



Alaska State Legislature Legislative Council Minutes

FEBRUARY 4, 2010

[4:06:56 PM](#)

The Legislative Council meeting was called to order at 4:05 p.m. by Representative John Harris, Chairman, in the Senate Finance committee room and via teleconference.

1. ROLL CALL

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

Absent members: Representative Guttenberg

Staff present: Varni, Bitney, Burnham, Clothier, Cook, Gullufsen, Ibesate, Johnston, Kurtz, Lesh, and Strong

2. APPROVAL OF OCTOBER 27, 2009 MINUTES

Senator Davis moved that Legislative Council approve the minutes of the October 27, 2009, Legislative Council meeting as presented.

The motion passed with no objections.

3. LEGISLATURE FY 09 AUDIT

Pam Varni, Executive Director, Legislative Affairs Agency, noted for members that it was a clean audit with no audit exceptions. She informed members that there is one renewal left on the existing contract with Elgee, Rehfeld, and Mertz.

Representative Chenault joined the meeting.

There was no motion for this item.

4. SANCTIONING OF CHARITABLE EVENTS

Senator Davis moved that Legislative Council ratify the sanctioning of the following charitable events per AS 24.60.080(2)(B):

Thanksgiving in March
Legislative Skits
Fahrenkamp Classic Events



Alaska State Legislature Legislative Council Minutes

Kenai River Classic Events
Shamrock and Roll

The motion passed with no objections.

5. LATE PER DIEM REQUESTS

Senator Davis moved that Legislative Council approve the late per diem requests for Speaker Chenault and Representative Gruenberg.

Representative Stoltze objected.

Representative Stoltze asked if this was the last time, under the new regime, that members would be seeing this type of item.

Pam Varni, responding through Chairman Harris, confirmed that it was the last time late per diem requests would come before the Council.

Representative Stoltze removed his objection.

The motion passed with no objections.

Chairman Harris recognized Senator Hoffman had joined the meeting via teleconference.

6. TRAVEL AND PER DIEM POLICY APPROVAL

Senator Davis moved that Legislative Council approve the amendment to the Legislative Council Travel and Per Diem Policy which eliminates references to long term per diem payments for Legislators and makes changes to meal allowances. This amendment takes effect January 19, 2010 and applies to legislative business conducted on or after that date.

The motion passed with no objections.

7. PRESENTATION OF STATE FLAG POLICY

Chairman Harris stated that a former member of the Legislature brought the issue forward about the state flag being flown over the Capitol being presented to the family of a deceased member of either body. He noted that there has never been a formal policy although as chairman he has already been doing so out of courtesy and so have other chairs before him. He stated that it is an honorable thing to do; it does not pose a difficulty to staff to wrap up the flag and present it nicely to the family of the deceased



Alaska State Legislature Legislative Council Minutes

member. He asked that members approve a formal Legislative Council policy to address any issue that may arise in the future.

Senator Davis moved that Legislative Council approve the Presentation of State Flag Policy to honor the passing of a State Legislator.

Senator Stedman joined the meeting at this time.

Representative Stoltze spoke in favor of the policy.

The motion passed with no objections.

8. FOSLER LAW GROUP, INC. CONTRACT AMENDMENT

Ms. Varni noted that this amendment extends Mr. Fosler's contract for one year. It does not increase the amount of the contract and there is still a balance of approximately \$28,000 for the general legal services Mr. Fosler offers to Legislative Council and its members.

Chairman Harris asked if it was still the case that Mr. Fosler does not get paid unless the Council asks him to perform a service and Ms. Varni confirmed that was true.

Senator Davis moved that Legislative Council approve the amendment to the Fosler Law Group, Inc. legal services contract which extends the contract to December 21, 2010 and does not increase the contract amount.

The motion passed with no objections.

Chairman Harris called a brief at ease in response to a request from Senator Stedman.

Chairman Harris called the Council back to order.

6. TRAVEL AND PER DIEM POLICY APPROVAL – FURTHER DISCUSSION

Chairman Harris stated that Senator Stedman had a concern regarding the Travel and Per Diem Policy and had not been present during the discussion so the Council would now return to that item for further discussion.

Senator Stedman apologized for arriving late due to attendance at another committee meeting. He directed members to page three of the policy which states that for same day travel "Legislators and Legislative employees are **not** entitled to a meal allowance for travel away from home for the day". Senator Stedman stated that for Legislators like



Alaska State Legislature Legislative Council Minutes

himself, attending a one day meeting in Anchorage involves catching a flight out of Sitka at 6:00 in the morning and arriving back in Sitka at 11:30 that same evening; in essence he would have to leave his house at 4:00 in the morning and not return home until midnight.

Senator Stedman stated that he believes this new policy is too strict and that there should be some flexibility to allow for the amount of hours gone. He noted that Representative Wilson would face similar issues when traveling from her district.

