

April 29, 2019

**VIA EMAIL AND U.S. MAIL**

Mx. Fox Blackhorn  
Compliance Coordinator 2  
Washington Public Disclosure Commission  
711 Capitol Way South, #206  
P.O. Box 40908  
Olympia, WA 98504-0908  
Email: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov)

Re: *Lake Chelan School District's Response to Complaint Filed by James Busey  
(PDC Case #50178)*

Dear Mx. Blackhorn:

We serve from time to time as counsel to the Lake Chelan School District. The District received a copy of the above referenced Complaint from your office the evening of April 15, 2019, and first reviewed it the following morning. The District investigated the allegations of James Busey in the Complaint and appreciates this opportunity to respond.

Mr. Busey alleges improper use of District resources arising from: (1) the placement of one citizens' committee sign on or near District property; (2) two instances where Superintendent DePaoli emailed additional information to two community members while in passing also stating that he had not given up on their votes in support of the High School bond project; and, (3) instances where Superintendent DePaoli allegedly handed out draft bond information materials during one-on-one meetings with individual community members.

For the reasons described below, the allegations do not support a finding of a violation of RCW 42.17A.555 or Public Disclosure Commission Interpretation 01-03, *Guidelines for School Districts in Election Campaigns* (PDC Interpretation 01-03). No further investigation is required.

**Unauthorized Posting of a Citizens' Committee Sign on District Property**

With respect to the first allegation, no District official or employee placed or authorized the placement of any citizens' committee signs on District property. Prior to reviewing this Complaint on Tuesday, April 16, 2019, the District was not aware that any citizens' committee signs had been posted on District property. After reviewing the Complaint, Superintendent DePaoli asked District Business Manager, Scott Renick, to visit the District's properties to investigate. On the morning of Wednesday, April 17, Mr. Renick found one citizens' committee sign loosely posted on a landscaping tree outside the fenced area of Sargent Field, a student athletic facility of the District, and he promptly removed it. The District has not found any other citizens' committee signs on District property.

The posting of a citizens' committee sign by non-District individuals without District authorization does not support a finding that the District or any District employee improperly used District facilities in support of the District's bond measure. Further, the District's prompt attention to investigate all District properties and remove the one citizens' committee sign it found demonstrates the District's diligence in adhering to PDC guidelines, specifically: "Signs advocating for or against candidates or ballot measures shall not be posted on district property in any area accessible to the general public or in classrooms." PDC Interpretation 01-03, p.17.

The unauthorized placement of a citizen's committee sign on District property does not support a finding of any violation of RCW 42.17A.555. No further investigation is required.

### **Superintendent DePaoli's Emails**

With respect to the second allegation, Superintendent DePaoli did email two individuals information regarding the bond measure while also stating in passing: "I remain committed to this project and I have not given up on your vote." Although Superintendent DePaoli's general sentiment in this sentence was to encourage Robert Watson and Jerry Isenhardt to share in his conviction that the High School project was a priority need for the District and its students, he nevertheless acknowledges his phrasing also indicated his desire that Mr. Watson and Mr. Isenhardt would change their positions or "votes" to support the bond measure. Superintendent DePaoli cannot recall any other circumstances in which he expressed similar sentiments in discussions or in correspondences.

These two isolated statements in passing had no impact on the general public. The special election at issue in the Complaint was held on April 23, 2019, and ballots are still being counted. As of the date of this response, approximately 42.85% of the electorate voted to approve the bond measure, over 17% short of the 60% supermajority required. Based on this margin and the limited scope of two isolated emails to opponents of the bond measure, Superintendent DePaoli's emails had no impact on the general public.

The District is also unaware of any prior complaints of noncompliance, and both the District and Superintendent DePaoli remain committed to diligent compliance with RCW 42.17A.555 and PDC Interpretation 01-03. On March 1, 2019, for example, Superintendent DePaoli emailed the District's board of directors and administrative staff instructions to review the online version of PDC Interpretation 01-03. He sent these emails over six weeks before the District received this Complaint.

The District takes its responsibilities under Washington's other open government laws equally seriously. The District accordingly has complied with Mr. Busey's requests for information and documents referenced in the Complaint related to District facilities and the bond measure. The District is confident that the circumstances described in this response are isolated.

