Alaska State Legislature
Legislative Council
Minutes

FEBRUARY 9, 2012

10:35:08 AM

The Legislative Council meeting was called to order at 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, Egan, Olson, Hoffman, Stedman, Stevens, and Menard; Representatives Austerman, Chenault, Herron, Holmes, Johnson, and Stoltze. Absent members: Representative P. Wilson, and alternate members Representative Thomas and Senator Thomas.

Staff present: Varni, Tilton, Clothier, Gardner, Ibesate, Lesh, Strong

Others present: Craig Thorn of First National Bank and Dennis Smith, Wasilla Station LLC (via teleconference)

2. APPROVAL OF AGENDA

Representative Herron moved that Legislative Council approve the agenda as presented.

The motion passed with no objections.

3. APPROVAL OF JANUARY 17, 2012 MINUTES

Representative Herron moved that Legislative Council approve the January 17, 2012 minutes as presented.

The motion passed with no objections.

4. SANCTIONING OF CHARITABLE EVENTS APPROVAL

Chair Menard noted there are several requests for sanctioning including:

- Dare to Care – 6th Annual Hollywood Under the Stars (Feb. 25, 2012)
- Juneau-Douglas Shrine Club – Annual Dance (March 17, 2012)
- Big Brothers, Big Sisters – Bowl for Kid's Sake (April 7, 2012)
- Alaska Youth Choir – A Night in New Orleans (April 7, 2012)
- Kenai Peninsula Fair's – Celebrity Waiter Event (April 14, 2012)
- Kenai River Sportfishing Association:

- Kenai River Classic (July 5, 6 and 7, 2012)
- Kenai River Jr. Classic (August 14, 2012)
- Kenai River Women's Classic (Sept. 6, 7 and 8, 2012)

She said backup information for each of these events has been provided in the packets and asked that members sanction all the events with one motion unless there is a question regarding a specific event.

Representative Stoltze said he would like to speak to the Dare to Care event because he asked that it be put on the agenda. He said this is the major fundraiser for a nonprofit that raises funds to combat youth hunger in schools. This organization feeds approximately 4,000 kids from the Mat-Su Valley to neighborhoods in Anchorage; it has administrative costs around two percent and no employees. He noted Ms. Wild was on the phone in case there were any questions.

Chair Menard asked for a motion.

Representative Herron moved that Legislative Council sanction the following charitable events per AS 24.60.080(a)(2)(B):

- Dare to Care - 6th Annual Hollywood Under the Stars
- Juneau-Douglas Shrine Club - 2012 Annual Dance
- Big Brothers Big Sisters - 2012 Juneau Bowl For Kids' Sake
- Alaska Youth Choir – A Night in New Orleans
- Kenai Peninsula Fair's – Celebrity Waiter Event
- Kenai River Sportfishing Association – Classic, Jr. Classic & Women's Classic

The motion passed with no objections.

5. LATE TRAVEL AND PER DIEM CLAIM APPROVAL

- Rep. Max Gruenberg
- Rep. Kurt Olson

Chair Menard stated that there are two requests for approval for travel and per diem claims filed past the deadline: one from Representative Max Gruenberg and one from Representative Kurt Olson. She noted that Representative Kurt Olson was present should anyone have questions.

Senator Stedman joined the meeting.
10:41:24 AM

Discussion followed.

Representative Herron moved that Legislative Council approve the late travel and per diem claims for Representative Max Gruenberg and Representative Kurt Olson.

The motion passed with no objections.

6. ACCESS TO FACEBOOK APPROVAL

Chair Menard stated that a one year Facebook trial period was approved at the February 3, 2011 meeting. We have made it through the trial period without security or bandwidth issues. Based on this, Curtis Clothier, I.S. Manager, is recommending that access to Facebook continue as is. I have also received requests from Ethics, the Ombudsman's Office, and Legislative Budget and Audit to access Facebook to help each of their offices to perform their work. Curtis has suggested that access to Facebook be granted by the Legislative Council Chair using a form similar to the Non-Standard Equipment Request. Curtis is here to answer any questions.

Chair Menard asked for a motion.

Representative Herron moved that Legislative Council based on a successful one-year Facebook trial period for Legislators and Press Staff, will continue Facebook access as is. In addition, the Chair of Legislative Council has the authority to grant access to Facebook to legislative employees who require Facebook access as part of their job duties.

Representative Austerman objected for purposes of discussion.

