



Alaska State Legislature
Legislative Council
Minutes

JULY 31, 2013

7:34 AM

MEMBERS PRESENT

Representative Mike Hawker, Chair
Senator Peter Micciche, Vice Chair
Senator Lyman Hoffman, Alternate

MEMBERS ON TELECONFERENCE

Representative Mike Chenault
Representative Craig Johnson
Representative Lance Pruitt
Representative Peggy Wilson
Representative Alan Austerman, Alternate
Senator Charlie Huggins
Senator John Coghill
Senator Lesil McGuire
Senator Kevin Meyer
Senator Gary Stevens

MEMBERS ABSENT

Representative Max Gruenberg
Representative Bill Stoltze
Senator Dennis Egan

AGENDA

OTHER COMMITTEE BUSINESS

SPEAKER REGISTER

LAURA PIERRE, Staff to Senator Fairclough and Project Director
for the Legislative Audit Remodel
TANCI MINTZ, State Leasing and Facilities Manager, Division of
General Services, Department of Administration
KAMI WILSON, Contracting Officer III, Division of General
Services, Department of Administration
WAYNE JENSEN, Jensen Yorba Lott, Inc., Architects
PAM VARNI, Executive Director, Legislative Affairs Agency

7:34:06 AM

- I. **CHAIR MIKE HAWKER** called the Legislative Council meeting to order at 7:34 a.m. in room 220 of the Anchorage Legislative Office Building. Present at the call were Representative Hawker; Senators Micciche and Hoffman (alternate). Participating via teleconference were Representatives Chenault, Johnson, P. Wilson and Austerman (alternate); Senators Coghill, Meyer, and Stevens.

Members who joined the meeting via teleconference shortly after roll call were Representative Pruitt and Senators Huggins, McGuire, and Stevens.

Chair Hawker noted that there was a quorum to conduct business and alternate members Senator Hoffman and Representative Austerman were not needed and would not be called upon to vote.

II. **OTHER COMMITTEE BUSINESS**

a. Legislative Audit Remodel: Change Order #3

LAURA PIERRE, staff to Senator Fairclough and the Legislative Budget and Audit Committee, stated that Change Order #3 is for the following items: (1) dimming controls to automatically adjust the level of natural light in the amount of \$2,916; (2) the final design layout for electrical engineering resulting in additional costs in the amount of \$33,558; and (3) additional costs of \$45,738 related to air monitoring for asbestos removal, which came in higher than anticipated. In addition to the above amounts, there is a 2% charge for the Division of General Services (DGS) administrative fee in the amount of \$1,644, bringing the total amount of Change Order #3 to \$83,856.

SPEAKER CHENAULT asked who was responsible for the underestimation of the number of monitoring hours required for asbestos abatement. He understood there was a certified contractor who bid on this project and \$45,000 seemed fairly steep for unanticipated monitoring.

TANCI MINTZ, State Leasing Facilities Manager, asked that Wayne Jensen, the principal at Jensen Yorba Lott, Inc., who is providing that service through his subcontractor address the question.

WAYNE JENSEN, Jensen Yorba Lott Architects, said that when the estimate by Carson Dorn, Inc. was provided for monitoring the construction, it was intended for a certain number of weeks. The contractor's work took a lot longer, increasing the time that Carson Dorn, Inc., needed to monitor the air so that accounts for

the extra amount. It is for the consultant's, not the general contractor's, costs. The general contractor schedule was longer than what was originally estimated by the monitoring agency.

SPEAKER CHENAULT asked if that money should not have been back-charged to the general contractor for delay of the project. He further asked if there were any stipulations in the contract on the general contractor being able to finish the job on time to allow the subcontractors to finish their work on time without it all being back-charged to the State. In response to Ms. Mintz outlining who could best answer his question, he said he wanted to cut to the chase and asked if the delay was the fault of the State or the fault of the general contractor.

MS. MINTZ said it was neither; that it was unforeseen circumstances. With remodels there are always unknown conditions, something that doesn't happen with new construction; that happened with this project. Normally, a contingency is built in to address unforeseen conditions but, in this case, no contingency factor was built into the contract. When DGS comes back to the Council for increases in costs, it's for those unforeseen conditions. Specific to this one, she asked that Kami Wilson or Wayne Jensen respond.

KAMI WILSON, Contractor with DGS, said that when the ceiling was opened to start the abatement process, they found ACM fireproofing overspray inside the actual ductwork (ACM fireproofing overspray is "hot" asbestos). This was definitely an unforeseen circumstance. They had to get approval to remove all the contaminated ductwork in the ceiling. Getting the approval, removing the contaminated ductwork and replacing it with new ductwork resulted in about a five week delay and additional air monitoring costs - all completely unforeseen.

MS. MINTZ said that the ductwork to which Kami referred is hard ductwork installed in the original construction. The conditions inside the ductwork were not visible until they started the demolition.

CHAIR HAWKER said he did not believe that Speaker Chenault's question had been answered, and that what he was hearing was that DGS did not provide in this particular contract any contingency component for such circumstances that are certainly expected to occur in a construction process. There was no cushion in the contract to accommodate such things and that it was the intent of DGS in issuing the contract that the contractor would be coming back to the State if they encountered such things for an additional appropriation.

MS. MINTZ said that was correct. The project budget that DGS is managing, which includes Jensen Yorba Lott, professional consultants, and the general contractor, provided Council with the direct costs that were bid on the project and did not include any contingency factor. Instead, DGS has provided the known costs versus inflated costs each time an unforeseen condition comes up.

