



# Alaska State Legislature Legislative Council Minutes

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**MARCH 17, 2011**

[11:05:21 AM](#)

The Legislative Council meeting was called to order at 11:05 a.m. by Senator Linda Menard, Chair, in the House Finance Committee Room.

## **1. ROLL CALL**

Chair Menard called the roll. In attendance were Council members: Senators Davis, Olson, Hoffman, Stedman, Stevens, and Menard; Representatives Austerman, Chenault, Johnson, Holmes, Stoltze, and P. Wilson. Also present were Council alternates Senator Joe Thomas and Representative Bill Thomas. Absent members: Senator Egan and Representative Herron.

Staff present: Varni, Clothier, Cotter, Gardner, Ibesate, Johnston, Miller, Lesh, Strong, Tilton

## **2. APPROVAL OF AGENDA**

Chair Menard asked if there were any corrections or additions to the agenda.

Representative Stoltze asked that an item be added to the agenda for Office Allowance Discussion.

Chair Menard noted that would be item number 10.

## **3. APPROVAL OF MINUTES**

Chair Menard asked for a motion to approve the minutes and asked Representative Stoltze to make the motion.

Representative Stoltze moved that Legislative Council approve the minutes of the February 21, 2011 and February 24, 2011 Council meetings.

The motion passed with no objections.

## **4. SANCTIONING A CHARITABLE EVENT**

Chair Menard said that the charitable event to be sanctioned is Neighbors Feeding Neighbors. This fundraiser event is for the benefit of the Fairbanks Community Food Bank and has been a sanctioned event for the past four years. Neighbors Feeding Neighbors has presented their requested paperwork for the appropriate 501(c)(3).

Chair Menard asked for a motion. She asked that Senate President Stevens make the motion as Representative Stoltze was not currently available to do so.

Senate President Stevens moved that Legislative Council sanction the following charitable event per AS 24.60.080(a)(2)(B): Neighbors Feeding Neighbors.

[11:09:01 AM](#)

Speaker Chenault joined the meeting at this time.

The motion passed with no objections.

## **5. LEASE RENEWAL AND EXTENSION APPROVALS**

- **Fairbanks Lease Renewal**

Chair Menard asked that her Legislative Council Administrative Assistant, Cathy Tilton, testify on the Fairbanks lease renewal item because she did make a trip to Fairbanks.

Chair Menard said she noticed in the audience that we have the Legislative Council House alternate, Representative Bill Thomas, and asked if he would like to join the other members.

Chair Menard asked that Cathy Tilton speak to the Fairbanks lease renewal and the information that's been going back and forth for dialogue on that lease.

Cathy Tilton, Administrative Assistant to Legislative Council, testified that approximately a month ago she went to the Fairbanks LIO. She said there's been an ongoing problem in the sound issue; the walls are currently removable walls so that new office spaces can be created. The removable walls are not adequately keeping the sound from traveling and so one can hear the conversation fully into the next room. She said she recorded that issue on her iPhone so that she had it recorded and then made a report. She sent the letter to the AlaskaUSA Federal Credit Union, which is who we lease the property from, addressed to Mr. Bob Thompson. He said he was familiar with this issue from the past Legislative Council Chair. She said the letter requested that something be done about this; the lease is up for renewal and this was a good time to speak with them.

Ms. Tilton said that AlaskaUSA FCU agreed to replace the nine walls that are causing the problem of the sound with permanent walls that would go all the way up into the ceiling thereby alleviating that noise from traveling, as well as have them insulated. At first, they were requesting a 10-year lease extension on that but after discussions with them, Pam Varni, Tina Strong, and herself, AlaskaUSA FCU has consented to a five-year extension as originally in the RFP.

Chair Menard asked for clarification about whether there were additional costs for the Legislature; that AlaskaUSA FCU is making these fixes at their own expense.

Ms. Tilton confirmed that was so.

## 5. LEASE RENEWAL AND EXTENSION APPROVALS *CONTINUED*:

- **Kenai Lease Renewal**
- **Bethel Lease Renewal**
- **Anchorage Lease Renewal**
- **Juneau Storage Lease Extension**

Chair Menard asked Pam Varni to testify on the rest of the renewals and extension.

