



# Alaska State Legislature Legislative Council Minutes

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AUGUST 23, 2013  
10:08 AM

## **MEMBERS PRESENT**

Representative Mike Hawker, Chair  
Representative Mike Chenault  
Representative Max Gruenberg  
Representative Craig Johnson  
Representative Lance Pruitt  
Representative Bill Stoltze  
Representative Peggy Wilson  
Senator Charlie Huggins  
Senator Lesil McGuire  
Senator Kevin Meyer  
Senator Gary Stevens

## **MEMBERS ON TELECONFERENCE**

Senator Peter Micciche, Vice Chair  
Senator John Coghill  
Senator Lyman Hoffman, Alternate Member

## **MEMBERS ABSENT**

Senator Dennis Egan

## **AGENDA**

EXECUTIVE SESSION  
APPROVAL OF MINUTES  
CONTRACT APPROVALS  
OTHER COMMITTEE BUSINESS

## **SPEAKER REGISTER**

Pam Varni, Executive Director, Legislative Affairs Agency  
Curtis Clothier, Manager, Information Services, Legislative  
Affairs Agency  
Jessica Geary, Finance Manager, Legislative Affairs Agency  
Juli Lucky, Staff to Representative Mike Hawker and  
Committee Aide to Legislative Council

[10:08:20 AM](#)

I. **CHAIR MIKE HAWKER** called the Legislative Council meeting to order at 10:08 a.m. in room 220 of the Anchorage Legislative Office Building. Present at the call were Representatives Hawker, Chenault, Johnson, Stoltze, P. Wilson; Senators Huggins, Coghill (via teleconference), McGuire, Meyer, Stevens, Micciche (via teleconference) and Hoffman (via teleconference - alternate member). Representative Pruitt joined the meeting immediately after the call.

II. **EXECUTIVE SESSION**

**a. Anchorage LIO**

CHAIR HAWKER said that the first item before Council is the procurement of additional Anchorage LIO facilities as the lease on the current Anchorage facility expires May 31, 2014, with no lease extensions remaining. This is an in-process financial negotiation and thus is necessarily conducted in executive session.

[10:10:41 AM](#)

Senate President Huggins, acting Vice Chair, moved that Legislative Council go into executive session under Uniform Rule 22 (b) for the discussion of matters, the immediate knowledge of which would adversely affect the finances of a government unit.

CHAIR HAWKER noted that the following people were to remain in the room or on teleconference for executive session: LIO staff; AHFC staff, transaction consultants in this process; Mark Pfeffer, a representative of the current landlord; and Doug Gardner, Legal Services Director.

Representative Gruenberg joined the meeting at this time.

Legislative Council went into executive session.

Legislative Council came out of executive session.

[12:12:35 PM](#)

CHAIR HAWKER called the Council back to order following an executive session to discuss financial contract negotiations in process for the Anchorage LIO. He noted for the record those members present after executive session: Representatives Pruitt, Stoltze, P. Wilson, Johnson, Chenault, Gruenberg, Hawker; Senators Huggins, Stevens, and Coghill (via teleconference). He further noted that in a

previous Legislative Council meeting, the Chair was authorized to pursue an amendment and extension to the expiring lease for the current LIO facility in Anchorage. The progress of the financial negotiations was discussed in executive session and all of the results will become public once the negotiations are completed. One item that came up in executive session was the possibility that, in addition to a long-term lease on the existing facility, the Legislature would be interested in acquiring this facility through a lease-purchase arrangement with the landlords should the landlords be willing to pursue this and it was a viable transaction for all.

REPRESENTATIVE JOHNSON stated that the purpose of putting this on the table is to give Legislative Council the broadest opportunity to explore every option available to the Legislature.

CHAIR HAWKER said that he personally felt it was an appropriate avenue for Legislative Council to pursue.

REPRESENTATIVE JOHNSON moved that Legislative Council authorize the Chairman to research the possibility of a lease-purchase agreement with the landlord concurrently with the ongoing lease extension negotiations.

REPRESENTATIVE JOHNSON repeated his motion at the request of Representative Stoltze.

Senator McGuire re-joined the meeting at this time.

CHAIR HAWKER, in response to an objection by Representative Stoltze, re-stated the question before Legislative Council.