Ms. Varni stated that this policy follows the Presiding Officers' travel guidelines. This policy does not affect members during session as each Legislator already receives a daily meal allowance. The policy only applies during interim and any change in the policy would not conform with the Presiding Officers' travel guidelines which state that there is no meal allowance for travel away from home for one day with no overnight stay.

Chairman Harris stated that the Council would leave the policy as presented in place for now and bring it up again at the next meeting for further discussion and possible reconsideration.

9. REVISOR'S BILL INTRODUCTION APPROVAL

Kathryn Kurtz, Assistant Revisor of Statutes with the Legislative Affairs Agency, testified that, by statute, one of the duties of the Revisor is to prepare a bill in cooperation with the Council that addresses conflicts, deficiencies, and obsolete provisions in the statutes and that is what is being presented today.

Ms. Kurtz went on to inform members that this bill was reviewed by the Attorney General's office and they did object to one particular section which is currently involved in some litigation; the litigating attorney asked that the Revisor pull that section and the Revisor complied. This section added a short title to a "spanned reference" and is a very technical change. The Revisor made that change elsewhere where it comes up.

The Attorney General's office gave their approval for the bill and stated that it made important technical improvements to the law.

Ms. Kurtz said this bill is largely about cleaning up problems with the language in the statutes, and references in the statutes, i.e., making changes of "and" for "or". All changes are explained in the sectional summary so there is a record of why the change is being made. Ms. Kurtz asked if there were any specific questions and noted that if the Council approved this draft it could be introduced by the Senate Rules Committee by request.



Alaska State Legislature Legislative Council Minutes

Senator Davis moved that Legislative Council approve the 2010 Revisor's bill and have the Rules Committee by Request of Legislative Council introduce it.

The motion passed with no objections.

10. 90-DAY SESSION REPORT

Chairman Harris noted that this report was the result of a working group created at the request of former Chair of Legislative Council Senator Cowdery and made up of members of both Houses appointed by the Presiding Officers at that time. The report outlines the results of a survey of Legislators and legislative staff conducted by the working group regarding the effects of the 90-day session and is to be presented to the Presiding Officers by Legislative Council.

Chairman Harris stated that it was his intention to send a letter to the Presiding Officers transmitting the report and that he would note that if a Legislator wants to introduce a piece of legislation to return to a 120-day session they are more than entitled to do so. Unless members direct otherwise, it is not the Chairman's intention to have Legislative Council authorize a bill for that purpose.

There was no motion for this item.

11. BUILDING NAMING POLICY DISCUSSION

Senator Stevens brought this item to Legislative Council as a suggestion that the Council consider establishing a policy regarding how legislative rooms and/or buildings are named and that Legislative Council would be the logical choice for making such a decision.

Chairman Harris informed members that, unless there was an objection, he would meet with the Presiding Officers to draft a policy and bring it back before the Council at a future meeting.

There was no motion for this item.

12. IT SUBCOMMITTEE RECOMMENDATIONS

A. WEB FILTERING AUTHORITY

Curtis Clothier, Information Services Manager for Legislative Affairs Agency, testified that historically the House and Senate Rules Chairs as well as Legislative Council has given Information Services direction on which websites should be



Alaska State Legislature Legislative Council Minutes

blocked and which should be allowed. This item asks members to consider consolidating that authority with Legislative Council so that there is one policy maker for the entire Legislature. He went on to say that it is his understanding the Mr. John Bitney, staff to Legislative Council, has spoken with both Rules Chairs and they have agreed that with this policy change suggestion to ensure even-handed application.

Chairman Harris stated that the intent of this policy was to ensure that there was a uniform body to review and take action on any recommendations that the IT Subcommittee makes and that Legislative Council was the logical body for that task.

Senator Davis moved that Legislative Council be the decision-making body for determining which websites are blocked from legislative staff. The Legislative Council Chair may grant limited exceptions to this policy on a temporary basis for work-related needs.

The motion passed with no objections.

B. FACEBOOK ACCESS

Curtis Clothier testified that a number of Legislators have asked for access to Facebook.com to better communicate with their constituents. In the past, House and Senate Rules have had differing opinions on this issue. Now that the authority has been transferred to Legislative Council, the IT Subcommittee is recommending a temporary lifting of the blocked site Facebook.com in order to let the legislative offices use it to determine whether or not it is a good tool for them; and to gauge whether or not there are any network issues as well as ethics issues. The proposal is to have a 3-month trial period and meet again to review what, if any, issues arose from the use of this site.

Representative Dahlstrom stated that if this proposal were to move forward that it be amended to a 30-day trial period instead of a 90-day trial period based on the fact that the Legislature will be out of session at that point, as well as if there were any problems, they would have become much larger after 90 days.