In response to a question from Representative P. Wilson about the dimming switches, Ms. Mintz said they are not a necessity; they are an elective that provides the ability to dim the lights in certain areas of the room when occupied versus having the lights on full time at 100%. In response to a follow-up question by Representative P. Wilson, she said that motion sensors would turn the lights off if there was no movement in the suite or that the lights would be on the building automated lighting system so that the lights would come on and off a certain times of the day. In this case, the switches provide the added flexibility for dimming. She said this request was not a contractual request and that it came through Legislative Audit.

KRIS CURTIS, Legislative Auditor, said that this was not a request from Legislative Audit but that it was brought up from the contractor's side of things. It was her understanding that the dimming switches were a standard component that gets added when this type of lighting is installed. It automatically adjusts for the level of natural light that's in the building. The level of light provided adjusts to fit the circumstances of the day and, she assumes, would make it a much better work environment.

MR. JENSEN, at the request of Ms. Mintz, provided additional information that the lighting being installed is LED lighting, a newer type of lighting. The opportunity for the dimming is both a comfort level and an energy savings opportunity since the lights will only be at the level needed depending on the amount of natural light present. Typical fluorescent lighting cannot be dimmed without special modification equipment; LED lighting allows the opportunity for dimming to the level appropriate for the space.

MS. MINTZ noted that it was not a requirement for Legislative Audit to have LED lighting. Standard fluorescent lights can be installed.

CHAIR HAWKER asked if there wasn't a previous change order request which was already approved by Council to install the LED lighting.

MS. MINTZ confirmed that was the case and had resulted in the added requirement now to have the dimming switches.

VICE CHAIR MICCICHE, in response to a comment by Representative P. Wilson, said that lighting technology has changed dramatically than what we're used to in a typical office setting. Dimming controls are sort of atypical these days for LED, but for the thousands of dollars saved on LED technology versus incandescent or fluorescent, it will be a fairly significant savings in the long term. The office will be able to use the amount of energy they need in order to light adequately.

CHAIR HAWKER said that the LED lighting was approved and accepted on its merits for the cost savings and flexibility that it offered, and he believed the dimming switches should have been part of that initial approval. They were an integral part of that package and for whatever reason were not included, noting that the oversight was a cost of \$2,916. He did not receive a response to his inquiry for confirmation of his understanding.

VICE CHAIR MICCICHE said the he didn't like change orders and didn't like spending money that wasn't planned for but that was the reality of projects. He said that had any of these charges been for someone underestimating the cost of sheetrock, for example, something they should have known from the beginning, then he would have a different thought process, but that, unfortunately, this is the reality of projects and project economics. He said he would like to move on and support this if the body is ready for the motion.

REPRESENTATIVE AUSTERMAN said that while he wouldn't be voting today as an alternate, he does have concerns. He said we're back to basically having open-ended contracts where anybody can come in at any point in time and ask for a request because the contracts have not been tied down. When he reads the memo regarding Change Order #3, it talks about \$33,000 for the electrical and that the final design led to the increase in cost. He said that the memo states that "the increase was generally the result of running electrical from the ceiling rather than the floor..." - a determination was made by somebody that they would prefer to run it from the ceiling rather than the floor even though it was going to cost \$33,000 more. They come back to the Legislature and just get the money because there is an open-ended contract. He said it was basically the same thing with the asbestos abatement. As long as there is an open-ended contract then costs are going to increase and be out of hand, similar to some of the other work we've done. He is frustrated that we continue to have these open-ended contracts.

CHAIR HAWKER noted that Council had the option of tabling this and having the Division of General Services and the Legislative

Affairs Agency do a better job of convincing Council that it's appropriate.

SPEAKER CHENAULT responded that he thinks Council needs to move forward. He does not know how we better do it, but if the numbers are correct, he said there is \$1.4-1.5 million tied up in this project. This remodel has cost so far about \$267 per square foot, which may be a little better than building new, so he guessed it was okay. Like others, he is frustrated at the continual additions for things that aren't thought of, contingencies that weren't planned for. This is not the first time that we've been into the duct system in this building so we should have known what we had whenever we started this project. He said he would vote for this change order but is frustrated at the way we continue to do business at the State because we as the Legislature apparently have an open checkbook that people like us to write checks from.

VICE CHAIR MICCICHE moved that Legislative Council approve Change Order #3 in the amount of \$83,856 for costs for electrical engineering, lighting dimming controls and asbestos air monitoring on the Legislative Audit State Office space remodel project RSA with the Department of Administration from existing legislative funds authorized by the Council Chair.

A roll call vote was taken.

YEAS: Coghill, McGuire, Stevens, Chenault, Johnson, Pruitt, Micciche, Hawker

NAYS: Huggins, P. Wilson

Change Order #3 for the Legislative Audit Remodel was approved by a vote of 8-2.

CHAIR HAWKER, specifically addressing Legislative Affairs Agency staff, said this was his first time chairing this committee and he has watched repeatedly these problems with legislative construction projects. He said he didn't know quite what we were going to do about it but we need to change how we're doing things. He said he was putting this specifically on the record and that we need to find a way to improve the quality of our management or we need to start changing the people that are in charge of it. He said to take that very seriously.

Responding to a comment from Senator Micciche, Chair Hawker asked that Legislative Affairs provide Senator Micciche a comprehensive analysis and history of the requests and change orders on the Legislative Finance Building project.

PAM VARNI, Executive Director of the Legislative Affairs Agency, said she had a spreadsheet she would provide Senator Micciche as well as all of the change orders for the Legislative Finance Building.

There being no further business before the committee, the Legislative Council meeting was adjourned at 8:02 a.m.

[8:02:45 AM](#)