REPRESENTATIVE STOLTZE said he was going to remove his objection, that he supported this motion as it is fairly broad and non-committal. He said he does not have buyer's remorse but has renter's remorse. He said having more options on the table might make him less uncomfortable. He said he has received a lot of feedback from his constituency on the decision made. He said he expressed some reservations, his vote is his vote, he supported it previously and he appreciates we are expanding the possibilities whether or not it's something the current owner is going to be interested in. More information will be on the table and that's a good thing. He withdrew his objection because it is a good step to expand the discussion.

The motion passed with no objections.

CHAIR HAWKER thanked the members and said he appreciated the ability to pursue the best opportunities for the Legislature on a long-term basis.

He noted that Pam Varni, Executive Director for the Legislative Affairs Agency, and Curtis Clothier, Information Services Manager for the Legislative Affairs Agency, were now present at the table to address the following ministerial business of the Legislative Council.

### **III. APPROVAL OF MINUTES**

#### **a. June 7, 2013**

SENATE PRESIDENT HUGGINS moved that the minutes from the Legislative Council meeting on June 7, 2013, be approved as presented.

The June 7, 2013, minutes were approved with no objections.

#### **b. July 31, 2013**

SENATE PRESIDENT HUGGINS moved that the minutes from the Legislative Council meeting on July 31, 2013, be approved as presented.

The July 31, 2013, minutes were approved with no objections.

### **IV. CONTRACT APPROVALS**

#### **a. 2014 Microsoft Enterprise Agreement Renewal**

CURTIS CLOTHIER, Information Services Manager for the Legislative Affairs Agency, stated that before members was the annual Microsoft Enterprise Agreement Renewal, which is a contract that provides the Legislature Microsoft software licensing; Tier II Support for any issues with Microsoft products; as well as other advantages for the Legislature and legislative employees, including the Home Use Program where one can buy Microsoft products at reduced rates. This is an agreement the Executive Branch entered into and the terms of the agreement are passed on to the Legislative and the Judicial Branches of government. Without it, we're not allowed to use Microsoft products, such as the Windows Operating System, the Microsoft Office Suite, all the servers we operate - basically the Legislature's entire infrastructure. The price we pay is a very reduced rate and it's a good deal for the Legislature as a whole.

CHAIR HAWKER noted that this item was in the budget and said that, effectively, what this motion accomplishes is that Legislative Council reaffirms their commitment to the Microsoft platform.

MR. CLOTHIER confirmed the Chair's statement and noted that this is the second year of a three year contract and so Legislative Council will do this again next year.

CHAIR HAWKER said he wasn't sure why Legislative Council needed to approve something that was already in the budget but they were happy to do it.

SENATOR HUGGINS moved that Legislative Council approve the expenditure of \$111,118.64 to En Pointe Technologies for the Legislature's portion of the annual Microsoft Enterprise Agreement.

The motion was approved with no objections.

#### **b. Kodiak Office Space**

PAM VARNI, Executive Director for the Legislative Affairs Agency, said that per Legislative Procurement Procedures sec. 160, which is Novation or Change of Name, a majority of the members of a committee that approved a contract need to approve any name change. The building in which the Kodiak LIO is located was sold by Cherrier, King, and Cherrier to Trident Seafoods Corporation. Legislative Council is being asked to approve that name change for the Kodiak lease as required by the procurement procedures.

SENATOR STEVENS commented that it was simply a change of ownership. He said they were really satisfied with the facilities and location.

SENATOR HUGGINS moved that Legislative Council approve the name change of the landlord for the Kodiak Legislative Information Office and Legislators' District Office space from Cherrier, King, and Cherrier to Trident Seafoods Corporation.

The motion passed with no objections.

### **c. Kotzebue Office Space**

MS. VARNI stated that the Agency went out for a Request for Information (RFI) for Kotzebue as the lease was due to expire August 31, 2013. There were two responses, one from the current landlord and the other from Baker Services. The proposal from Baker Services best suits the needs of the Kotzebue office. It is being presented to Legislative Council for approval of a three-year lease term at an annual lease amount of \$30,067.20, with five one-year optional lease renewals. She noted that Tina Strong, Procurement Officer, was on teleconference to answer questions.

CHAIR HAWKER asked that since there is a facility change, had the proposal before Legislative Council been discussed with the area Legislators who would be utilizing those facilities.

