



# Alaska State Legislature Legislative Council Minutes

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**FEBRUARY 3, 2011**

[11:00:48 AM](#)

The Legislative Council meeting was called to order at 11:00 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, Egan, Hoffman, Olson, Stedman, and Stevens; Representatives Austerman, Herron, Holmes, Stoltze, and P. Wilson. Absent members: Representatives Chenault and Johnson.

Staff present: Varni, Clothier, Cotter, Gardner, Ibesate, Johnston, Lesh, Miller, Rovito, Schofield, Tilton, and Young.

Others present: Carolyn Kuckertz, Press Secretary for the Senate Bipartisan Working Group.

## **2. APPROVAL OF AGENDA**

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

The motion passed with no objections.

Chair Menard noted that Representative Stoltze joined the meeting at this time.

## **3. APPROVAL OF JANUARY 20, 2011 MINUTES**

Chair Menard asked if members had a chance to review the minutes from the last Legislative Council meeting.

Senator Stedman asked that the minutes be amended to include his comments on the alternate committee member item.

Chair Menard stated that the minutes would be amended and brought back to the next meeting for approval.

## **4. LEGISLATOR'S FACEBOOK ACCESS PROPOSAL**

Chair Menard called Carolyn Kuckertz and Curtis Clothier forward to testify on this item.

Senator Davis joined the meeting at this time. [11:03:46 AM](#)

Curtis Clothier, IS Manager for the Legislative Affairs Agency, provided background information to members, informing them that there have been a number of Legislators over the last few years asking for Facebook access to better facilitate communication with constituents as well as the general public. This issue was brought to Legislative Council last year; at that time, the proposal was voted down. He said that, since then, the Agency has received more requests for access to Facebook and, at this time, another proposal for consideration is brought before the Council. He said this proposal is to grant every Legislator access to Facebook based on their user id; this would allow them to access Facebook here in Juneau, at their home district offices, or wherever they are at a State computer. In addition to the Legislators, the legislative press, the web masters and the help desk are included in being allowed this access.

Mr. Clothier went on to say that, because there are issues surrounding the use of Facebook -- most prevalently are viruses and malware, as well as issues with security, privacy, and ethics -- the proposal has a trial period of six months. During that period, staff will monitor the networks and the users, and basically see how it works for both the users as well as the staff responsible for the network. At that time, a determination will be made about whether there is the will to go forward.

Representative P. Wilson joined the meeting at this time. [11:04:54 AM](#)

Carolyn Kuckertz, Senate Bipartisan Working Group Press Secretary, testified that her part of the proposal addresses issues like ethical concerns. In that regard, she said that the proposal is for the creation of a Facebook "business page" for each lawmaker. With a business page, no private, personal communications are permitted; everything is done in the open and everyone would be able to see the exchanges. It would be easier to monitor. Ms. Kuckertz said that, for her group specifically, she has volunteered to provide the "tech support" for any Senator that would prefer help in setting up a Facebook account and business page.

Representative Holmes asked about the intent of creating the business page; specifically, would Legislators only be able to access their business pages from the Capitol or could they also access their other pages?

Ms. Kuckertz responded that there has to be a personal account in order to run a business page. The personal account could be named anything and the intention would be that the business pages would be the ones the State officially represents. Any activity done on a personal account from a State computer would definitely be questionable, but that account would be necessary to operate the business page.

Representative Holmes followed up by stating that she has a concern regarding the personal pages; she said she has a personal account that she maintains. It's not a "Representative Holmes" account, it's a "Lindsey Holmes" account. She said she maintains it as sort of a hybrid account: she has "friends" that include a college roommate as well as members of the press, constituents, colleagues, etc. She said she has thousands of people on that account and she routinely gets constituents emailing her through her Facebook account. She stated that she believes this to be more akin to a personal email account, such as a hotmail account, which she can access, and which is, to some extent, on the honor system that she is not doing any campaign-related emails

from her computer in the Capitol. She said that her concern was that this proposal wouldn't explicitly preclude Legislators from monitoring their other personal accounts during session.

Ms. Kuckertz confirmed that was a very reasonable request and that it wasn't the intent to preclude Legislators from using their other pages to communicate. This proposal is for those who felt uncomfortable having a Facebook account at all; if other lawmakers want to have a page, they are assured that it is completely out in the open and that it is okay to have staff manage that account.