Representative Austerman asked why go through an application process for giving Legislators and staff access to Facebook, if it's working with no problems as stated. He was also interested in how much staff time would be involved in taking part in the application process and getting final approval through Legislative Council.

Curtis Clothier, Manager of Information Services, responded that he is suggesting a conservative approach. Since Legislators were granted Facebook access, there are currently 34 Legislators who asked for access in addition to seven press people. He said that there haven't been any issues, the number of people actually using it is relatively small and, in addition, the number of people who have asked for access is also relatively small. Mr. Clothier said that, based on the number of users, we continue to conservatively step into allowing greater access to ensure that there continue to be no problems.

Discussion followed.

Representative Johnson said he is in favor of using an application process because he is concerned about potential ethics violations, whether inadvertent or not, by staff using Facebook. He said that because there are state resources used to pay for access to Facebook and that is a strong concern for him.

Representative Austerman said that an ethical violation can occur just as easily using a State phone as using Facebook and wasn't convinced that was any more of a concern.

Senators Hoffman and Davis wanted to know under what circumstances an application would be denied.

Representative Stoltze asked what would cause a person to be barred from Facebook access.

Discussion followed.

Speaker Chenault joined the meeting.
11:12:05 AM

Chair Menard said she was going to hold this issue over until the next meeting. There was no vote on the motion.

7. MAT-SU LIO LEASE SUBORDINATION AGREEMENT APPROVAL

Chair Menard stated that Wasilla Station, LLC, the landlord of the Mat-Su LIO, is requesting the approval of a Subordination Agreement with First National Bank Alaska, Wasilla Branch. Terry Bannister from Legislative Legal has reviewed the agreement and is here to answer questions. Chair Menard said she received an email from Craig Thorn, Senior Vice President of First National Bank, indicating that that the Bank has agreed to Legislative Legal’s proposed changes and are drafting them into an updated agreement. Mr. Thorn and Dennis Smith are on teleconference.

Representative Herron moved that Legislative Council approve the Subordination, Non-Disturbance and Attornment Agreement and Estoppel Certificate with First National Bank Alaska and our Mat-Su landlord, Wasilla Station, LLC. Our Legal Services Section should work with First National Bank Alaska to make changes to the agreement that concern the Agency. If First National Bank Alaska requires us to sign a new lease under this agreement, Legislative Council authorizes the Agency to do so.

Representative Holmes said this is what she does for a living. She said she read through Ms. Bannister's note and that she makes some very good points. She said Legal Services is doing a very good job at protecting the Legislature and that she would encourage Council and LAA to make some rather significant changes to the agreement before it is signed.

Representative Stoltze said he wanted to disclose on the record that Mr. Smith has contributed to his campaign in the past. He said he has had no detailed discussion about the Mat-Su legislative office.

Chair Menard made the same disclosure. She then asked Terry Bannister to speak to this issue.

Terry Bannister, attorney with Legal Services, said it basically represents an agreement and the Bank's attempt, in the process of providing financing to our current lessor, to get into first position on the record for that real property, because the LIO’s lease was recorded before this current agreement would be recorded. She said it would protect the Bank’s security interests that they’re taking in this property so they can be in first position should it become necessary to foreclose on the lessor. The Bank is requesting that the Legislature accept being in a position behind them and that we accept them as the new lessor should there be a foreclosure. The Bank agrees that if there is a foreclosure, they will not evict us, which is to our benefit. She said there are general provisions that generally protect us and Ms. Bannister is requesting more to protect the Agency’s interest.

Ms. Bannister said that the current lease ends in July and if the Legislature did not want to sign this agreement, we could find new space at the end of the lease. If we do want to stay in our current space, signing this agreement ensures we can do that for another five years. She said if the financing runs smoothly, this agreement may never be invoked. If there is a foreclosure and the Bank needs to step in, we will be allowed to finish the lease under the existing terms.

Discussion followed.

Craig Thorn, Senior Vice President of First National Bank, said that the Bank is pursuing long-term financing through AIDEA, the Alaska Industrial Development and Export Authority, which is a state agency who is the primary driver of this request to have this SNDA document signed. The Bank has reviewed Ms. Bannister's recommendations and agrees with those. He said they are making the changes now and forwarding to AIDEA for their concurrence. He said he disagreed that the State is giving up anything with this agreement; in addition to this being a subordination document, there is also a non-disturbance clause such that if the State of Alaska fulfills its obligations as a tenant, the Bank, assuming it took control of the property, would not disturb the State of Alaska as a tenant.

