



KHNS Radio

Lynn Canal Broadcasting

P.O. Box 1109 • Haines, Alaska 99827 • (907) 766 2020 • (907) 983-2853

Aug. 12, 2013

Dear members of the Haines Borough Assembly and Mayor Stephanie Scott,

I am writing to express my opposition to ordinance 13-08-347, amending borough code regarding personnel records disclosure. While this ordinance is only on the consent agenda Tuesday, I wanted to express my concerns early in the process of discussing this issue.

While it seems clear cut that that the proposed ordinance would simple amend borough code to align with state statutes regarding personnel records of employees, it is not. As the borough attorney, Brooks Chandler, notes this ordinance would not apply to categories of employees such as the manager, school district employees and contracted parties - although Mr. Chandler writes the assembly could include these categories of employees if it chooses.

That is where my concern, as a journalist and news director at KHNS public radio lies.

I am not sure why Mr. Chandler would suggest the assembly could include these categories of employees, if it wanted, in this narrowly construed interpretation of state law. There are several cases of where media requested access to personnel records of state and local officials and were granted access. The case that most applies to my concerns with this ordinance is the case **Municipality of Anchorage v. Anchorage Daily News (1990)**. A library board prepared a confidential evaluation of the head librarian of the Anchorage library and submitted it to the mayor, who refused to release it to the Anchorage Daily News upon request. The court affirmed, citing **City of Kenai v. Kenai Peninsula Newspapers (1982)**, that employee evaluations are subject to records requests, *where the public interest in the employee's performance outweighs the employee's desire for privacy*. The court determined that because the head librarian had a large staff and was responsible for a sizeable amount of spending, the public interest in his performance was high. Based on this, the court ordered the release of the records. There are several other cases, citing the public's interest, that uphold records release of public officials at all levels of government.

It is that public interest that I am concerned with in regards to the this ordinance, and specifically public interest in the performance of borough officials and other positions that greatly impact policy and decisions, such as the chief of police.

As a journalist, I advocate for an open and transparent government and for the public to have access to the information that keeps them informed of their government officials.

If this ordinance gains strength, please consider the option of NOT including borough officials and other department heads among those whose performance evaluations and assessments would be confidential. Not only because it would illustrate an effort by the borough to restrict public information, but also because it's unclear from legal precedence if the ordinance would actually have teeth.



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Just as the borough consulted with its attorney on this proposed ordinance, Tom Morphet and I have consulted with First Amendment attorney John McKay in Anchorage for his opinion. Mr. McKay represents members of the Alaska Press Club (of which both the Chilkat Valley News and KHNS News are members of) and member stations of Alaska Public Media (of which KHNS News is a member.) We will share Mr. McKay's thoughts with you when we receive them.

Thank you for your consideration,

Respectfully yours,

Margaret Friedenauer
News and Public Affairs Director, KHNS Public Radio