



# Alaska State Legislature Legislative Council Minutes

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**JUNE 29, 2011**

[11:03:22 AM](#)

The Legislative Council meeting was called to order at 11:03 a.m. by Senator Linda Menard, Chair, in the Anchorage LIO Second Floor Conference Room and via teleconference.

## **1. ROLL CALL**

Chair Menard called the roll. In attendance were Council members: Senators Davis, Egan, Hoffman, Menard, Olson, Stevens (via teleconference), and alternate member Senator Joe Thomas (via teleconference); Representatives Austerman (via teleconference), Herron, Johnson, Stoltze, P. Wilson, Holmes (via teleconference). Absent members: Senator Stedman, Speaker Chenault, and alternate member Representative Bill Thomas.

Staff present: Varni, Gardner, Strong, Tilton and Warena. Via teleconference: Clothier, Geary, Ibesate, Johnston, Lawrenson, and Wright

## **2. APPROVAL OF THE AGENDA**

Senator Davis moved that Legislative Council approve the agenda as presented.

The motion passed with no objection.

Chair Menard noted that Council members Senator Hoffman and Representative Johnson joined the meeting.

[11:06:30 AM](#)

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

Representative Herron moved that the Legislative Council approve the May 20, 2011 minutes as presented.

The motion passed with no objection.

## **4. RATIFICATION OF CHARITABLE EVENT**

Representative Herron moved that Legislative Council ratify the sanctioning by the Chair of the following charitable event per AS 24.60.080(a)(2)(B):

Midsummer Gala in the Garden

The motion passed with no objection.

Chair Menard noted for members that she will be stricter in the future with regard to ratifying charitable events as this particular event had already occurred and the Council was sanctioning it after the fact, something she does not agree with. She said that she believes it's important to be encouraging to non-profits because they are needed but wants to have the necessary paperwork submitted in a more timely fashion so that ratification does not happen after the event itself has already taken place.

## **5. LEASE RENEWALS & LEASE AMENDMENT**

Pam Varni, Executive Director of the Legislative Affairs Agency, said that there are two lease renewals and a lease amendment before the Council. The Barrow office space is a sublease extension renewal agreement for January 1, 2012 – December 31, 2012; the Kotzebue office space is also a lease renewal for September 1, 2011 – August 31, 2012; and the last item is a lease amendment to add 1,342 square feet to the Mat-Su office at the same rental price per square foot of the existing space and because it exceeds \$25,000 for the yearly cost, this additional office space is before Council.

Representative Peggy Wilson asked how many more offices were being added to the Mat-Su space and was it due to redistricting.

Ms. Varni responded that two offices were being added that would accommodate an additional House member under redistricting as well as accommodate Representative Feige should he choose to have a district office in the Mat-Su space.

Representative Herron stated that Representative Eric Feige had requested that he make a request to Ms. Varni for a verbal report and then a full written report to Legislative Council on Representative Feige's request for an office in Chickaloon. He then directed Ms. Varni to do so for the next Legislative Council meeting.

Ms. Varni responded that the Legislative Council Chair has the authority to take care of members during the interim for their office space; the budgeting for office space comes from the Presiding Officers and anything under \$25,000 the Presiding Officers can take care of. She said that she is aware that Speaker Chenault has been meeting with Representative Feige regarding his request and that the Agency did go out for bid for space in Chickaloon and received no responses. She said that her understanding is that he was proposing the purchase of some land and to build a district office space. She reiterated that the Agency has been working on this issue with the Presiding Officers and the Legislative Council Chair and that she would be glad to put that in writing for the next meeting.

Discussion followed.

Senate President Stevens asked if, since any redistricting plan would not go into effect until 2013, there would be empty office space in Mat-Su until that time.

Chair Menard affirmed that was true and said that, until the office space is needed, the additional space would be used as a conference room, as well as there have been a couple of requests from

a couple of Representatives that would like to have a different office space and/or more office space, so that's also in the works. She said this was an opportunity to acquire more space as it was available and necessary once the redistricting plan goes into effect.

Discussion followed.

Representative Herron moved that Legislative Council approve the sublease extension one year renewal agreement for the existing Barrow lease space for \$32,390.52 and; the one year renewal for the existing Kotzebue lease space for \$25,397.76 and; an additional 1,342 square feet of office space to our current Wasilla lease for a yearly additional cost of \$33,496.32.