Pam Varni, Executive Director, testified that before the members of Council there is a five year lease term with Fairbanks; a one year renewal with Kenai, Bethel and Anchorage; and a five year lease extension with Juneau storage. She said she would be glad to answer any questions that Council members might have.

Representative Wilson said that looking at these, she sees that all of them were for less than they were before except for Bethel and Anchorage.

Ms. Varni responded that built into the leases is an annual Consumer Price Index (CPI) and so if the Anchorage CPI goes up than there's a small amount that does get increased. The reason that Kenai went down is that the Department of Transportation and Public Facilities bases the lease costs on the actual expenditures that they have to maintain the building and the expenditures were less and that's why you see a substantial decrease in the lease amount for the next year. She said that on the lease extension for the Juneau storage, the Agency did a market analysis and when that market analysis happens, it has to be 10% below the market analysis and that is responsible for the decrease in that lease extension. She said with regard to Fairbanks, that lease expense went down because we've been in that space for five years and we have paid for all the leasehold improvements, thus the lease amount has been decreased.

[11:14:25 AM](#)

Senator Thomas, Legislative Council Senate alternate, joined the meeting at this time.

Chair Menard asked for a motion to move the leases.

Speaker Chenault moved that that Legislative Council approve the following lease renewals and extension:

1. Fairbanks Lease Renewal - AlaskaUSA Federal Credit Union - \$284,910.48 (year) – term - July 1, 2011 – June 30, 2016
2. Kenai Lease Renewal – Dept. of Transportation & Public Facilities - \$59,785 (year) – term - July 1, 2011 – June 30, 2012
3. Bethel Lease Renewal – Tunista Properties, Inc. - \$44,940.24 (year) – July 1, 2011 – term - June 30, 2012
4. Anchorage Lease Renewal – 716 W. Fourth Avenue, LLC - \$667,876.56 (year) – term - June 1, 2011 – May 31, 2012
5. Juneau Storage Lease Extension – Goldstein Improvement Company - \$32,624.64 (year) – term - July 1, 2011 – June 30, 2016

Representative Stoltze objected for a procedural question. He said he thinks we've arrived at a collegial compromise on the alternates. He said he noticed that there is a House member and a Senate member missing today and he asked whether the alternates will be voting on this item.

Chair Menard called a short at-ease.

After the at-ease, Chair Menard stated that Legislative Council committee alternates do get to vote if a House and/or Senate member is not in attendance.

Representative Holmes stated that she just wanted to put on the record that she hoped this wasn't the final say on the alternate issue since there still is no alternate for the House Minority.

Chair Menard said that is so noted.

Representative Austerman asked whether these were all yearly leases and if they are all only for one year. He asked if it was normal to have just yearly leases on all these offices and wouldn't it be less expensive on a multi-year lease knowing that these people would have an opportunity to lower their rate a little bit more.

Ms. Varni responded that some of the leases are for a five year term and then there are usually five one-year renewals. For instance, with the Anchorage lease, we're into those five one-year renewals. She said that the Kenai space is a state-owned building and it is a yearly amount based on the expenditures so that one is a little bit different. Fairbanks was a five-year term and then one five-year renewal. She said that the Agency sometimes does lease extensions where the landlord is approached with a market analysis and they ask for a price that reflects 10% below the market analysis; if that is possible, then we enter into additional terms with that landlord without going out to bid. She said that the Agency usually doesn't go beyond 10 years so that we're competitive and can see what else is out there. At that time, the Agency issues an RFP for space.

Discussion followed.

Representative Austerman asked for a report giving a breakdown of the terms of all current leases.

Ms. Varni said the Agency has a spreadsheet with that information and she would be glad to share that with him and the other Council members.

Representative Stoltze withdrew his objection.

The motion passed with no objections.

## **6. ITB 533 - UPS SYSTEM APPROVAL**

Chair Menard asked Curtis Clothier to speak to this item and that Ms. Varni stay at the table to speak to the snow plowing contract.

Curtis Clothier, Information Services Manager for Legislative Affairs, testified that the item before members is a request for approval to purchase a new uninterruptible power supply system (UPS) for the network room located in the Terry Miller Building. He said that the current UPS has been in service for over 10 years, since 1999. Over the past few years there have been additional hardware failures with the unit. It still functions but we'd like to award a contract to replace it with a new unit, in order to protect the servers from power spikes, brownouts, and general power problems as well as to provide backup power for power outages.