TINA STRONG, Procurement Officer for the Legislative Affairs Agency, responded that currently there are no Legislators that have an office in the Kotzebue LIO, so she has been working with the Kotzebue LIO and LIO Manager Sue Cotter to bring forward this proposal, which has been deemed as best meeting the needs of the LIO.

MS. VARNI, responding to a question from Chair Hawker, said that the decision to maintain an LIO facility in Kotzebue is a Legislative Council decision. She noted that there used to be a Legislator who was from Kotzebue and there is currently a Senator and a Representative who represent Kotzebue. She said she can get more specific information for the Chair regarding the use of the Kotzebue LIO. There are currently 23 LIOs throughout the state and this site ensures the Kotzebue community has a place to come in and testify on legislative business. Noting that, she repeated that whether an LIO should be opened or closed in a particular community is a Legislative Council decision. There are smaller LIOs that do not have a Legislator with an office but there is a LIO presence and Legislators do visit and use the facilities.

REPRESENTATIVE P. WILSON said that in her district there is an LIO that is open only during session. It has no private office space so she chose a different LIO for an office to allow for private conversations with constituents.

CHAIR HAWKER noted that he wanted to have this discussion on the record. As a Finance Co-Chair, he said his committee

received a lot of testimony out of the Kotzebue LIO during budget hearings. It is a significant population and regional hub for that area. At the end of the three-year lease, Council can reassess the necessity of maintaining that facility.

Chair Hawker noted for the record that Vice Chair Micciche (via teleconference) and Senator McGuire had rejoined the meeting.

SENATOR STEVENS said that, stating the obvious, we have a remarkable operation in this state that most states don't have due to our great diversity and that we are spread out over such a large distance. The LIOs provide wonderful access for the public; he has three in his district. He said we should be very proud of the LIOs we have and if we ever decide to close one, we should be very, very careful about it because it will disenfranchise those people.

SENATOR HUGGINS moved that Legislative Council authorize the chairman to enter into a lease agreement with Baker Services for a three-year lease term with five, optional one year renewals for the Kotzebue Legislative Information Office for a cost of \$30,067.20 per year, with yearly CPI increases beginning in 2014.

The motion passed with no objections.

VICE CHAIR MICCICHE said he was sorry he didn't get the Chair's attention before the vote. He said he is sure there is a minimum community size for an LIO, but that he felt, given the size of his district and many others, it is imperative that folks in those larger district communities feel represented.

## **V. OTHER COMMITTEE BUSINESS**

### **a. Late Travel Reimbursement Request - Saddler**

CHAIR HAWKER noted that Representative Saddler had submitted a late travel reimbursement request for an amount of \$1048.06. Per his letter, this reimbursement request was simply overlooked, which happens and requires Council approval. He asked if the request being submitted for approval was in proper form and order, and if it had been reviewed and determined to be otherwise appropriate but for the late filing.

MS. VARNI said that Accounting had done the calculations and everything is in order.

REPRESENTATIVE STOLTZE said he was a little confused about lodging and meals within one's own district while getting per diem. He didn't know what the policies were and was a little uncomfortable with this since he had participated in some significant discussions with the Executive Branch on appropriate per diem. He said he wasn't trying to pick on Representative Saddler who is his neighbor and good colleague. He wanted to know the policy regarding collecting reimbursement for lodging and meals when collecting per diem and when within one's own district.

MS. VARNI said that some Legislators rent out their homes during session. Representative Saddler was receiving session per diem, but if per diem is paid out whether he is traveling to San Francisco or he is traveling back home, he would be taxed on the additional per diem. She asked if Jessica Geary, Finance Manager, was on teleconference to further address the question.

JESSICA GEARY, Finance Manager for Legislative Affairs Agency, stated that she just joined the meeting. She said Ms. Varni was correct regarding Legislators who rent out their house during session and have to stay in a hotel when they return to their district. They do receive reimbursement but are taxed on that reimbursement.

CHAIR HAWKER, addressing Ms. Geary, asked if the travel reimbursement request for Representative Saddler had been reviewed and found to be in appropriate order other than the late filing.

MS. GEARY said yes, that was correct.

REPRESENTATIVE STOLTZE, in response to a comment by Representative P. Wilson, stated for the record that no one knows whether Representative Saddler had rented out his house. He wanted to make it clear that if anyone had drawn that conclusion based on previous testimony, no one knows that to be the case.