The motion passed with no objection.

Chair Menard noted that Council members Olson and Stoltze joined the meeting.

[11:20:37 AM](#)

Senator Olson commented that he has an office with a staff in Barrow and had one in the Kotzebue office as well; he thanked the Chair and the committee for extending those leases and paying particular attention to those areas so that there is a place for constituents to come to, participate in conference calls, and with the last go-around with the Coastal Management issue, they were very heavily used.

## **6. MICROSOFT-DELL ENTERPRISE AGREEMENT RENEWAL APPROVAL**

Chair Menard noted that Curtis Clothier was on teleconference to answer questions. She said that it was her understanding that the Legislature falls under an agreement that the State of Alaska Department of Administration has with Microsoft to provide software license and support to state agencies. She said at the August 10, 2009 Legislative Council meeting, members approved the first of three expenditures under this agreement; this year is the last of the three years and is in the amount of \$87,975.29.

Discussion followed.

Representative Herron moved that the Legislative Council approve the expenditure of \$87,975.29 to Dell for the Legislature's portion of the annual Microsoft Enterprise Agreement.

The motion passed with no objection.

## **7. ITB 535 - CAPITOL BUILDING ROOF ANTENNA FARM**

Chair Menard stated that there are six antennas on top of the Capitol Building that need to be replaced. The architect has consolidated this project into one tower and the antenna will be used for KTOO, Gavel-to-Gavel, and different feeds that come into the Capitol Building. She said it went out to bid in November 2010. Chair Menard asked Ms. Varni to speak to this item.

Ms. Varni said that the Agency received two proposals for the current ITB for this project; she noted that both bidders had submitted proposals for this project during a previous ITB and that both had come down from their original bid amount. She said there were a lot of high winds and there are several guy wires rusting; she said this is really a safety issue. She noted that Don Johnston was available to answer any questions.

Representative Johnson asked who, in addition to KTOO, would be using the antenna, as was mentioned in the Chair's summary of this item.

Don Johnston, Building Manager for the Legislative Affairs Agency, stated that KTOO has an Ethernet wireless antenna as well as there is a microwave antenna that he believes the Governor's media folks use for receiving and transmitting.

Discussion followed.

Don Johnston said that the guy wires have been there for a number of years, originally maintained by the Army National Guard when antennas were used as emergency communications in the event that nationwide communications went down; they haven't been maintained for the past 15 years as far as he is aware. He said the wire ropes are rusting through the guy wires that are attached to the anchors and there really isn't anything that can be done to prolong the life of the guy wires or prevent them from failing other than replacement or removal. He said he is concerned about how long they may or may not stay up there given the Taku winds that blow through in the winter.

Discussion followed.

Representative Johnson questioned why existing fiber optics weren't being considered as a broadcast option for KTOO versus replacing the antenna.

Discussion followed.

Chair Menard stated that her intent was to deal with this critical item in a timely manner and to add to the August agenda a discussion of alternative methods of broadcasting. She said there would be no official task force but rather working to get information to Council members in order to be more correctly informed about ever-changing technology. The Chair then asked for a motion.

Discussion followed.

Representative Herron moved that Legislative Council approve ITB 535 to Silver Bow Construction Co., in the amount of \$40,900 for the Capitol Building Roof Antenna Farm Project.

Chair Menard noted that there was an objection and thus called the roll.

YEAS: Menard, Hoffman, Egan, Davis, Olson, Stevens, Herron, Holmes

NAYS: J. Thomas, Austerman, Johnson, Stoltze, P. Wilson

The motion passed 8-5.

### **8. ITB 541 - LEGISLATIVE FINANCE STRUCTURAL APPROVAL**

Chair Menard stated that ITB 541 was issued to solicit for a contractor to perform structural construction of the Legislative Finance Building Remodel. This is a remodel of the church that was recently acquired; when completed it will house Legislative Finance Division, which has 10 employees. This move will free up much needed space for the Legislative Audit Division. Three bids were received with the lowest being Carver Construction, LLC, with a bid amount of \$73,840. Don Johnston, Capitol Building Manager, can answer any questions you may have.