Mr. Clothier said that there were four bids and that Marshall's Electric from Anchorage had the lowest bid (\$59,136.76) and with the Council's approval we'd like to award this contract. The replacement of the UPS will occur after session so there is no disruption.

Speaker Chenault moved that Legislative Council approve the solicitation, award and expenditure for ITB 533 purchase of a replacement EATON UPS with Marshall's Electric for \$59,136.76.

Discussion followed.

Chair Menard asked for a motion.

Senator Stevens moved that that Legislative Council approve the solicitation, award and expenditure for ITB 533 purchase of a replacement EATON UPS with Marshall's Electric for \$59,136.76.

The motion passed with no objections.

[11:26:20 AM](#)

Speaker Chenault left the meeting at this time.

## **7. SNOW PLOWING CONTRACT AMENDMENT**

Ms. Varni testified that every year, Building Manager Don Johnston enters into a contract for snow plowing. The Agency goes out to bid for snow removal of various legislative parking lots. In FY 09, the snow plowing expenditures were approximately \$37,000. In FY 10, the snow plowing expenditures were approximately \$14,000. Recently, the invoices to date have totaled approximately \$22,000 so it's looking like, to finish out the winter, the Agency will be exceeding the \$25,000 contract; thus, before members of Council, we're asking for approval of an additional \$12,000 for a final total contract amount of \$37,000 with Cutting Edge Development.

Representative Holmes asked for clarification that the \$12,000 is a not-to-exceed, it's not actually \$37,000 flat; that we're authorizing up to \$37,000.

Ms. Varni confirmed that was so.

Discussion followed.

Senate President Stevens moved that Legislative Council approve a contract amendment with Cutting Edge Development, Inc. for an additional \$12,000 for a total contract amount of \$37,000.

The motion passed with no objections.

## **8. TRAVEL AND MOVING POLICY UPDATE**

Chair Menard stated that members had the information in front of them and asked if there were any questions or concerns on this issue.

Senator Stedman said he wanted to be sure he was following the correct procedural loop and asked the Chair if the issue he has been working with her office on is imbedded in the amendment.

Chair Menard confirmed that was correct.

Senator Stedman said he wanted to give five bullet points on this amendment that deals with modifications to the travel policy:

1. For private vehicles, it would be at the federal General Service Administration rate of \$0.51 per mile and that is not a change.
2. For private boats, for Legislators to and from the legislative session if they so choose to bring themselves and their household goods by boat -- employees would have to be authorized by the Chairman of the Committee -- reimbursement would be at 1.5 gallons/nautical mile based on the fuel price in Juneau. The reason for using Juneau is that it's got the lowest-priced fuel in the region and it's very easy to substantiate the fuel price. The 1.5 gallons/mile is a fuel consumption that most boats run in the range of. He said he spoke with Representative Thomas about his boat's fuel consumption coming down from Haines. Senator Stedman said that boat that he has, he'd have to run barely breaking an idle; if he ran it up on-step, he'd easily be over 2 gallons/mile. Reimbursement at 1.5 gallons/mile is fair because that would basically mean you'd run at 8-9 knots, which is the standard that most commercial vessels run at, such as fishing boats; sport boats like he has run at 20-25 knots and burn a lot more. So, the lower gallon reimbursement is appropriate. He said it is his choice if he wants to run barely breaking idle and do 8 knots or if he wants to do 20. If he wants to go 20 knots, he would be responsible for the difference.
3. For private airplanes, the federal GSA rate is \$1.29 per statute mile. To convert between nautical and statute - the nautical mile equals about 15% more than a statute mile so the mileage isn't equivalent. For boats, it is easy to identify distance between ports because they are published in nautical books used in navigation. There is no question how many miles it is between ports. He wasn't sure how it was for airplanes. He said also on boats, there are plotters so there is a tracking line on everywhere the boat travels. If one is going to move from Wrangell to Juneau, there's only one way you're going to get here and that's to come up Stephens Passage. If you decide to go around the outside around Chatham, your mileage is going to go way up but you won't be reimbursed for it.