MS. GEARY then said that on this particular travel authorization, the meal per diem column was filled out and that is not accurate. Representative Saddler would not be receiving a meal per diem; it would just be the \$221.76 for lodging in addition to his air fare. She apologized for the mistake for the record.

CHAIR HAWKER, with apologies to Representative Saddler, tabled this item and asked the Agency to get back to Representative Saddler and determine the propriety and assurance that this is a correct reimbursement request.

**b. Demonstrations at the State Capitol**

CHAIR HAWKER said that, at the request of the Vice Chair and at the behest of those who had communicated with him, the next item was to be a discussion on demonstrations at the State Capitol. He said members were aware during the last session of the demonstration that, at the end of the day, became an item of some controversy when there was interference with the demonstrators. He said that Council members would like to have some dialogue and further noted that at the time of the controversy, he took executive action and made a very emphatic statement of the Legislature's support for constitutional rights of all citizens, enacting a very emphatic executive policy to address legislative employees in any manner that might interfere with demonstrations at the State Capitol. He then turned the floor over to Senate President Huggins with the concurrence of Vice Chair Micciche.

SENATOR MICCICHE confirmed he had brought this issue to the Council at the request of Senate President Huggins.

CHAIR HAWKER, in response to concern expressed by Senate President Huggins about the length of the meeting, stated that he would keep Council gaveled in as long as the Senate President would like to continue and that the conversation would not be compromised in any way, shape or form.

SENATE PRESIDENT HUGGINS said he appreciated this being an agenda item. He said that he spoke with Speaker Chenault about this request and believed Vice Chair Micciche was the right person to whom to bring this request in terms of chain of command. His motivation is about the Senate, about the state, and about the country. He said what was witnessed the first week of April 2013 was a bit of an embarrassment at a minimum, and with that as a backdrop, Chair Hawker produced on April 10, 2013, a memorandum which was title "Interaction with Demonstrators" and it was addressed to Legislative Agency Employees. He said that was appropriate and well-done.

CHAIR HAWKER noted a copy of that memo was presently being distributed to Council members as a reminder.

SENATE PRESIDENT HUGGINS said that the logical question was, if this happened in early April, why is Council discussing it in August. A sequence of events that was important to recognize was that (1) there has been additional information since the session; (2) we know how things can be in the last couple of weeks in the Legislature and that certainly wasn't the time to have this conversation that he would ask Council to have now. There is a process and there are a number of ways to address this issue. For instance, in the Senate, a member asked Senate President Huggins via memorandum to investigate this incident. Some know better than he does that there isn't an existing process whereby the Speaker requests of one of his members to lead an investigation; thus the conversation he believes is important to have today is one that involves the Speaker of the House, the Chair of Legislative Council, and the Vice Chair, and this is the most appropriate place no matter how unwieldy it is. The public needs to be aware that the Legislature is having this conversation or it opens the door for a larger conversation to be determined later.

He went on to say that the Legislature should learn from this situation. He noted that in the Army there is such a thing as an After Action Review where you talk about what you just did and how the situation unfolded, the mistakes made and what you might do differently. This process is an educational tool. He said, ultimately, there should be a line in the sand that says if you mess with this again, we will decapitate you; the phrase "decapitating" being figurative, if you will, to demonstrate the seriousness of the action.

CHAIR HAWKER interrupted Senate President Huggins to note, as previously discussed, that in personnel matters and issues that may prejudice the reputation of an individual, there is an executive session obligation to protect the rights of those individuals. He was very concerned about implications and trespassing into that area where Council may prejudice the reputation, character or name of any individual in this conversation.

SENATE PRESIDENT HUGGINS noted the names of those he knew as part of the process and assured members that he would do nothing other than note their names: Senators Dunleavy, Dyson, and he had previously mentioned Rynnieva Moss, Senator Coghill's Chief of Staff, as well as, Pam Varni, Executive Director of Legislative Affairs Agency (LAA).