Senator Stevens said that other states have gone into this social networking option earlier than Alaska; that there has been resistance to doing so for a variety of reasons. He said it's an avenue to reaching a lot of the folks that they represent. This seems to be a good way to reach constituents. He asked for clarification on whether the business page was more of a one-way communication.

Ms. Kuckertz noted that constituents can post questions on the business page "wall" and any response is also posted for everyone to see. She gave an example of a constituent posting to Senator Stevens' Facebook business page asking about his position on a particular bill. If the Senator responded through the business page, that response would be available to all other constituents. He would, though, have the option of emailing the individual constituent and that email would not be available through the business page. She also said that she would be monitoring her group's pages to ensure there weren't inappropriate postings, or as she likes to call them, the people who would post things that would otherwise not be in the best interest of this legislative body.

Representative Stoltze said that he has a lot of his lingering concerns. This initial foray sounds not as concerning as last year's proposal. He said that it's called a social network and it has a lot of political applications; it's just fraught with a lot of temptations and opportunities for folks who want to skirt the edge. He said he thinks the temptation is too large. He said that members are in a business environment with some real strict codes of conduct that governs behavior and that there are evolving interpretations of those codes. He said he has a real problem with potential political applications with Facebook use. Some may do some real good mining of potential constituents and voters, collecting names, all within the rules but this just gets us skirting closer to those edges. This may be seen as a permission slip to step a little over the line. He said there could be the best intents but next thing you know, we're not just over the line, we've jumped over it and are doing a little jig over on the other side. He said that's not where we started but he's seen the way so many things like this evolve. He noted that these are not new concerns that he's expressing and they are still not alleviated by the discussion. This might be just as temporary as the tax on telephones and telegraphs in the Spanish-American War; once you get something in, you never get rid of it even if there are problems.

Representative Wilson asked if certain areas are excluded. She said she knows that with personal computers, we're excluded from doing certain things. For instance, she has an Apple computer that she is not allowed to get on in the Capitol, so she is wondering if there are limitations with this also.

Mr. Clothier responded that no, there will be open access to Facebook, as Representative Holmes was inquiring. There will be business pages and personal pages and access will be available on any legislative computer attached to the State network. He noted again that Legislators will be allowed access based on their individual user ids.

Representative Wilson followed up by asking if she could access her business page using a personal computer.

Mr. Clothier said this proposal does not change the policy for PCs being the standard operating equipment of the Legislature. Access to Facebook through WIFI or through wireless has not been affected.

Representative Herron said he has a Facebook account but his wife manages it, he does not. He wanted to know if his wife could get the access code to his business page.

Mr. Clothier responded that adding the business page does not change her accessibility to their Facebook account. He said that now Representative Herron would be able to access the account from his computer in the Capitol or from his district office during the interim.

Ms. Kuckertz confirmed that Representative Herron's wife would have access to his business page because it would be part of his personal Facebook account, so she would absolutely have access.

Representative Herron asked if Ms. Kuckertz would be aware of whom the manager was for each account.

Ms. Kuckertz responded that the individual Legislator would know who had been authorized to manage the account because the Legislator would grant access to "administrators" of their account; however, that information would not be available to the public.

Discussion followed.

Representative Stoltze asked, in an attempt to understand the process, if a Legislator gets a business page, which they can access from their office, state-owned, legislative managed computer, they can also access that same account from their home computer? So, Legislator A could have the input work, collect the names and there wouldn't be any violation because it's off-premise. Legislator A could have their campaign manager or fundraiser look at those names and data-enter them into a list and that would be a permissible activity using the state-managed list. He said so, theoretically, trying to think this through, that would be a scenario that would be allowed under this proposal.

Ms. Kuckertz confirmed that would be a scenario that would be allowed.

Representative Stoltze stated for the record that the scenario he laid out was not something he wanted to do or has asked his campaign manager to do.

Representative Austerman said he doesn't personally think six months is long enough to make a firm decision of whether using Facebook in this manner is working or not working. He suggested that a year would be more appropriate so that the Council could come back and have a discussion during session. He asked that when the business accounts are created, what's the staff's role - can they be granted access to the account and answer questions that are posted?

