:14 KKW A comes upstairs with a box of signs, puts in Staff D's office.										
15:35 Customer #7 walks up to counter. Staff A gives him a sign. Cust #7 took sign downstairs.										
15:36 Staff F takes boxes from office - sets at end of counter - then takes the boxes downstairs										

[illegible]

Cynna Gubatayao

From: Karen Taylor [karent@borough.ketchikan.ak.us]
Sent: Friday, October 09, 2009 7:58 AM
To: 'Cynna Gubatayao'
Subject: FW: UPS Ship Notification, Tracking Number 1Z4Y326T0293706052

This is the tracking information you request from the KKW Coach regarding delivery information on the campaign materials. There is also a link to UPS so that you can see where the materials were actually delivered and who signed for them.

We checked with Martin, all the boxes have been given to the art teacher. We have emailed her and will see if she still has some of the boxes.

Please let me know if you have any more questions.

Karen

From: Martin Reichgott [mailto:coachmartin@kpunet.net]
Sent: Thursday, October 08, 2009 6:53 PM
To: Karen Taylor
Subject: Fw: UPS Ship Notification, Tracking Number 1Z4Y326T0293706052

Here is one of the confirmation details for the campaign items that were shipped to me. This was for the decals. The first shipment, of banners, I received at my house. Since I had called requesting a delivery number for that shipment, they sent this one automatically. They verbally gave me the one for the signs when I called about the fact that this shipment listed only 2lbs. All items were scheduled to ship to my home as I was under the belief that the pool did not receive mail (having worked at the high school for several years, and taking mail addressed to the Mike Smithers Pool at 2610 4th Ave from the High School office to the pool). The decals and signs were rerouted to the pool upon my verbal request of the local UPS. There was no written request of the shipper because the shipper believed that the request, when processed through UPS, would cause a delay.

Martin Reichgott

----- Original Message -----

From: UPS Quantum View
To: COACHMARTIN@KPUNET.NET
Sent: Tuesday, September 29, 2009 11:51 AM
Subject: UPS Ship Notification, Tracking Number 1Z4Y326T0293706052



This message was sent to you at the request of Premium Graphicx to notify you that the electronic shipment information below has been transmitted to UPS. The physical package(s) may or may not have actually been tendered to UPS for shipment. To verify the actual transit status of your shipment, click on the tracking link below or contact Premium Graphicx directly.

Important Delivery Information

Scheduled Delivery: 02-October-2009

Shipment Detail

Ship To:

MARTIN REICHGOTT
1022 DUNTON ST
KETCHIKAN
AK
99901
US

Number of Packages 1

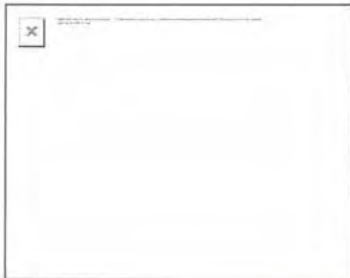
UPS Service: 2ND DAY AIR

Weight: 2.0 LBS

Tracking Number: 1Z4Y326T0293706052

Reference Number 1: 44015

Click here to track if UPS has received your shipment or visit
http://www.ups.com/WebTracking/track?loc=en_US on the Internet.



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KETCHIKAN GATEWAY BOROUGH

601 SCHOENBAR ROAD • KETCHIKAN, ALASKA 99901

• 907/225-9579 • fax 907/247-3394

PARKS AND RECREATION

MEMORANDUM

TO: Dan Bockhorst, Manager
FROM: Wendy C. Mackie, Supervisor
RE: Bond Proposition No. 2
DATE: October 6, 2009

Regarding possible pool bond proposition materials being distributed by Borough staff at the Mike Smithers Community Pool, I have talked with Borough Parks and Recreation staff and reviewed the camera located at the pool. Conversations with staff correspond with the findings on the camera video.

The findings are the following:

The campaigning materials were delivered to Killer Whales at the Mike Smithers Pool on Friday, October 2, 2009 around 9:30 a.m. Staff called the Killer Whales coach to inform him the packages had arrived, staff asked if they could look at the materials and he gave permission. Staff opened one small box upstairs which contained window clings, while no customers were present in the lobby. At approximately 10:00 a.m. six (6) large boxes containing large signs were transferred to the lower level where the Killer Whales office is located. Staff grabbed about 2 dozen signs (in a box) and placed in the Aquatic Supervisors office. The signs were for staff and personal distribution. In one instance, an employee placed their sign on the counter and the Aquatic Supervisor removes the sign from the counter and places it on the floor behind the counter, the sign was on the countertop for approximately 5 minutes, at the most.