As a reminder, the locations involved were the Capitol and the Department of Law facilities on the sidewalk, and potentially involved government vehicles, some of which were potentially Department of Law, some were potentially LAA and Department of Administration. He said he would ask each member to remind themselves that it doesn't matter what the subject is; the one that would make his blood boil the quickest would be somebody burning the flag but if he looked out the window and saw that, he would immediately look the other way because he wouldn't want his temperature to go up, but they have the right to do that. It's unfortunate, he thinks, but they have the right to do that. He said he has listened to people hoot and holler outside and some of it was distracting and you close the windows, but they have earned that right. Some people have served their country to preserve that right. A number of the people involved that were demonstrating were from Mat-Su, and some of the Legislators happen to represent them; he, on behalf of the Senate, raised his hand and said to refer them to him and he made an obligation to sit down in his office to speak with those individuals. He told them he would make every attempt to bring this before Legislative Council to have this conversation if for nothing else than for information.

He said that what is known is that some vehicles were parked [in front of the demonstrators], as he previously mentioned, and in the case of the Legislature, Capitol Security was involved. He said there was some physical contact that he wasn't proud to talk about. He said what isn't as well-known is what the communication was that caused all of this to happen. He said he told his Senate members, the Speaker of the House and the Legislative Council Chair when he was talking to them right after the fact, he reiterated how important it was for people to be able to do what was happening outside on the sidewalk. He said he was disgusted that we, meaning people that work in and about Juneau that were there, got involved in trying to impede some of that; it is embarrassing at a minimum. He said he has people that work for him, as does each Legislator, that he turns to and tells "go do this" and that is a bad deal for all of us; somebody that is on a Legislator's payroll that is supposed to do what a Legislator says, has now been sucked into some proposition and that is a bad deal. Using government equipment, in this case, vehicles, is a bad deal. He said he was leaving the communications part to where it is.

The other factor is that an adjacent neighbor is the daycare. He said to those who were concerned about the demonstrators' signs mentioned the kids at the daycare seeing certain images that they should choose a different route to get to the daycare; if that doesn't work, we will move the daycare. We're not going to move the Capitol and we chose to put the daycare where it is. Another factor is that the administration identified some people that were going to be re-trained and there were some people in the Legislature that the term "re-training" was involved. He said he assumes that went perfectly and we won't see this again. He said, ultimately, his concern is very simple: there are some people that are going to be in the Legislature longer than some of the rest of us and, if we, in our own institutional knowledge, can learn from this, not let it happen again and know how we can do it better next time if we have to deal with it and that people understand that it would be terminal to your profession if it did. He said there are two categories of people involved: Legislators who are elected and can't be fired, and employees, which is a whole different deal.

He said he was perfectly comfortable with the April 10, 2013, memo, which is pretty succinct and appropriate. He said he does not subscribe to that portion of a bible that gives a prescriptive answer of how we do this; here's what he does know, lieutenants don't make private mistakes. It's one thing for a guy that is the Speaker of the House to make a mistake in the normal course of doing business but if you make a mistake that is not appropriate to your station in life or where you're hired, that's a whole different deal. That's why you have responsibility, that's why you have subordinates, so you don't do what some people must have done. He said with that he would rest his commentary. He said he hopes no one in the room is squirming because of what he said; it is heartfelt; it is much stronger than he's stated it and he would use the term shameful in some respects, but he feels much better that we're having this conversation.

CHAIR HAWKER thanked Senate President Huggins for his well-stated account. He then requested, in that it was important to the context of the discussion, that his memo dated April 10, 2013, to Legislative Agency Employees be incorporated into these minutes in its entirety. It is as follows:



# ALASKA STATE LEGISLATURE LEGISLATIVE COUNCIL

**CHAIRMAN:**

Rep. Mike Hawker

**VICE CHAIRMAN:**

Sen. Peter Micciche

**HOUSE MEMBERS:**

Speaker Mike Chenault  
Rep. Max Gruenberg  
Rep. Craig Johnson  
Rep. Lance Pruitt  
Rep. Bill Stoltze  
Rep. Peggy Wilson  
Rep. Alan Austerman – alt

**SENATE MEMBERS:**

President Charlie Huggins  
Sen. John Coghill  
Sen. Dennis Egan  
Sen. Lesil McGuire  
Sen. Kevin Meyer  
Sen. Gary Stevens  
Sen. Lyman Hoffman – alt

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**Committee Aide:**

Juli Lucky  
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**MEMORANDUM**

**TO:** Legislative Agency Employees

**FROM:** Representative Mike Hawker  
Chairman, Legislative Council

**DATE:** April 10, 2013

**RE:** Interaction with Demonstrators

Last week, state vehicles were parked in the loading zone between demonstrators and the Capitol. I know that our employees often use this loading zone and there are times when an interaction such as this is inevitable. However, I wanted to take this opportunity to reiterate the importance of respecting citizens' rights and enact a policy to ensure that any action that could be perceived as impeding a peaceful protest is absolutely necessary and in the ordinary course of legislative business.