Discussion followed.

Representative Herron moved that Legislative Council approve ITB 541 to Carver Construction, LLC in the amount of \$73,840 for the Legislative Finance Structural Project.

The motion passed with no objection.

### **9. ITB 542 - LEGISLATIVE FINANCE MECHANICAL APPROVAL**

Chair Menard stated that ITB 542 was issued to solicit for a contractor to perform the mechanical work of the Legislative Finance Building Remodel. The ITB was sent out to 21 vendors from the State's bidders list and published on the State's on-line public notice website. One bid was received in the amount of \$111,660 from Behrends Mechanical, Inc. The Chair asked for a motion.

Representative Herron moved that Legislative Council approve ITB 542 to Behrends Mechanical, Inc. in the amount of \$111,660 for the Legislative Finance Mechanical Project.

The motion passed with no objection.

### **10. ITB 543 - LEGISLATIVE FINANCE ELECTRICAL APPROVAL**

Chair Menard said that ITB 543 was issued to solicit for a contractor to perform the electrical work of the Legislative Finance Building Remodel. Two bids were received and the lowest bid came from Alaska Electric, LLC, for a \$144,600 total price.

Representative Peggy Wilson noted that the three bids before Council for approval at this meeting total around \$330,000 and asked if this amount was within the amount originally estimated for this remodel work or if more money was needed.

Mr. Johnston responded that the original estimate was around \$350,000, so the bids were actually under the amount originally estimated.

Representative Johnson asked if the original \$350,000 estimate would cover the necessary finish work.

Mr. Johnston responded that the estimate did not include the work to be done by the Legislative Affairs Agency staff, which includes some construction and the finish work.

Discussion followed.

Chair Menard stated that she would add to the next agenda an item to discuss the original estimates for the building purchase and remodel as well as to work on a final estimated cost for the entire project.

Discussion followed.

Representative Herron moved that Legislative Council approve ITB 543 to Alaska Electric, LLC, in the amount of \$144,600 for the Legislative Finance Electrical Project.

The motion passed with no objection.

## **11. AMERICAN GUARD ANCHORAGE SECURITY CONTRACT APPROVAL**

Chair Menard stated that the American Guard Anchorage security contract is being presented to move the security that guards the Anchorage LIO building from month-to-month to an annual contract. This would be a one year contract with a one year renewal. Billing will be done on an hourly basis not to exceed \$49,000 per year including reimbursements for expenses.

Ms. Varni stated that usually on our contracts we say whether it includes or excludes reimbursements for expenses. She said she was not aware of there being any reimbursement for expenses for this particular contract. She said it is for the security guard that is in the lobby and that Mike Warena is the Project Director of this contract and is available to answer any questions.

Representative Austerman asked if any overtime for holidays and weekends was anticipated in this contract for \$49,000.

Ms. Varni stated that in reviewing the previous years' budgets for security services the Agency had never exceeded \$49,000. She said the only way the contract amount was likely to be exceeded was if there was a significant increase in evening and weekend committee meetings and teleconferences in Anchorage that required a lot of overtime.

Chair Menard asked Ms. Varni to address the opinion held by some members that the Anchorage building does not need security since the other LIOs do not have a security presence.

Ms. Varni stated that there was a stalking issue with a previous Anchorage Information Officer that originally necessitated a security presence. She said there has been a number of heated committee meetings where a security guard was needed to diffuse the situation and members of Council at that time felt a presence was needed. The landlord had talked about providing security but the only security he was paying for was an evening walk-through. There are also a number of street people that would wander through the building and come in to the lobby area. There were also parking problems and that's why Council looked at putting a security guard in the lobby.

Discussion followed.

Representative Stoltze asked about the possibility of removing the prohibition of firearms. He said he was throwing it out for consideration and that sometimes private sector, nongovernment solutions are the best.

Chair Menard asked if Representative Stoltze would like to have it as an agenda item for the next meeting.

Representative Stoltze responded that he is always ready to talk about that.

Chair Menard asked for a motion.

Representative Herron moved that Legislative Council approve a one year contract with American Guard Services not to exceed \$49,000 for Anchorage uniformed armed security at our Anchorage leased space.