Ms. Kuckertz confirmed that would be the case. The staffer you would entrust would be given your password and would be able to access it from both a state as well as a personal computer.

Chair Menard asked for a motion from the Council to approve a six month trial period that would allow each Legislator access to Facebook for legislative business only.

Representative Herron responded that was so moved.

Senator Stevens objected for the purpose of discussion. He said that Representative Austerman made a very good point that six months is not long enough. He asked if the Chair would like an amendment to the motion.

Senator Stevens moved that Legislative Council change the time frame in the motion from six months to one year.

There were no objections to the amendment.

Chair Menard asked for a revised motion.

Representative Herron moved that that Legislative Council approve a one year trial period of allowing each Legislator access to Facebook for legislative business only. In addition, the House and Senate Majority & Minority Press, Webmasters, and Help Desk staff will have access to Facebook.

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

Chair Menard took the roll.

YEAS: Menard, Davis, Egan, Hoffman, Olson, Stedman, Stevens, Austerman, Herron, Holmes, and P. Wilson

NAYS: Stoltze

The motion passed 10-1.

## **5. FY 10 LEGISLATURE AUDIT**

Chair Menard introduced Executive Director Pam Varni and asked that she come forward and testify on this item.

Legislative Affairs Agency Executive Director Pam Varni stated that each member had before them the FY 10 Legislature Audit. She said it is the last renewal of the contract with Elgee Rehfeld Mertz, LLC. The Agency prorates the audit costs between five separate entities: Legislative Budget & Audit, Legislative Finance, Legislative Affairs, the Ombudsman, and the Office of Victims' Rights. It's a cost-savings to the Legislature with this combined audit. There are no audit exceptions.

Ms. Varni noted that the Agency will be doing an RFP for the FY 11 audit and if the lowest bid exceeds \$25,000, it will be brought before the Council for approval. She said the cost for the last three years has been \$17,500 per year.

Chair Menard noted this is not an action item.

Representative Austerman stated that he read through the audit and couldn't find anything that said the auditors found any problems. He wanted confirmation that his understanding was indeed the case.

Ms. Varni confirmed that Representative Austerman was correct. There have been no audit exceptions since she has been Executive Director and Karla Schofield has been the Finance Manager and Deputy Director.

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

Chair Menard asked for a motion or if there were any questions.

Senator Stedman stated he has a concern about a line in the third paragraph of the second page. He said he wanted to remove the line about not being allowed to receive reimbursement for using a personally owned aircraft or boat. He would like to go back and take a look at this policy. He stated that when a boat is used, the vessel may be used to transport household goods but that fact is not considered in the 10,000 pound household goods allowable expenditure. He said most displacement hull boats burn about one gallon per mile; faster vessels mean fuel consumption will increase substantially over that amount, nearing three gallons per mile. He said he thinks a more appropriate policy would be for the State to reimburse the fuel consumption at one gallon per mile using whatever the current price is in Juneau, which has some of the most competitive fuel prices in Southeast. He said he think this policy needs to be addressed. While he can't speak to fuel consumption and cost for aircraft use, when dealing with a boat, he would like to see the reimbursement set at one gallon per mile.

Chair Menard stated that Senator Stedman's point is well-taken, although more in-depth study would need to be put into that consideration.

Discussion followed.

Ms. Varni noted that the only change before the Council today is to eliminate the sunset date for staff relocation travel reimbursement. The sentence regarding personal boat and aircraft use has

been in this policy, which was adopted many, many years ago. If it is the will of the Council to change that, or to add more information regarding this issue, they certainly can do so.

Senator Olson spoke in favor of reviewing this issue for both Legislators as well as staff.

Chair Menard stated that she will work closely with the Executive Director to craft new language with regard to personal boat and aircraft use, and will get that out to members prior to the next meeting, as well as dropping the sunset date for staff relocation travel reimbursement.

Representative Herron, to ensure it was on the record, moved that Legislative Council drop the word "not" in the sentence: "Reimbursement for the cost of traveling on a personally owned aircraft or boat is not allowed." He moved that this be addressed at the next meeting of the Council.

The motion passed with no objections.

## **7. ANCHORAGE OFFICE SPACE SECURITY EXPENDITURE APPROVAL**

Chair Menard asked Ms. Varni to speak to this item.