The First Amendment to the United States Constitution reads:

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

I am sure that all legislative employees are familiar with our First Amendment Rights, however, I want to stress that as employees of the body that creates laws for our state, we must be more respectful of citizens exercising this right than any other place of business. In order to provide clear guidance, I am establishing the following executive policy, effective immediately:

With the exception of actions to immediately preserve health, life, safety, or to enforce law, municipal code, or formal Legislative Council Policy as part of official job duties, no legislative employee will take any action that intentionally interferes with a peaceful assembly, including using any state equipment to shield visual images from view.

If an action is required to perform necessary job duties that would cause interference with a peaceful assembly, the employee or supervisor directing the action will notify the Chair of Legislative Council in advance of the action.

Any legislative employee that is asked or ordered to take an action in violation of this policy by anyone with actual or apparent authority over his or her job duties shall come to the Chairman of Legislative Council or the Chairman of the Rules committee of either body for approval prior to taking the action.

Chair Hawker further stated that he agreed with Senate President Huggins' sentiment. At the time the event occurred, he felt that it was appropriate to examine as best one could to affirm the facts and circumstances, without the benefit of investigatory experience or authority, and recognize the circumstance occurred. He did issue a very strong memo to all legislative employees to emphasize a paraphrasing of the memo that basically says "Unless it's an action to immediately preserve health, life or safety, or to enforce law, municipal code or other formal Legislative Council policy as part of official job duties, no legislative employee will take any action that intentionally interferes with a peaceful assembly, including using any state equipment to shield visual images from view." He added that "If an action is required to perform necessary job duties that would cause interference, the employee or supervisor directing that action is to notify the Legislative Council Chair in advance of that action."

He said he would respectfully argue that the Legislative Council Chair is the Chief Administrative Officer of the Legislature, in session and out of session; not a Presiding Officer but a Chief Administrative Officer. He said that the last paragraph [of the memo] is very important and does get to Senate President Huggins' point about communications, by policy: "Any legislative employee that is asked or ordered to take an action in violation of this policy by anyone with actual or apparent authority over his or her job duties shall come to the Chairman of Legislative Council or the Chairman of the Rules committee of either body for approval prior to taking the action." The key point is that when someone in a position of authority over a subordinate orders a subordinate to do something that is wrong and against policy, the policy is that they shall bring that to the attention ultimately to the three leading administrative policy makers of the Legislature. He said he realizes it is an imperfect solution as we deal with all laws, we cannot really legislate against an intentional violation of this but we do have this in place which he assures members that it was delivered with the warning that should any violations of this occur it would be grounds for immediate termination. He said he recalled having that conversation very strongly with Ms. Varni as they were considering what the issues were and, likewise, he did personally have conversation with the Capitol Security staff and he knows they also had conversations with the Legislative Affairs Agency, and additional professional training and education was provided for security personnel

in regards to execution of their necessary job duties. To that end, and again while recognizing that it is not a perfect solution, he believes they took what was the best and right action, and what was possible to do at the time.

VICE CHAIR MICCICHE said he is one that is in the pool of folks that, as are many members, was appalled at the actions of April 2, 2013, and he appreciates the memorandum that went out from the Legislative Council Chairman. He is concerned that those that were currently employed received that memorandum but his experience with policy is that it's not carried forward into a new employee packet or similar process and signed off on as many of those forms are signed off on and could have a tendency to repeat itself in the future. He requested at minimum that the memo be included in a new employee packet with a signature sheet so that we know that all Legislative Agency employees receive this, not only in the past but as new employees come into the Agency.

MS. VARNI said that Agency staff have a separate employee handbook different from the political employees. It has all of the Legislative Council policies in it. She said she can have Skiff Lobaugh, the Human Resource Manager and who updates the handbook, make sure that the policy is included. That handbook is given to all of the new employees so this will be added to the policy section.