The motion passed with no objection.

Senator Olson stated that he is very much in favor of having the guard continue because with the establishment within a close proximity and the type of populations they attract, it is very important to have the guard; he added that it is especially important to him when he comes to Anchorage with his small children that he feels that there is someone available if there is an altercation. He said to remember there was a shooting not far from the office in the last 18 months is also a very good reason to continue to have the security guard.

## **12. CAPITOL & PRINT SHOP COPIER REPLACEMENT APPROVAL**

Chair Menard stated that this is a large ticket item. She said the Legislative Print Shop currently has six Xerox copy machines that were purchased in 2006 that are due to be replaced. Five are located throughout the Capitol and one is located in the Print Shop. Each machine has produced several million copies. It is recommended that Legislative Council approve funds in the amount of \$207,833 to replace these machines with four Xerox 4112 and two Xerox 4127 models. The purchase would be made through Western States Contracting Alliance who has a contract with the State of Alaska. Procurement Officer Tina Strong and Print Shop Manager John Wright will answer any questions members may have.

Representative Peggy Wilson asked if all the original copy machines were purchased at the same time.

Ms. Varni confirmed that was the case and that it has been standard practice to ensure that each floor has the same machine for training purposes and for maintenance. She said the cost to replace the machines is about the same as it was five years ago with the exception of the Print Shop machine. She said that the Print Shop is no longer using as much the offset duplicating machines and are switching more to Xerox copiers.

Discussion followed.

John Wright, Print Shop Manager, stated that the Print Shop had purchased a Xerox color copier about a year ago which has worked well. He said it runs about half the speed of a black and white machine, which is actually really decent for color. He said the color does cost approximately 10-12 times more than the black and white and so what the Print Shop does, whenever possible, is to split jobs that have full color pages within them so that the black and white portions are run on the black and white machines and run the color portions on the color copier; currently, the separation, collection and collation of the job is done by hand. He said part of what we would get with these new machines is the ability to have the entire process automated.

Discussion followed.

Representative Johnson asked if this was a sole source contract or whether the Agency went out to bid to find out if another vendor could provide the same quality for less.

Tina Strong, Procurement Officer for the Legislative Affairs Agency, responded that these copiers are purchased off the Western States Contracting Alliance which is through General Services. She said that General Services has contracts for which they have gone out to bid and that all the State agencies can use those if they don't want to go out to bid themselves. She said that the Agency did look at three other brands of copiers and Xerox was the cheapest; General Services already had this contract so it was in the best interest of the Agency to use the WSCA contract.

Representative Johnson asked if the Agency was allowed to do this without going out to bid.

Ms. Strong stated that it was acceptable, under the Legislature's procurement procedures, to use the General Services contracts.

Representative Austerman stated that he thinks this item should be tabled until the August meeting when the Council has the technology conversation because of what's going on worldwide in reference to technological advancements and also similar conversations, particularly in the House as well as the Senate, of new technologies that would allow the Legislature to rely less on paper. He said he totally supports the concept of having machines be replaced on a timely basis so there is no problem with them; because of the nature of this contract and the fact that the copiers are for the Capitol Building, which won't be used until next

session, he said it is not necessary to put this contract through today and have it as part of the conversation on technology. He said for those that are going to the CSG-*WEST* annual meeting at the end of July, they will be visiting the Hawaii Senate, who has gone completely paperless as well as some of the House committees that have gone paperless. He asked if it was possible to have some of this incorporated into the overall conversation.

Chair Menard asked for a motion.

Representative Herron asked for clarification on whether Representative Austerman had made a motion to table this item as it seemed that he had.

Representative Austerman confirmed that he had indeed made a motion to table this item.

Chair Menard asked if there was objection to tabling this item.

Senator Davis asked what would be achieved by tabling this item.

Chair Menard responded that there would be an opportunity to get additional information, such as the State of Hawaii going paperless.

Senate President Stevens said this is a very important issue and that as we see other states have looked at going paperless, which doesn't mean one can't print out a copy of something, but it does make an attempt to cut down on the enormous amount of paper that Legislatures around the country are using in an effort to reduce the costs. He said this seems timely and would support a motion to table.

Chair Menard stated that she will hold this item until the August meeting. It was decided that there was no motion. The item was not tabled but postponed.