Ms. Varni said that the Agency has had an arrangement with American Guard Services for many years to provide a security guard in the lobby of the Anchorage office space and it has worked well. She said that because the annual amount exceeds \$25,000, she is asking for Legislative Council approval for this expenditure. She noted that members have a spreadsheet showing the expenditures for FY 10 and so many months for FY 11, and that this request is for Council to approve these expenditures. She stated that there was a Council meeting in July and one in December, and we did not get the FY 10 approved, so she is asking for approval for both fiscal years at this time.

Representative Austerman asked why the Council is being asked to approve FY 10 expenditures when they are now working on the FY 12 budget in the Legislature today. He questioned was this expenditure not already approved as far as the budget is concerned. He said he did not understand why this was happening in this way.

Ms. Varni responded that there is money in the budget for different expenditures, but it's like a professional services contract; when the amount exceeds 25,000, per the procurement procedures, it is supposed to come before this body for approval; just having it in the budget does not mean that it satisfied the procurement procedures. She said that it is unlikely that there would be a request to approve an FY 12 expenditure at this time because there might not be a relationship with this particular security company. She said the Agency tries to come to Legislative Council before it exceeds \$25,000 but because last interim there weren't many Legislative Council meetings that did not happen. She said she apologizes for that. She said Legislative Council has done retroactive approvals before. This is what we are asking for today for FY 10; for FY 11 we're doing fine and we will come back to Council again in FY 12 for this same approval if it's the will of Legislative Council to continue that relationship with American Guard.

Representative Austerman said it is not acceptable to approve an FY 10 contract now regardless of whether this body has to do it or not. He said he does not like doing this retroactive. He said if they are approving a retroactive of over \$25,000 for FY 10 late in FY 11, something is wrong with this system and we have to correct that.

Representative Wilson asked how many times the security guard was needed because of some incident or that it is safer simply because of the guard presence.

Ms. Varni responded that there have been times when there has been a person in a Legislator's office and they need some security assistance; there have been times when there have been committee hearings where it's an issue that there are excited attendees; times when people come into the lobby that really do not have any business in the building. The guard also assists people with parking permits to ensure they aren't ticketed. Ms. Varni said the guard really does serve a necessary function. This was something Legislative Council felt it was important to do and there security guard has been present in the Anchorage LIO for many, many years.

Chair Menard asked for a motion.

Representative Herron moved that Legislative Council approve the expenditure for security services for our Anchorage office space for FY 10-11.

Representative Austerman objected for purposes of discussion. He said that, in looking at the sheet for FY 10, it looks like there was a total of \$40,000 that we are approving; and then there is an approval for \$19,000 (in FY 11) or are we approving the full year's contract now or just a half a year?

Ms. Varni stated that the request is for all current expenditures for FY 11 to be approved at this time because we will be exceeding the \$25,000 in a few months.

Senator Stedman asked for clarification from Ms. Varni on the internal operations. He said bills were submitted and paid, so when did it come to her attention that there is a budgetary issue here, that there was not an appropriation to cover this; and then the mechanics of how she went back and tried to take a look at whatever that situation was so it wouldn't repeat itself. He then asked about the time frame of the process.

Ms. Varni said that the bills are submitted monthly and Mike Warendt (Anchorage LIO Manager) also keeps track of the hours that the security guard works and signs off on those. She said there is money in our budget for this expenditure; it's not like it's a contract that comes up and we know it's a set amount. The security guard might be required to work extra hours if there are late night teleconferences. She said that's why we don't have a contract that comes before the Council once a year for, let's say, \$40,000, because that might not be enough or it might be too much. She said that's why we get this approval when it exceeds, or we know it's going to exceed, \$25,000. She said we're on a month-by-month relationship with this security guard company, which could be stopped at any time if that's the will of Legislative Council.

Senator Stedman said he was curious when the previous chairman (Representative Harris) was made aware of the problem and if there was any dialogue with the committee members of how to rectify this. He said this is the first time most of the committee members have heard about this.

Ms. Varni responded that this item was not on the agenda in July and it was not on the agenda in December.

Senator Stedman asked when, to Ms. Varni's recollection, did Chairman Harris become aware of this.

Ms. Varni said she was not sure.