VICE CHAIR MICCICHE moved that the memorandum be not only added to the Legislative Agency employee handbook but it also be distributed and signed by legislative employees as well. He confirmed that he meant the memo should also be included in the handbook of political staff after Chair Hawker confirmed with Ms. Varni that the memo was addressed to and sent to only Agency employees.

CHAIR HAWKER asked Ms. Lucky, a legislative political aide and who is obviously quite familiar with the fine line of the issues you are broaching, to comment on the Vice Chair's suggestion.

JULI LUCKY, staff to Representative Mike Hawker and committee aide to Legislative Council, stated that legislative employees are required at the beginning of every session and the beginning of every interim to sign a form that says they have reviewed every single policy the Council has and that they are in receipt of a handbook that contains these policies. She said she would ensure that this policy is included in the handbook. She cannot speak

for other employees but that she takes it very seriously that she has read through the handbook and all of the various policies that she is supposed to honor as a legislative employee. This is obviously a policy decision that the committee may make, but if this is seen as above and beyond and more important than every other policy and there is a desire to take it out and have somebody sign that they have seen this one, that is a policy call that can be made. She said she wanted to assure Vice Chair Micciche that legislative employees are provided with a copy of the policies and they do have to sign on the dotted line that they have read and understand them every time.

VICE CHAIR MICCICHE, in response to a question by Chair Hawker, said his goal is that there not be a recurrence of what happened on April 2, 2013. He is happy to revise his motion so that it states that the policy will be included in the handbooks of both pools of employees.

CHAIR HAWKER, in response to a comment by Representative Stoltze, said he heard someone explaining what the rules of the road are currently.

MS. LUCKY said she wanted to inform Council for the record that employees do sign every time they are rehired and they do get rehired at the beginning of every interim and at the beginning of every session.

REPRESENTATIVE JOHNSON said that violating someone's constitutional rights would be unethical. He suggested including a statement of this nature in the ethics training which everyone is mandated to take would also be appropriate as well as including it in the handbook. It's a very simple task of asking the ethics person to include that in the mandatory training.

CHAIR HAWKER asked, as a procedural manner, that Vice Chair Micciche withdraw his motion so that Ms. Lucky can craft a written motion so there will be a written record of whatever motion may be passed. That motion would be that it is the policy of this committee that the policy outlined in the April 10, 2013, memorandum is included in the LAA employee handbook, the political staff handbook and, as Representative Johnson suggested, in the Ethics manual.

VICE CHAIR MICCICHE agreed with that suggestion if it captures the intent of his verbal motion. He withdrew his motion.

REPRESENTATIVE GRUENBERG said he supported the amendment and suggested that Joyce Anderson mention this at orientation.

REPRESENTATIVE JOHNSON said that as a member of the Ethics Committee, he would make sure that happens.

CHAIR HAWKER, in response to a comment by Senate President Huggins, asked if he had a preferred course of action.

SENATE PRESIDENT HUGGINS said that what hasn't been discussed is process, is there something that could have been done differently. He said he didn't mean an extended memo, but so that we learn from what happened. He said that it happened during this leadership's tenure after 50-plus years of statehood and there is something wrong with that. He said he didn't see a person around the table who couldn't recite the points in the memo but we're asking them to read it and sign it.

REPRESENTATIVE P. WILSON said she thinks that's why we have a lot of the laws we have is because something happened that shouldn't have happened and so there is a law that we put in place to cover that. She said she feels that we're looking at it, it happened, we dealt with it and now we're going to make sure it doesn't happen again if we can, and go on.

CHAIR HAWKER said he would emphasize that as the Chief Administrative Officer of the Legislature as the Chair of this committee, when he became aware of the circumstance he discussed it with those that were allegedly involved in it, we did send the security staff to additional training specifically to be able to deal with such things in the future and we made a very clear statement of determination and clarity of policy to all of the legislative employees. There will now be a motion in front of Council to formalize that. He said he sincerely believes as Chairman of this committee he did step up to policy, he knows he discussed it with other members of leadership at the time and he doesn't believe there was an absence of process.