### **13. LEGAL SERVICES REPRESENTATION**

Chair Menard said that staff member Sue Wright has received a subpoena in the case of the State v. Byford. Legal Services Director Doug Gardner is here requesting authorization of representation of her actions in her capacity as a legislative staff person.

Doug Gardner, Legal Services Director, stated that back in May, both Representative Chenault, Speaker of the House, and his staff member Sue Wright were served subpoenas by the defense in State of Alaska v. Byford. It was a criminal prosecution occurring in Kenai. He said the timing of the subpoenas was right around the end of the first special session. When issues like that happen, often there isn't a Legislative Council meeting that's convenient for them to seek permission for representation, which of course they need to have. He said they can only represent members and their staff on immunity issues and, of course, in their official capacity. He said he contacted Senator Menard and Representative Herron with a recommendation to act immediately. He said his recollection was that the Speaker had been served on a Friday afternoon for a Monday trial. He said he did not want a situation where any immunity issue was going to be addressed by the Court without the Speaker being represented or his staff person. Legislative immunity can extend

to staff persons for communications that are being done in their capacity working with their Legislator. He said they stepped in and convinced opposing counsel to withdraw the subpoena for Representative Chenault and that may constitute representation to some degree; they did not go to court on that.

Mr. Gardner said they did go to court and attend one hearing that lasted about three hours with Ms. Wright on the witness stand. He said he handled the case himself, objecting on a number of occasions where he thought legislative immunity was going to come up. He said the hearing went otherwise uneventfully. He said he is now in the spot of asking the Council sort of retrospectively to approve the representation. He said he knows that in the past, through his predecessor and through Jerry Luckhaupt of his staff, that they have had to do this on occasion before; he said he saw no alternative other than to step in and address the issue before the court so that the Speaker's and his staff person's immunity were protected. He said he thought the Superior Court Judge that handled the case was very receptive to immunity issues and the questioning was fairly well-directed away from those issues so he didn't have to make a lot of objections. He said he doesn't believe the case is ongoing, that he hasn't heard one more word about it, so he is not seeking any permission for any further representation. He said it probably took somewhere between three and six hours to address the issues. He said he would like authorization of the representation primarily of Ms. Wright and of course for the Speaker to the extent that Legal Services intervened.

Representative Johnson asked that if a case comes up involving a Legislator and immunity, that technically Legal Services needs permission every time to deal with each individual case from Legislative Council and is that something that is required.

Mr. Gardner said that is the way he reads things and the way Legal Services has acted in the past. He said that typically if somebody is sued, there is a little bit more lead time and they can come to Council in advance; but when there is a situation when a member is being subpoenaed, there really isn't much time to get permission. He did confirm that Legal Services does need prior approval to represent either Ms. Wright on behalf of the Council or to represent a member and this was just an awkward situation.

Representative Johnson asked if that requirement was in statute or policy.

Mr. Gardner responded that it is the handbook under the Legal Services section.

Representative Johnson said he would encourage the Council to look at this and maybe amend the policy to where if a situation comes up like this, and he believes Mr. Gardner acted appropriately, that he shouldn't have any angst about representing a Legislator or their staff in this kind of situation.

Chair Menard stated that she would add an item to discuss this policy change recommendation to the next Council meeting agenda.

Discussion followed.

Representative Stoltze stated that he would like to see any policy change have a very narrow focus, respecting that there ought to be oversight and responsibility by this committee.

Mr. Gardner stated that he saw this as an emergency situation and that's why he acted but he certainly respects the need to get Council's approval and takes those things very seriously.

Representative Herron moved that the Legislative Council authorize the Division of Legal and Research Services' representation of Sue Wright with regard to the subpoena she received in the case of State v. Byford and related proceedings. This authorization of representation is for actions in her capacity as legislative staff to the Speaker of the House and ratifies the authorization for representation previously provided by the Chair.

The motion passed with no objection.

Chair Menard thanked everybody for their attentiveness and announced that there will be an Anchorage Office Space Subcommittee at 1:30 p.m. to review submittals to the RFI that went out on June 6, 2011.

The meeting was adjourned at 12:45 p.m.

[12:45:26 PM](#)