Senator Stedman said the point is that there are several items that we've had trouble getting on the agenda because of the reluctance of the chairman to not only have meetings but to actually do the committee's business.

Chair Menard said the Council is looking for some clarification. She asked Ms. Varni if she had requested that this item be put on the agenda.

Ms. Varni said this item was not brought to her attention in order for her to bring it to the Council Chairman's (Harris) attention between July and December. She said it was an oversight from the Agency; it could have been put on the December calendar if the Chair so chose but she said she does not remember bringing it to his attention because she was unaware of it. She again apologized to the Council that it was not. She noted that the Agency was not advised to stop the security services either and this is a month-by-month expenditure.

Representative Stoltze stated that he was glad it was clarified. He said he did not think it was John Harris' issue - if he wasn't told, he can't act on it. He said Representative Harris was not the full time administrator of this; Representative Harris relies upon the full-time professional staff. He said that if the prohibition on carrying personal firearms/weapons was relaxed, there might be less concerns amongst some of the staff having to go underground to the parking garages late at night in not-one-of-the-best parts of Anchorage.

Chair Menard stated she was ready to get back to the motion. She asked if there were any more objections to the motion.

There were no objections.

The motion passed with no objections.

## **8. WESTLAW CONTRACT - ONLINE RESEARCH APPROVAL**

Chair Menard noted for Council members that there are currently 20 passwords and Westlaw is offering an additional 20 for just a little bit more money. She asked Ms. Varni to provide additional details.

Ms. Varni stated that Patricia Young (Research Services Manager) has been in contact with Westlaw. The current contract with Westlaw is for 20 passwords; they are proposing to give the Legislature 40 passwords starting February 6, 2011. The monthly price would be \$2,157, which would be a savings at a cost per month/per user compared to what we are currently paying. She said it would cut in half the amount that we are currently paying for passwords with Westlaw.

Representative Herron moved that Legislative Council approve a new contract with West doubling the number of passwords for on-line research and a new Westlaw Next platform. A three year contract starting February 6, 2011 with a monthly rate of \$2,157 with yearly 5% increases.

The motion passed with no objections.

## **9. SANCTIONING OF CHARITABLE EVENT**

- Dare to Care's 5th Annual Gala

Representative Stoltze stated that he was really privileged to be able to speak about Dare to Care. He said Dare to Care is a totally volunteer non-profit organization with no paid employees and no government assistance that raises funds to provide for school nutrition both in the purchased products and vouchers for the school system to get to kids non-judgmentally and anonymously. It's a private sector initiative that just happens to be a family he knows in Chugiak that started it out of their house which has grown to a pretty significant fundraising event. The funds raised go straight to the schools and are administered through school nurses. He said this is finding a solution without government. By sanctioning this event, it gives more comfort to those lawmakers who would assist this agency. It serves 2,000 kids and growing. He said this is their big annual event and that Senator Mark Begich's wife has been very involved with this activity and was honored for her volunteer efforts. This is a very significant effort to raise funds that get to needy kids in the schools. He again stated he is pleased that it is without government help, there are no paid executive directors, and this is just one of those models that really works.

Representative Holmes said she has known Bettsie Wild (Founder of Dare to Care) for years and she is a wonderful person. She is very happy to have us sanctioning this event and help in any way we can.

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

- Dare to Care's 5th Annual Gala – February 26, 2011, Anchorage Hilton

The motion passed with no objections.

Chair Menard thanked the House Finance Committee for allowing the use of the room. She said the next meeting will be February 17 although she hasn't designated where the Council will meet.

Representative Austerman said he wanted to go back to the discussion in reference to the security for Anchorage and the contracts. He requested that staff bring forward recommendations on a more long-term contract instead of a month-by-month based upon the fact that a month-by-month is probably more expensive than a long-term contract; and that it be addressed on an annual basis. The Council can pass a motion here to do a contract up to \$40,000 for example and not have to worry about them coming back in the middle of a year and trying to do so.

Chair Menard said that this will be a future topic and will be presented to the full Council with more detail.

Representative Austerman noted that the Legislature does not like departments coming back to them and bringing supplemental budgets based upon the fact that they didn't give enough information to start with. He does not think the same thing should be accepted within the legislative process.

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

[12:00:43 PM](#)