During the hours of 11:00 a.m. – 4:00 p.m., there were signs in the Aquatic Supervisors office, which are not displayed but lying on the floor. In this time, a few customers inquired about the signs and asked if they could take one. Staff directed them to the Killer Whales office to obtain signs. On a couple of occasions, the Killer Whale coach had materials and handed them out while standing behind the counter. In response to the customer's request, staff did accommodate them by giving them the materials on no more than six occasions. Two of those occasions were set-up by the coach to have materials picked up at the front counter while he was coaching on deck. Staff made sure that materials were removed from the office and behind the counter area by 4:00 p.m. At no time were the materials on display. Killer Whale parents asked if signs could be put on the counter and were denied.

The Killer Whale parents arrived at the pool around 3:00 p.m. and began putting the materials together for distribution. They had the materials in the coaches' office and distributed from there. Many kids and parents had signs while leaving the pool building.



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PARKS AND RECREATION

The staff person in question is also the parent of a K-Hi and Killer Whale swimmer. She and many other staff had participated in the campaign outside of work, on their own time. No staff was aware of any wrong doing at any time on their part. Signs were ordered and paid for by Killer Whales and other private donations. All signage indicates “advertising paid for by private donations”, and campaigning efforts have been spear headed by the Ketchikan Killer Whales Swim Team.

TITLE 25 **ELECTIONS**

Chapter 25.100—Contest of Election

Sections:

- 25.100.010 Grounds for election contest.
- 25.100.020 Contest procedure.
- 25.100.030 Appeal or judicial review.

25.100.010. Grounds for election contest.

(a) A candidate or ten (10) qualified voters may contest the election of any person or the approval or rejection of any question or proposition upon one or more of the following grounds:

- (1) Malconduct, fraud or corruption by an election official sufficient to change the result of the election;
- (2) The person elected is not qualified under law or ordinance;
- (3) Existence of a corrupt election practice as defined by the laws of the State of Alaska sufficient to change the result of the election.

25.100.020. Contest procedure.

(a) Notice of contest of an election shall be submitted in writing to the borough clerk before five p.m. on the day of the meeting scheduled for certification of the election or to the assembly at its meeting to certify the election returns. The notice of contest shall specify the election being contested, the grounds of the contest, and shall bear the notarized signatures of the candidate or qualified voters bringing the contest. The notice shall be in substantially the following form:

NOTICE OF ELECTION CONTEST

The undersigned contest the regular (or special) election of the Ketchikan Gateway Borough held on the _____ day of _____. 20___. The grounds for the contest are as follows:

Signature of Candidate or Persons Contesting
Election

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__.

/s/ _____
Notary Public for Alaska

(b) Upon receiving a notice of contest, the assembly shall order an investigation be conducted by the borough clerk and borough attorney or such other persons as the assembly deems appropriate.

Those contesting the election, those whose election is contested, and the public shall be allowed to attend all investigation and recounting proceedings.

(c) If the contest involves the eligibility of voters the assembly shall direct the borough clerk to recheck the most current state registration lists. After considering the reports of the investigating officials and any other proof, the assembly shall determine whether any illegally cast votes could have affected the election results. If they could not have, the assembly may so declare and determine the election valid.

(d) If the contest involves other prohibited election practices which are shown to have taken place, the assembly in certifying the election returns shall exclude the vote of the precincts where such practices occurred. If it is determined that such exclusion could not affect the election results, the assembly shall declare the election valid and certify the results pursuant to this title.

(e) Unless the grounds for which the contest was brought are determined to be valid, the contestant or the contestants shall be individually liable for the whole amount of the expenses incurred by the borough in its investigation and deliberation of the election contest.

25.100.030. Appeal or judicial review. A defeated candidate or any ten (10) qualified voters who contested an election may bring an action in superior court within ten (10) days after the assembly has concluded that said election was validly held and the results entered upon the minutes. If no such action is commenced within the ten (10) day period, the election and the election result shall be conclusive, final, and valid in all respects.

(Ord. No. 1357, §2, 7-5-05)