



Alaska State Legislature Legislative Council Minutes

JULY 19, 2010

[10:19:00 AM](#)

The Legislative Council meeting was called to order at 10:19 a.m. by Senator Bettye Davis, Vice-Chair, in the Anchorage LIO Second Floor Conference Room and via teleconference.

1. ROLL CALL

The roll was taken. In attendance were Council members: Representatives Chenault (via teleconference), Gatto, Stoltze, and Guttenberg (via teleconference); Senators Davis, Egan, Olson (via teleconference), and Stevens. Absent members: Representatives Harris, and P. Wilson; Senators Ellis, Hoffman, and Stedman.

Staff present: Varni, Clothier (via teleconference), Cook, Finley (via teleconference), Gullufsen (via teleconference), Ibesate (via teleconference), Johnston (via teleconference), Lesh, and Schofield (via teleconference).

Others present: Nikki Daugherty, Lexis Nexis representative

Representative Guttenberg dropped off the line and the meeting was delayed until he could be reconnected in order to have a quorum.

Representative Stoltze asked whether eight members constituted a majority vote or if, with the Council being short one member, it might be seven.

Executive Director Pam Varni responded that historically a majority vote needed eight members. She noted that the Council could make a motion to change that policy. She said Tam Cook was available to answer any questions with regard to this issue.

Senator Davis asked that Tam Cook provide clarification.

Tam Cook, Director of Legal Services, said that Legislative Council has the statutory authority to adopt its own procedures. She said that many years ago, Legislative Council determined that it would take eight votes to take any action which expressed a desire on the part of Legislative Council to ensure that there was always at least one member of each House available. Consequently, a quorum is a majority of the full membership rather than a majority of those present at any given meeting. She said Legislative Council could act to change its procedures if it wanted to but that it hasn't done so for probably 40 or 50 years.

Representative Guttenberg reconnected at this time. [10:25:28 AM](#)

2. APPROVAL OF MARCH 22, 2010 MINUTES

Representative Gatto moved that Legislative Council approve the minutes of the March 22, 2010 Council meeting as presented.

The motion passed with no objections.

Representative Guttenberg again dropped off line and re-joined the meeting via Executive Director Pam Varni's Blackberry on speaker.

3. OFFICE OR STORAGE SPACE APPROVALS

- **ANCHORAGE LIO & OFFICE SPACE RENEWAL**

Representative Gatto moved that Legislative Council approve the FY 11 lease renewal for Anchorage office space for \$663,246.

Representative Guttenberg again dropped off line and re-joined the meeting via Executive Director Pam Varni's Blackberry on speaker. The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

- **BETHEL LIO & OFFICE SPACE RENEWAL**

Representative Gatto moved that Legislative Council approve the FY 11 lease renewal for Bethel office space for \$44,634.48.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

- **JUNEAU STORAGE SPACE RENEWAL**

Representative Gatto moved that Legislative Council approve the FY 11 lease renewal for storage space in Juneau for \$34,501.68.

Representative Stoltze asked that someone address this item.

Executive Director Pam Varni stated that this is the last renewal for Goldstein Improvement Company. This storage space is for Juneau operations. There is not enough room in the

Capitol for storage of supplies, so this space is necessary for those as well as several other items, such as computer equipment and various Legislator's moving boxes. It is at a cost of \$0.62 per square foot, and this is the fifth and final renewal option.

Representative Gatto asked whether anyone has investigated if it makes more sense to recycle boxes rather than store them.

Ms. Varni replied that only a portion has boxed storage. She noted that maintenance stores laminate to build desks, for example, and many sections have a space there to store items that won't fit in the Capitol; this basement storage space provides a convenient downtown location for those items. Furniture is stored at a Lemon Creek storage facility.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

- SITKA LIO & OFFICE SPACE RENEWAL

Representative Gatto moved that Legislative Council approve the FY 11 lease renewal for Sitka office space for \$25,810.68.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

- KENAI LIO & OFFICE SPACE RENEWAL

Representative Gatto moved that Legislative Council approve the FY 11 lease renewal for the lease space in Kenai for \$76,588.38.

Senator Stevens noted that he no longer has a staff person at the Kenai location.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

- **FAIRBANKS ADDITIONAL OFFICE SPACE APPROVAL**

Representative Gatto moved that Legislative Council approve an additional 840 square feet of office space for our current Fairbanks lease for a yearly additional cost of \$25,704.