Based on the totality of the circumstances and the District's continuing efforts toward compliance, the District believes that either the two emails do not support a finding of a violation of RCW 42.17A.555, or at most an alternative response under WAC 390-37-061 is appropriate. An alternative response is available when "The impact of the noncompliance on the public was minimal." WAC 390-37-061(4). If the PDC determines the circumstances described above require a response, the alternative process under WAC 390-37-061 would be appropriate. If requested, the District will fully cooperate with PDC staff to address any questions and provide any further information regarding these matters.

### **Limited Distribution of Preliminary Draft Bond Information Piece**

With respect to the third allegation, Superintendent DePaoli handed a preliminary draft of the District's bond information piece to Mr. Busey. At the time Superintendent DePaoli met with him, the District was in the process of revising the draft information piece, including with respect to its review for compliance with PDC Interpretation 01-03. Any statements potentially suggesting a tenor of support for the District's bond measure in the draft information piece (minimal, at most) were removed in the final draft for dissemination to the general public. For comparison, a copy of the revised information piece is attached to this letter as Appendix 1 (Revised Information Piece).

Superintendent DePaoli did not hand the preliminary draft information piece to Mr. Watson or to Mr. Isenhardt. Instead, shortly after the District finalized the revised information piece, Superintendent DePaoli attached the revised piece to the same emails described in the section above. The revised bond information piece is listed in the body of Superintendent DePaoli's emails as attachment 1, "Updated bond summary sheet (taxes on second page)." The District's revision process and Superintendent DePaoli's follow up correspondence to Mr. Watson and Mr. Isenhardt demonstrates the District's diligence in distributing information pieces that comply with RCW 42.17A.555 and PDC Interpretation 01-03.

Further, the District did not distribute the preliminary draft information piece to the general public. And the only individuals to whom Mr. Busey alleges Superintendent DePaoli distributed the draft information piece were opponents of the District's bond measure. The allegation therefore does not establish that statements in the preliminary draft information piece impacted the public to any degree.

The isolated distribution of a preliminary draft information piece that contained little to no material objectionable under PDC Interpretation 01-03 does not support a finding of a violation of RCW 42.17A.555. No further investigation is required.

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### **Conclusion**

The Lake Chelan School District has been and remains committed to complying with RCW 42.17A.555 and PDC Interpretation 01-03. Consistent with prior practice, the District will continue to review PDC guidelines on a regular basis and remind all staff when District measures are before the voters that public facilities, time and other District resources may not be used to support or oppose District measures or any candidates or other ballot measures.

The District appreciates the opportunity to investigate the allegations in Mr. Busey's Complaint and provide this response. For the reasons stated in this response, the PDC need not investigate this matter further and should close this complaint file.

Please contact us if you have any questions.

Sincerely,

FOSTER PEPPER PLLC



Lee Marchisio

cc: Superintendent Barry P. DePaoli

Appendix 1  
(Revised Information Piece)

# LAKE CHELAN SCHOOL DISTRICT BOND PROPOSAL 2019

## MOE (K-5) CONVERTS TO PRIMARY SCHOOL (Pre-K-3)

### FEATURES:

- \* Add Gymnasium (eliminates loss of instructional time in street crossing)
- \* Allows cafeteria to be utilized strictly for food service
- \* Add Early Learning Center for Pre-K students
- \* Reduces overcrowding – 4<sup>th</sup> & 5<sup>th</sup> graders move to Intermediate/MS
- \* Improves safety: Alleviates traffic congestion for pick-up and drop off
- \* Preserves and adds life to landmark historic building (20+ years)

### SCOPE:

- \* Partial renovation (Early Learning Center)
- \* Replace Roof - Upgrade HVAC System
- \* Preserves and extends useful life of the building

7%

5.5 million



## MIDDLE/HIGH SCHOOL (6-12) CONVERTS TO INTERMEDIATE (4-6) / MIDDLE SCHOOL (7-8)

### FEATURES:

- \* Expands learning opportunities: Career & Technology/STEM Academy
- \* Enhances elective offerings: Industrial arts, FFA and other activities
- \* Alleviates traffic congestion for pick-up and drop off
- \* Modernizes Special Education and Life Skills classrooms

### SCOPE:

- \* Renovate and upgrade Special Education and Life Skills classrooms
- \* Relocate fitness/weight room to main floor to comply with ADA regs.
- \* Upgrade HVAC System