She went on to state that she is concerned about the potential increase in viruses, how much bandwidth is required and, most importantly, any possible ethical issues.

Chairman Harris noted that the motion reads that the trial period is for 'session only' so that speaks to one of Representative Dahlstrom's concerns.

Representative Stoltze asked what the impetus was. He has no personal knowledge of Facebook.com and does not know what the boundaries and barriers are. He went on



Alaska State Legislature Legislative Council Minutes

to state that there are concerns with teenagers and pedophiles and how to keep that off the network. He stated he doesn't know enough to vote on this issue.

Chairman Harris asked for a member of the IT Subcommittee to testify.

Mr. John Bitney, staff to Legislative Council, testified that, as a member of the IT Subcommittee, he had initially been personally skeptical about opening access to Facebook and raised many of the same issues Council members were discussing today. He said the fact is that Facebook is a very heavily used social networking system. Several legislative offices have come to the Chair's office requesting access. This issue was discussed with the Ethics committee at their November meeting. He stated that if this trial period was approved and Legislators created a Facebook page, it's something that, once started, cannot be ignored; it must be consistently and actively managed. It can be a very valuable communication tool and there certainly are benefits if actively monitored.

Representative Stoltze stated he was concerned about using a social networking site in the workplace and the possible loss of productivity.

Representative Wilson asked Mr. Clothier about the security issue.

Mr. Clothier responded that Facebook is the most popular site on the internet, making it a very attractive target for hackers. There are also privacy issues associated with this site. While it can be a valuable tool, there are security issues associated with its use.

Senator Olson joined the meeting at this time.

Representative Gatto said that not being able to maintain his Facebook site while he is in the Capitol for session creates trouble for him.

Chairman Harris moved this item to the next meeting to allow for further discussion.

13. PERSONAL SERVICE CONTRACTS/PERS WAIVERS

Skiff Lobaugh, Human Resources Manager for Legislative Affairs Agency, testified that each member should have in their packet a memo from Pam Varni dated January 26, 2010, which provides details regarding personal services contracts. He said that he would highlight some of the confusions that do occur. Specifically, he stated that some people confuse personal services contracts with professional contracts that go out for bid and are considered 1099 contracts. Personal services contracts really refer to the ability to waive PERS.



Alaska State Legislature Legislative Council Minutes

Mr. Lobaugh said that there are currently 57 persons (legislative staff and Legislators) not participating in PERS and that number varies depending on whether it is interim or session.

Senator Stedman stated that he does not look at this issue like that at all. He said that this is a virtual retire-rehire policy call. It is not allowed in the Administration; the Legislature blocked that bill and there was a request by Legislative Budget and Audit to basically do the same thing: retire one day, show up the next day, draw your retirement, don't contribute to PERS and continue on the payroll. He stated that it is a bad policy call with the state \$9.9 billion underwater in PERS/TRS. He said that he understands that there can be a numeric argument made that the impact isn't as severe on the treasury.

Mr. Lobaugh stated that there are some differences between executive branch employment and legislative branch employment. Even the legislature's hourly employees are required to pay into PERS; if they worked for the executive branch, they would not be allowed to get PERS. He said there are other considerations to take into account as well that make it difficult to compare directly across to the executive branch.

Chairman Harris asked Senator Stedman what he would like to do about this issue – should there be a subcommittee appointed or perhaps allow more time to mull it over?

Senator Stedman responded that he would like additional time to mull it over.

Senator Hoffman agreed with Senator Stedman that this was a big policy call and it will affect the way other employees will be treated in the future. He stated that he wanted more time to consider this issue.

Chairman Harris stated that the Council would re-visit this issue at a future meeting.

14. RFP 505 – PUBLIC RELATIONS CONSULTATIONS – ESA

Chairman Harris reminded members that \$1.5 million was added to the Legislative Council budget to look at endangered species, global warming, and a variety of other issues, all of which affect the state. Chairman Harris said it was his intent to work very closely with the Administration and to get them to be the spearhead on that work; the Administration took it up in some areas and in some they did not.

Chairman Harris stated that this proposal requests that people all over the country give the State of Alaska some effective ways to address these issues. He said that issues have arisen, such as Cook Inlet with the Beluga whales in and the North Slope with the polar bears, along with a host of other issues that can have serious effects on the economic



Alaska State Legislature Legislative Council Minutes

viability of Alaska. He said that this proposal is to see what entities are available to help the Legislature defend the state, to work with other states and on other areas regarding this issue.

He informed members that the sealed proposals have been returned and he is asking approval to move forward; he would appoint a subcommittee of the Council to review the proposals and select those that seem to be in conformance with the request and bring those back to the Council for review. There is money in the budget to work on this issue.