Senator Davis noted that there were some letters submitted from Fairbanks Legislators regarding this issue in each member's packet.

Discussion followed.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

4. RFP 505 - CANCEL ESA RFP

Representative Gatto moved that Legislative Council cancel RFP 505 – Conference on the Economic Impacts of the Endangered Species Act and Climate Change as allowed by Sec 120(d) entitled “Cancellation of Solicitation” of the Legislative Procurement Code.

Pam Varni stated that the Legislature appropriated \$1.5 million and the Agency went out to bid on this RFP. It was decided that the Legislature would like to cancel the RFP; in fact, the funding lapsed on June 30, 2010, and has been re-appropriated. This is more of a house-keeping item to formally cancel the RFP.

Discussion followed.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

5. LATE PER DIEM REQUEST – REPRESENTATIVE SHARON CISSNA

Representative Gatto moved that Legislative Council approve the two late per diem requests for Representative Sharon Cissna.

Representative Stoltze said that calling these claims "per diem" confuses the process now that interim per diem has been eliminated. He asked that in the future these types of request be called travel reimbursements.

Ms. Varni said that while Legislators do get per diem when they travel, and that it is called per diem in the travel policy, the Agency can certainly change the title to reflect Representative Stoltze's request so that there be no confusion with interim per diem.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

6. WEST LIBRARY MAINTENANCE AGREEMENT RENEWAL APPROVAL

Representative Gatto moved that Legislative Council approve a three year Library Maintenance Agreement with West in the amount of \$80,400.

Representative Gatto asked for clarification about the total cost.

Tam Cook, Director of Legal Services, testified that the \$80,400 is for the full three years of the contract. This is for the Legislative Library located on the first floor of the Terry Miller LOB. The library is the only library in Juneau that has hard copies of the statutes of all of the states. She noted that the library checked with the users because these sorts of materials are available on line to some extent and, at this point, the users requested that the library maintained the hard copies, which is rather expensive. These materials, including additional research materials, are still being used by researchers and drafters as well as by legislative staff. A survey was conducted to determine if this was something the users wanted and were asked to maintain hard copies at this time.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

7. LEXIS NEXIS STATUTE PUBLICATION CONTRACT RENEWAL APPROVAL

Representative Gatto moved that Legislative Council approve the last renewal for the printing of our statutes with Lexis Nexis in the amount of an estimated annual average of \$50,000.

Nikki Daugherty, representative of Lexis Nexis, stated that their company is happy to do business with the Legislature again. She said there has been a good working relationship through the term of the contract and Lexis Nexis appreciates the Legislature's business.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

8. IT COMPUTER EQUIPMENT REFRESH APPROVAL

Representative Gatto moved that Legislative Council approve the solicitation, award and expenditure not to exceed \$170,000 for computer and printer upgrades from Legislative Council capital funds. In addition, he moved that Legislative Council approve the solicitation, award and expenditure not to exceed \$17,000 for computer memory upgrades to facilitate the upgrade of legislative computers to the Windows 7 operating system.

Speaker Chenault asked for confirmation on his assumption that the \$17,000 was for upgrades to either the mainframe or existing computers and not for the new computers included in the \$170,000.

Curtis Clothier, Information Services Director, responded that the \$17,000 is for upgrades to existing computers that the Legislature is keeping in order to get those computers to 4GB of memory so that, assuming the first proposal is approved, all of the Legislature's computers will be capable of running the Windows 7 operating system effectively.

Mr. Clothier stated that the \$170,000 will be funding 105 computers, which is actually a mixture of desktops and laptops based on survey feedback from each office regarding replacing their old equipment: 80 desktops and 25 laptops. This funding also covers replacement of 38 printers that we've had since either 2000 or 2001. He said the Rules Chairs asked that the Agency procure ten color laser printers that they will distribute to replace aging color printers in legislative offices. These are the hardware costs. The actual cost to upgrade everyone to Windows 7 software is free due to the Enterprise Agreement that the State of Alaska has with Microsoft.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

9. 2010 DELL MICROSOFT ENTERPRISE AGREEMENT RENEWAL

Representative Gatto moved that Legislative Council approve the expenditure of \$87,957.29 to Dell for the Legislature's portion of the annual Microsoft Enterprise Agreement.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

10. TELECONFERENCE BRIDGE SYSTEM

Representative Gatto moved that Legislative Council approve the expenditure and award of existing capital funds in an amount not to exceed \$190,000 to World Wide Technology for a new teleconference bridge system.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

11. ITB 510 - CAPITOL EXTERIOR LIGHTING

Representative Gatto moved that Legislative Council award ITB 510 to Chatham Electric, Inc., in the amount of \$113,263 for Capitol exterior lighting improvements.