Weather-wise, there is no reason to do that, which is also why the reimbursement rate is not weather-dependent. If you get weather conditions that would necessitate a longer travel distance, you should have either left earlier or waited for the weather to break.

4. Legislative staff on a boat would have to get authorization from the Chairman.
5. Legislative staff travel by private vehicle is reimbursed at the same as for Legislators but travel by boat or airplane is not allowed unless the Chair of Legislative Council authorizes it. Also, at any time, Legislative Council has the ability to take a look at some of these reimbursements through the Chair's office or with either of the Finance Chairs.

Chair Menard thanked Senator Stedman. She said we brought this forward because she thought it was a fair request. It does show parity for all different modes of travel.

Representative Johnson said he has questions about the liability issues: if we are compensating for either an employee or a Legislator, if someone on board is hurt is the State liable; if the boat does damage to someone else, is the State liable; if the airplane crashes into a building, is the State liable? He asked where do the liability issues lie if we start compensating for this type of travel.

Discussion followed.

Ms. Varni said that she asked Scott Jordan, the Director of Risk Management to attend the meeting today, but he had another commitment. She said that in her conversations with him, he did say that there is no hull insurance for boats. She noted that where there is an available commercial alternative that is what people normally take traveling for State business. She stated that the problem with this proposal is that it does exceed what is usual and customary. The Agency has always just reimbursed per what the IRS rate is and if it exceeds that, it is considered compensation and then the Agency has to report the difference as taxable income under the Legislator or legislative staff. For instance, the Agency would reimburse someone in the amount of \$45 to travel via ferry between Sitka and Juneau; under this proposal, it would be about \$756 to reimburse for private boat use; and the difference would be reportable to the IRS. The Accounting section would not be able to cut checks through the accounting section and AKSAS, they'd have to go into AKPAY and figure all of the calculations, do the reporting, and so it is some added work in order to do this. All of the other sections do not exceed the IRS rate, but this does and the difference would be considered compensation.

Discussion followed.

Senator Stedman said the tax question came up in the discussion. He said his opinion is that if the Legislator wants to apply for reimbursement and it's taxable, that's just part of the decision process. He said that the issue also is that when you bring your boat, you're bringing all your household goods as well. He said that when he brings over his boat, it's lock, stock and barrel. He said the insurance issue is kind of a red herring. If one has a passenger in a vehicle, it's no different than when there is passenger in a boat.

Ms. Varni clarified that existing policy allows us to reimburse a Legislator for use of their personal boat or aircraft, it's just that it's at the federal rate. What this policy is doing is

increasing the amount one would be reimbursed for traveling by boat as well as allowing the possibility for legislative staff to do so as well.

Discussion followed.

Senator Olson agreed with prior speakers about the ability of airplanes and boats to transport household goods as well as provide housing. He spoke to Representative Johnson's concern that Accounting is after him to make sure he has insurance and a flight physical. He said this policy seems to be for convening and adjourning travel. He said he assumes this is also applicable to travel during interim when going back and forth to the communities and asked for confirmation.

Ms. Varni responded that, if it has been authorized by the Presiding Officers or some other authority, than yes, he would receive reimbursement.

Representative Stoltze said he doesn't have a problem approving the policy; he just shares some of the overlying concerns regarding general liability. He said there's a reason those guys can afford those advertisements on the back page of phone books and certain political jurisdictions where there's a lot greater risk and you wouldn't want to have the State's deep pocket because it's viewed as not real money, with no aspersions to any particular geographical area. He said he would like to leave it open that we can re-visit, after more thorough thought, the whole liability issue without slowing this process down.

Discussion followed.

Chair Menard asked for a motion.

Senate President Stevens moved that Legislative Council approve the revised March 17, 2011 Legislative Council Moving & Travel Policy as presented.

Representative Johnson objected for purposes of discussion.

Representative Johnson said he doesn't think he has a problem with the core policy but he has concerns about the liability and he thinks that to accept this now with that still on the table concerns him greatly. He said he would like to see this tabled until the next meeting until we can get Risk Management involved so we can find out if the State's going to be sued because we approved this policy. He said we have to do due diligence before we make that kind of step that could expose the State to millions of dollars in legal action. He said he would encourage the Senate President to withdraw his motion and table this until the next meeting until we can get some of those answers clarified.

