

To Sitka School Board
January 23, 2014
Comments by Thad Poulson

I appreciate the response by Mr. Garrison to the concerns I expressed in my email to school board members on Wednesday, dealing with the Sentinel's request for names and resumes of applicants for Sitka Superintendent of Schools.

While I applaud the board's position that this information will be released, I'd like to comment on some of the points Mr. Garrison made in his response. He raises issues that were decided by the Alaska Supreme Court in 1982 when the court ruled that the names of applicants for "high public office" must be released to the public, (Citation 642.P2d 1316, City of Kenai v. Kenai Newspapers Inc. and Municipality of Anchorage v. Anchorage Daily News.)

In this decision the court upheld Superior Court decisions striking down Kenai and Anchorage ordinances allowing confidentiality to applicants for city manager and police chief, as well as to other applicants for "high public office," a term that would include superintendent of schools.

In the discussion of some of the issues about privacy that Mr. Garrison mentions, the court said, referring to the Alaska Public Records Open to Inspection Act, AS 09.25.110-120:

"In addition, §§ .110 and .120 articulate a broad policy of open records.

"Public officials such as City Managers, and Chiefs of Police have substantial discretionary authority. The qualifications of the occupants of such offices are of legitimate public concern. Disclosing the names and applications of applicants allows interested members of the public, such as the newspapers here, to verify the accuracy of the representations made by the applicants, and to seek additional information which may be relevant to the selection process.

"The applicants' claim that revealing the names and applications of office seekers will narrow the field of applicants and ultimately prejudice the interests of good government is not sufficiently compelling to overcome the public's interest in disclosure. In each of these cases a majority of the applicants did not seek to withdraw their applications rather than make them public. It is not intuitively obvious that most well qualified potential applicants for positions of authority in municipal governments will be deterred from applying by a public selection process, and we have been referred to no studies tending to prove that point.

"The applicants' individual privacy interests in having their names and applications not revealed are also not of an order sufficient to overcome the public's interest. The applicants are seeking high government positions. "Public officials must recognize their official capacities often expose their private lives to public scrutiny." [24] Further, the information sought is that which has been voluntarily provided by the applicants to the municipalities. It is unlikely to be particularly embarrassing if publicly revealed. [25]

"It may be that in some cases an individual will not wish his current employer to know that he has applied for another job. That desire is one which cannot be accommodated where

the job sought is a high public office. Even if the law did not compel disclosure of each application, at some point before the final selection, as both appellants acknowledge, prudence would require the municipality to contact the employers of those applicants whose applications are being seriously considered.

"Nonetheless, in Anchorage, the applicants were promised confidentiality, and in Kenai several applicants at least assumed that their names and applications would not be divulged. Since the law does not permit a confidential application, we believe that both courts acted properly in allowing those applicants who desired confidentiality to withdraw their applications without public disclosure."

My point is that it is unfortunate if any applicant believed his or her application would not be made public, because that clearly is not an option under Alaska law.

Sincerely,

Thad Poulson
editor, Daily Sitka Sentinel