5%

3.5 Million



## NEW HIGH SCHOOL (9-12)

### FEATURES:

- \* Provides state of the art facilities to ensure students are equipped for future work force demands: skilled labor, applied/technical training
- \* Accommodates future growth for next 30 years
- \* Consolidates athletic facilities to increase access for students
- \* Eliminates student driving and bussing issues
- \* Reduces overcrowding and traffic congestion on current campus

78%

59 Million



## SARGENT FIELD – RENOVATE & RESTORE

### FEATURES:

- \* Install turf field to accommodate both school and community demand for Soccer and Football.
- \* Address safety issues: replace bleachers, lighting, press box
- \* Renovate locker rooms and add public restrooms
- \* Upgrade concession stand, parking lots and landscaping/terraces
- \* Preserves this iconic stadium and landmark for long term community use

10%

7 Million



For more information: <https://www.chelanschools.org/bond-information--2>

## Updated Property Tax Comparison (per \$1000 of assessed value) based on 2019 data

TAX COLLECTION	EP & O LEVY	Capital Projects	Technology Levy	NEW BOND	TOTAL TAX
2018	\$1.39	0.54	0.10	0.00	\$2.03
2019	\$1.33	Expired	0.10	0.00	\$1.43
2020 (estimated)	\$1.29	Expired	0.10	\$1.50	\$2.89
2021 (estimated)	\$1.29	Expired	Expired	\$1.50	\$2.79

### ESTIMATED 2020 TOTAL TAX INCREASE (above 2018 tax rate)

ASSESSED PROPERTY VALUE	MONTHLY INCREASE	ANNUAL INCREASE
\$200,000	\$14.33	\$172.00
\$250,000	\$17.92	\$215.00
\$300,000	\$21.50	\$258.00
\$350.00 (median)	\$25.08	\$301.00

ASSESSED PROPERTY VALUE	MONTHLY INCREASE	ANNUAL INCREASE
\$400,000	\$28.67	\$344.00
\$450,000	\$32.25	\$387.00
\$500,000	\$35.83	\$430.00

### ESTIMATED 2020 TOTAL TAX INCREASE (above 2019 tax rate)

ASSESSED PROPERTY VALUE	MONTHLY INCREASE	ANNUAL INCREASE
\$200,000	\$25.00	\$300.00
\$250,000	\$31.25	\$375.00
\$300,000	\$37.50	\$450.00
\$350.00 (median)	\$43.75	\$525.00

ASSESSED PROPERTY VALUE	MONTHLY INCREASE	ANNUAL INCREASE
\$400,000	\$50.00	\$600.00
\$450,000	\$56.25	\$675.00
\$500,000	\$62.50	\$750.00

### REGIONAL TAX COMPARISON (2019)

DISTRICT	ASSESSED VALUE	EP & O LEVY	CAPITAL PROJECTS	BONDS	TOTAL TAX
Okanogan	\$334,035,517	\$1.50	\$2.01	\$1.72	\$5.23
Cashmere	818,325,000	1.50		2.76	4.26
Brewster	461,054,522	1.46		2.32	3.78
Cascade	2,705,467,507	1.18	0.13	1.67	2.98
<b>Chelan (2020)</b>	<b>2,530,727,860</b>	<b>1.29</b>	<b>0.10</b>	<b>1.50</b>	<b>2.89</b>
Wenatchee	4,842,383,797	1.50		1.19	2.69
Omak	672,941,547	1.48		1.06	2.54
Manson	911,727,860	1.50	0.65		2.15
Chelan (2019)	2,530,727,860	1.33	0.10		1.43

### STATE TAX COMPARISON (2019)

DISTRICT	ASSESSED VALUE	EP & O LEVY	CAPITAL PROJECTS	BONDS	TOTAL TAX
Pullman	\$2,268,633,826	\$1.50		\$2.78	\$4.28
Kelso	2,421,053,754	1.49		2.93	4.42
Lakewood	2,586,974,547	1.50	0.28	1.70	3.48
Cascade	2,705,467,507	1.18	0.13	1.67	2.98
<b>Chelan (2020)</b>	<b>2,530,727,860</b>	<b>1.29</b>	<b>0.10</b>	<b>1.50</b>	<b>2.89</b>
N. Mason	2,351,533,260	1.50		1.19	2.69
Lynden	2,614,748,045	1.50		1.13	2.63
Coupeville	2,326,654,962	1.05	0.15	0.83	2.04
Chelan (2019)	2,530,727,860	1.33	0.10	0.00	1.43