Senator Stedman said he does not agree with that and thinks it's a red herring. He said there's not much difference in the automobile and a boat and as far as liability exposure with a passenger you're always concerned about that and that's why you carry liability insurance. He said that's it's just a red herring as far as he can see. He said we could also consider requiring proof of insurance before being reimbursed.

Representative Johnson said his concern is not the exposure that the vessel owner has that his insurance is done, it's the exposure the State might have and those are where his questions are. He said you can carry all the insurance in the world and if he's driving on State business and I get in an accident, I think the State can be sued. He would like that clarified and would like to get some kind of legal determination that we're not opening up the State for liabilities and does not think that's a very unreasonable request.

Senator Stedman said he thinks that what we can do is to move forward accepting this policy and have that situation reviewed because these things aren't triggered very often. He said we can bring it back to the committee for discussion in the future for alterations.

Chair Menard said she is comfortable that we have vetted this as much as we need to.

Representative Stoltze said in conjunction with Representative Johnson's concerns, can we get a commitment to have Risk Management discuss this issue of State liability at a near-future meeting.

Chair Menard responded that she will agenda that.

Chair Menard called the roll.

YEAS: Davis, Olson, Hoffman, Stedman, Stevens, Menard, J. Thomas, Austerman, Johnson, Holmes, Stoltze, P. Wilson, W. Thomas

NAYS: None

The motion passed 14-0.

## **9. ANCHORAGE OFFICE SPACE**

Chair Menard said there is going to be a presentation regarding Anchorage Office Space at the next meeting on April 7.

## **10. OFFICE ALLOWANCE ACCOUNT**

Representative Stoltze said the items were being passed out at this time. He said he was going to make the motion but ask that it be brought up at a future meeting so everybody can read the packet.

Representative Stoltze moved that Legislative Council adopt a change to the Allowance Policy, in the Guide for Legislators and Staff, that will allow a member of the Legislature to opt out of, or decline, the increase to the Legislative Office Allowance approved by the Legislative Council during the February 24, 2011 committee meeting.

Representative Holmes objected for discussion.

Representative Stoltze said he tried to take the quiet route and non-controversial. He said he wrote a memorandum to Ms. Varni asking not be included in the increase with all sincerity and effort to try and find a winning solution for him after not prevailing in this committee process in opposing the doubling of our office account on the House side an additional \$8,000. He said he was informed that it was Ms. Varni's interpretation, and he knows the Chair received a copy of that correspondence, that he did not have the ability to withdraw under statute. He said he subsequently followed up with an inquiry to the Legislative Legal Division. Mr. Gardner, the newly appointed Director of the Legal Division, responded with a legal opinion as detailed in the memo that he provided him that stated we do have the ability to set this policy as a Council under his interpretation; so he said he wants to pursue that avenue. He said he wants to put his good faith effort to try and exercise his opinion of what he feels is appropriate. He said, having lost within this 14 member body, he wanted to have the ability to not participate in that the increase and that's his intent.

Representative Stoltze went on to say that he tried the easiest route, without fanfare or press notice or anything, just quietly asking not to be included as other members of the Legislature have as well, as he understands. He said we were told summarily that we couldn't and were given a rationale and he was given the next step. He believes it's the policy of this committee but we don't have full membership here and it's something that probably needs more time. He said he would like to ask that this be included in the next meeting as a carryover and he will resubmit the motion at that time.

Chair Menard asked for confirmation that Representative Stoltze's motion deals only with the office allowance account.

Representative Stoltze confirmed that was so.

Chair Menard said she would announce to the full committee then that we will take up the office allowance as requested by Representative Stoltze.

Representative Stoltze interrupted to say that he was requested by some to require an opt-in and he didn't want to put any undue pressure on anybody. He said he figured this was the path of least resistance and he didn't want to have any subjective judgments on his part on other members. He said this is allowing him and other members to express our own desires.

Chair Menard asked if he knew that he could still accept that money and then turn around and give it to a charity.

Representative Stoltze said he appreciated that. He said he didn't like others to set his tax policy for him and there are certainly tax consequences for him if he takes it and then donates it. He said he supports many charities and would like to donate more but he would like to do it with his own money.

The meeting was adjourned at 12:00 p.m.

[12:01:04 PM](#)