Discussion followed.

Representative Herron stated, as other members had previously noted, that the current motion is confusing as written and that he respectfully requests that the Chair ask Ms. Bannister and LAA to write a new motion and bring it back to Council for a vote.

Chair Menard said the Council will move on to other business while the motion is re-written.

8. FY 11 LEGISLATURE AUDIT

Chair Menard stated that the FY 11 Audit is being presented to members of the Legislative Council. No action is required at this time. Pam Varni is here if there are any questions.

Senate President Stevens asked if Council could have an explanation provided by Ms. Varni on this item.

Ms. Varni said that before Council is the management letter that is going to the members of the Budget and Audit Committee and also Legislative Council. It is for the FY 11 audit for the entire Legislative Branch. She said many years ago, we consolidated in an attempt to save money and; instead of having three separate audits in the Legislative Branch, there is one audit done by an independent auditor. The auditor is Elgee, Rehfeld, Mertz LLC. It’s the first year with this organization under a new contract with two one-year renewals. The cost is $18,250 and is split between Office of Victims’ Rights, the Ombudsman, Legislative Affairs Agency, Legislative Finance and Budget and Audit. It is a clean audit. There are no audit exceptions. She said besides the letter to management is a schedule of appropriations, expenditures, encumbrances and a schedule of revenues. She said she would be glad to answer any questions members may have.

There was no further discussion on this item.

9. FY 13 LEGISLATIVE COUNCIL BUDGET REQUEST

Ms. Varni said that before members is an 85-page detailed proposed Legislative Council Budget for FY 13. In preparing this proposed budget, she worked with the Presiding Officers, the Rules Chairmen, the Council Chair, the Chair of Administrative Regulation Review, the Co-Chairs of Joint Armed Services and the different Agency heads. In the audience is Linda Lord-Jenkins, Office of the Ombudsman. She said she also prepared a budget overview for the members. This budget is nine of the 13 separate budget components; there are three RDUs in the Legislature's budget and two of those RDUs are in this 85-page document. If members look at the amount of money requested in this FY 13 Council request and compare it to the FY 13 Governor's figures, it is a decrease of $224,000. If members compare the FY 13 adjusted based versus the FY 13 request, it is a decrease of $873,600. What is not in this budget request are the four components that go directly to the House and Senate Finance Committees and that is the Legislative Budget and Audit RDU, which is comprised of Legislative Audit, Legislative Finance, Legislative Budget and Audit Committee Expenses and State Facilities Rent.

Ms. Varni directed members to the first couple of pages of her summary: (I) only concerns the budget that is before the Council and (II), (III), and (IV) do show the entire components that are in the Legislative Branch budget. She said that she then went into explanation of the increases and decreases, looking at the Governor's figures and our request, as well as detail in each component looking at the FY 13 adjusted base compared to the request. The last part of the summary goes into more detail about what is comprised in each one of the components. She said the Agency strived to do a maintenance level budget in the request along with what the Executive Branch is doing, there is a 2% cost of living increase, health insurance is going up $80 a month per employee and there's a small working reserve increase.

Representative Herron moved that Legislative Council per AS 24.20.130 approve the FY 13 Legislative Council Proposed Budget and transmit it to the House and Senate Finance Committees for their review and action.

Discussion followed.

The motion passed with no objections.

10. CUTTING EDGE SNOWPLOWING AMENDMENT APPROVAL

Chair Menard stated that the snowplowing contract was renewed with Cutting Edge in the amount of $25,000. Cutting Edge has billed $17,670 through December 31 with a current billing which was received on February 3 for work performed through January 31 in the amount of $16,110. The billings are itemized and staff has reviewed the hours submitted for verification. An increase in the amount of $15,000 is requested to help cover the current billing and provide for any increased services that are needed during these conditions.

Representative Herron moved that Legislative Council approve a $15,000 amendment to the Cutting Edge Development, Inc. snowplowing contract.

Discussion followed.

The motion passed with no objections.

7. MAT-SU LIO LEASE SUBORDINATION AGREEMENT APPROVAL

Representative Herron moved that our Legal Services section work with the parties involved to amend the proposed Subordination, Non-Disturbance, and Attornment Agreement with First National Bank and our Mat-Su landlord, Wasilla Station LLC, and that Legislative Council approve at this time the Agreement as so amended.

The motion passed with no objections.

The meeting was adjourned at 11:55 a.m.

11:55:38 AM