He spoke with the Attorney General to see if any of the work could be shifted to the Department of Law and was informed that the way the funds had been earmarked did not allow for that to happen.

Senator Stedman stated that in the event that there is a large number of proposals, the chairman consider requesting additional help; with the 90-day session, members are very busy and it would be difficult to add this task on top of their regular session work.

Chairman Harris asked how many proposals were received and Ms. Varni informed him that information is confidential under the procurement guidelines.

Senator Ellis asked if someone could characterize what was in the Request for Proposals.

Chairman Harris called Eddie Grasser to testify as the staff who put the proposal together.

Eddie Grasser, staff to Representative Harris, stated that, after working with Legal Services, the Request for Proposals ended up being for a conference and perhaps some public relations work depending on what comes out of that conference. He went on to say that it would be his recommendation that members reviewing the proposals look for organizations that offer a fairly balanced approach so that both sides are being invited and can impart their views to the Legislature. He said it is critical that format be followed.

He said that Legal Services informed him that some duties can only be performed by the Administration; so, depending on what information was gleaned from the conference such as reaching out to other states to build a case for further action, the Legislature would need to appropriate money for the Administration to do that.

Senator Ellis stated that scientists doing science is acceptable if it's balanced and professional; politicians doing science would not be good for the state regardless of what persuasion they might come from. He said that if we proceed, he advises doing so with great caution. He expects the subcommittee will do a good job reviewing the submissions



Alaska State Legislature Legislative Council Minutes

but we need to be very mindful that there is great potential for public relations damage to the state if politicians are in charge of this process.

Senator Ellis declined to be on the subcommittee when asked by Chairman Harris.

Representative Stoltze said his preference would be to have the Attorney General lead this effort wherever possible. The three mayors in his economic region have expressed great concern about the impacts of the application of the Endangered Species Act (ESA) which affect every area from Ketchikan to Barrow. He shares the concerns of both Senators Stedman and Ellis.

Chairman Harris stated that he will appoint a subcommittee and will bring back any approved proposals to the full Council.

15. NOBEL CONFERENCE FUNDING REQUEST

Senator Davis informed members that she is hosting a conference for the National Organization of Black Elected Legislative Women (NOBEL Women) in Anchorage this coming June 24-27, 2010. She said she is requesting \$50,000 from Legislative Council in support of this endeavor. There is a total of about 365 African-Americans elected to state legislatures throughout 47 different states and usually when they hold these conferences there are 300-500 attendees. She stated that she would like to think that she could attract more than that; her goal is for 1,000 attendees but if 500-600 attended she would be very happy with that.

Senator Davis said that she is very proud of her state; many people want to come here for sightseeing and to enjoy the scenery. She acknowledged that the funds cannot be used for scholarships and would only be used for conference expenses. She said she has reserved the Marriott Hotel for the conference. She has hosted other women's conferences and that they have gone very well. She stated that \$50,000 would be just a portion for the expenses and the rest would come from sponsors and conference registration fees.

Senator Stedman spoke in support of Senator Davis' request. He was in a meeting in San Diego and there were several of her colleagues in attendance that told him how excited they were to come to Alaska. He stated that he hoped there was enough room in the budget to look favorably on this request.

Senator Davis invited the members of the Women's Caucus to attend.

Senate President Stevens informed members that he advised Senator Davis to bring this request specifically to Legislative Council rather than asking separately of the House and



Alaska State Legislature Legislative Council Minutes

the Senate. He stated that it's all one pot of money and is very supportive of granting this request.

Chairman Harris moved that the Legislative Council approve the amount of \$50,000 for the National Organization of Black Elected Legislative Women's annual legislative conference which will be held in Anchorage on June 24 – 27, 2010.

The motion passed with no objections.

16. LEGISLATIVE SPACE

Senator Davis moved that Legislative Council go into Executive Session per Uniform Rule 22(b)(1) and (3) discussion of matters, the immediate knowledge of which would adversely affect the finances of a government unit; and discussion of a matter that may, by law, be required to be confidential. I ask that the following staff remain in the room to answer question: Pam Varni, Tam Cook, Chuck Burnham, Don Johnston and John Bitney and any interested Legislators.

The Council went into Executive Session.

The Council came out of Executive Session.

Senate President Stevens moved that Legislative Council give authority to Legislative Affairs to negotiate on behalf of Legislative Council for the purchase of the Christian Science Church at 5th and Main Streets.

Representative Stoltze objected for the purpose of requesting a roll call vote.

YEAS: Harris, P. Wilson, Egan, Ellis, Stedman, and Stevens

NAYS: Chenault, Dahlstrom, Gatto, Stoltze, and Olson

The motion failed 6-5.

17. OTHER BUSINESS

There was no other business.

The meeting was adjourned at 6:17 p.m.

[6:17:07 PM](#)