Speaker Chenault asked for further clarification about this item.

Don Johnston, Maintenance Manager, responded that this is exterior lighting for the Capitol. The scope of work will be to install colored LED lighting across the face of the building on Fourth Street. There will be eight LED-type fixtures below grade, aimed upward, highlighting the sandstone columns between the windows; four LED-type fixtures mounted above the portico, aimed downward highlighting the marble columns; there will be linear-type LED fixtures mounted across the entire face of the portico under the overhang; and there will be LED linear-type fixtures mounted across the east and the west face of the building under the sandstone ledge between the first and second floor. All LED lighting can and will be programmed through the Building Manager's office PC through a controller-terminal with scene controls. The intent is to illuminate the face of the Capitol through accent lighting; color scenes can be programmed according to holiday schedules. For example, red, white, and blue for Independence Day; Christmas colors, etc.

Senator Stevens asked if these lights would replace the present lighting that is not LED.

Executive Director Pam Varni said that currently there is no lighting.

Representative Stoltze informed members that he was opposed to this item.

Representative Stoltze moved that the item be tabled.

It was tabled with no objections.

12. ITB 512 - CAPITOL BOILER DAY TANK

Representative Gatto moved that Legislative Council award ITB 512 to Behrends Mechanical, Inc. in the amount of \$39,021 for a Capitol day tank.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

13. ITB 513 - CAPITOL WINDOW REPLACEMENT

Representative Gatto moved that Legislative Council award ITB 513 to Pioneer Glass, Inc. in the amount of \$99,020.73 for Capitol window replacement.

Speaker Chenault commented that it was interesting to receive three bids from three different areas of the state that were within \$800 of each other.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

14. ITB 514 - CAPITOL CONDENSATE SYSTEM

Representative Gatto moved that Legislative Council award ITB 514 to Behrends Mechanical, Inc. in the amount of \$445,552 for a new condensate pump system.

Speaker Chenault asked why this project isn't being completed as one big job or whether it is necessary to do it in pieces as it appears to be happening.

Ms. Varni responded that the Legislature has set aside capital funds for this project. It does have to be done in increments because it is such a big project. Getting the new boilers was one phase and this is another phase. The last part of the project is to replace the risers in the building and that would be in future years doing another portion of it. She noted that Don Johnston can answer with more details regarding this phase as well as the next one.

Discussion followed.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens
NAYS: None

The motion passed 8-0.

15. CAPITOL COMMITTEE ROOM VIDEO WEB STREAMING APPROVAL

Representative Gatto moved that Legislative Council approve the solicitation, award and expenditure of existing capital funds not to exceed \$150,000 for cameras and other equipment for Capitol committee room video streaming.

Representative Gatto commented that Senator French introduced a bill to accomplish this item, the bill was heard by two committees and it died before the end of session. He asked if there was significant opposition to the bill and, if there was, it would be reasonable for members to hear that opposition rather than just overrule the legislative process.

Sue Gullufsen, Manager of Legislative Information and Teleconference, responded that her understanding was that once Senator French heard that the Agency was doing this pilot project and planning to move forward, if approved, to all committee rooms that he didn't feel it was necessary to push his particular piece of legislation.

Discussion followed.

The roll was taken.

YEAS: Chenault, Gatto, Stoltze, Guttenberg, Davis, Egan, Olson, and Stevens

NAYS: None

The motion passed 8-0.

16. RFP FOR STUDY OF BRISTOL BAY MINE DEVELOPMENT

Senator Davis noted that while Representative Harris could not be present for this meeting, he provided a statement to the members with regard to this item. She stated that it is Representative Harris' intent, as Chair of Legislative Council, to pursue this study and to appoint a Legislative Council Subcommittee to issue policy guidelines for the development of the RFP for a study of the Bristol Bay mine development.

Senator Davis reminded members that there will be no vote on this item. She said this item will be referred back to the Chair who will pick the members for the subcommittee. She noted that Senator Egan has already volunteered and asked that any other members interested in serving on the subcommittee please contact Representative Harris.

Senator Stevens commented that, in discussing this issue with Representative Austerman who was responsible for funding this project, he has a concern about the RFP process. He said on the one hand, he really likes the idea of putting out RFPs where agencies put in bids and the best bid is accepted versus a type of sole-source contract. Senator Stevens emphasized that he is not

taking a position but wanted a discussion of the pros and cons of each type of contract. He said Representative Austerman mentioned to him that he thought the National Science Foundation, which may or may not be the correct name, would be a good organization to do this study, but that agency does not respond to RFPs. Senator Stevens asked that Chairman Harris and the subcommittee make a recommendation on this issue.

Executive Director Pam Varni noted that it used to be called sole-source and now is termed exemption to solicitation. She said there would have to be justification by Legislative Council and a full vote to approve that exemption and have it go to one entity instead of soliciting bids.

Senator Stevens stated that he is not taking a position on whether an exemption is a good idea. He said that if this organization, the National Science Foundation, is a reputable and honest organization, that we might want to consider doing this, and perhaps we should not tie our hands but rather give the subcommittee the option of doing an exemption.

Tam Cook, Legal Services Director, testified that the procurement procedures are set out so that it is possible for Legislative Council to enter into a contract with limited solicitation and there is a process for that. If it is the will of Chairman Harris to appoint the subcommittee and to give them the authority to look at that option as well than that would be a sensible thing to do. She said it is a little bit difficult to get a sole-source contract – there are hurdles. Number one, the contract itself would have to be approved both by the project director, which would probably be the chair of Legislative Council, and by the membership of Legislative Council to verify that. She said there is also a requirement that if a sole-source contract is provided for an entity that is not an Alaskan business than the project director has to provide a written justification for that decision; so there are some safeguards to protect the public interest and competitive public procurements. She said it can be done and it certainly something the subcommittee can look in to.

Senator Stevens asked Ms. Cook if Representative Austerman was correct that there may be some legitimate federal agencies that cannot enter into the RFP process.

Ms. Cook responded that she did not know, factually, the answer to that question but that she imagined the first thing the subcommittee would do is to contact that agency and find out, or have Legal Services contact them and ascertain that fact.

Senator Stevens reiterated that he is not taking a position on this and recommended to Chairman Harris that the subcommittee look at both these options.

Representative Stoltze said he thinks this should be submitted to an RFP. He said this appropriation was not subject to a lot of open debate just by its nature of being in the capital budget. He said there certainly was a lot of discussion among members on both sides of the bicameral process. He said there was a little bit of dependence on a more open process in the Legislative Council. He wants to keep that process wide open. He thinks it should have an RFP. He said he doesn't think this group has tied anybody's hands; institutions that choose not to do anything but sole-source or direct grants have tied their own hands. We have a process that's open with pretty broad yet specific rules for wide participation. We follow our procurement procedures both for legal protection and to ensure public trust and reliance that there's a good process out there. He thinks sole-source would lead to the possibility that there is a hand-picked

process with a pre-determined result. There was certainly a lot of debate that the money should even be in the budget for this study. He said it is, so let's keep it clear, open and transparent, following our guidelines because this is one that cries out for an open, fair, transparent process. Representative Stoltze pledged his participation if there is a willingness to include him in this process to make sure that point of view is reflected.

Senator Stevens agrees that he likes the RFP process; it seems fair and transparent and above-board. He said he has heard things from others that might indicate that some federal agencies might not be able to be a part of this. He again stated that he is not choosing one side or the other but that the subcommittee should make a recommendation to the full Council.

Senator Davis said that there was good information to be passed along to Chairman Harris and also to the subcommittee so it can be discussed at that time. It will take a little while to gather the people for this subcommittee and to set out the guidelines. She noted that in the final analysis, the full Council will get to vote on this item; it won't be left up to just the Chair and the subcommittee, it will come back for a full vote.

There were no further comments.

Senator Davis thanked members for their patience and participation.

The meeting adjourned at 11:25 a.m.

[11:24:41 AM](#)