REPRESENTATIVE JOHNSON said the he agreed with Senate President Huggins. He said that when you tag someone as an at-will employee, that's an awful lot of power over that individual. If, as a sitting member of the Legislature, you say "do something," they are probably going to bend over backwards to do it. It's almost like giving an illegal order in the military. You are going to think really hard

and fast if the captain says go do something and you have to go to a general to say what you've been ordered to do. What we're doing is clarifying that if someone tells you to step on someone's First Amendment right, that's an illegal order and you should go to the proper authority immediately. He said Legislators have a lot of power over their employees and some people abuse it, others don't. He agrees we shouldn't have to do this, but clarifying it as being something that steps outside the realm of what you can be asked to do is important.

SENATE PRESIDENT HUGGINS said he does not object to the memo, the memo is a good idea; he is just frustrated with the fact that we have to have a memo. Shame on us.

CHAIR HAWKER said sadly, why do we have to have a law that it is against the law to kill someone.

SENATOR STEVENS said he appreciated the discussion. Regarding the matter of the daycare, he said he doesn't remember considering that it was right in the middle of the [Capitol] Complex when it was installed there, but it should have been considered. He said we can't control what is going to happen in the future. There are a lot of things in turmoil in this country and we could have the most bizarre demonstration in front of the Capitol. We can't control what may happen at the front door of that daycare. Senate President Huggins brought up the idea of taking a different route. He wanted to know if there was, in fact, another way to access the daycare.

SENATOR MCGUIRE said that fact was one of the things discussed in a Legislative Council meeting when this occurred in April. She said they talked about the fact the kids go [in front of the Capitol] where demonstrators are but that certainly they could go behind. She said the next question for all of us to think about because this is very good to have these policies out there is do we ever want to get to a situation where we're made aware of protests. That's something that also came up and it doesn't have to be today, but we might want to consider it at some point in the future. Pam Varni and building staff and security had put forward to previous Legislative Councils to try and have some kind of policy surrounding the fact that there will be people that will be expressing their First Amendment rights, but where are they located and how does that work with transportation issues and now, of course, this issue with the daycare. She said she agrees with Senator Stevens, and that we need to talk to the daycare

folks about making a different route. The next question would be if there was some kind of circumstance where we know when people were petitioning or not; and maybe not, maybe that's their right as well.

SPEAKER CHENAULT said he personally does not care who is out there protesting or demonstrating. They have the legal right to do that. It doesn't matter to him. He will either go in or go out and he can make that choice. We may need to look into the issue with the daycare, but as adults, we have the choice - there are other entrances to get into the building without even knowing what's going on in front of the Capitol. He said he understands Senator McGuire's issue regarding finding out what's going on so people can make their choice but we're not everyone's keepers either.

REPRESENTATIVE PRUITT said he doesn't know that we're going to be able to dictate or understand anyone who's going to be out there protesting. If we need to make a policy to tell the daycare that they need to find other routes to go than maybe we should come up with that, but they have the right at any point in time to not tell us that they're going to stand out there making noise, banging gongs, waving signs, whatever. Maybe it needs to be a little bit more fundamental. If this is a concern of ours, then let's just make the decision to change something as opposed to have some sort of watchdog out there warning us any time that it happens.

REPRESENTATIVE GRUENBERG said that Senator Stevens' comment moved the conversation in a very important direction away from the issue of First Amendment and whether people have a right to demonstrate and whether there was any interference with that, which was the thrust of what Senate President Huggins was talking about, to an issue that is at least as important. He said he would just call attention to what happened at Oklahoma City to the daycare center that was in that building and to the occupants. This [the demonstration] was something that might have traumatized some of the children, but that [Oklahoma City bombing] was something that killed the children. Just the proximity of that daycare center to a location that could be the scene of a violent conversation is just something that is chilling and he had not thought of that. These things do happen and have happened in lots of places.

SENATE PRESIDENT HUGGINS said he would encourage us not to worst-case scenario things because you can't build a vault for everything. One thing that he would emphasize to each

of us that he doesn't support - there aren't going to be any demonstration zones. With the Capitol, you've got 360 degrees. If you want to be out there on stilts, that's okay, but don't ask him to support demonstration zones.

CHAIR HAWKER said he associated himself with those comments.

SENATOR MCGUIRE agreed. She said she would like to hear if Ms. Varni had any comments about directing daycare personnel to use a different route. It might be the one thing we could do that would prevent that continued discussion. She said she doesn't think we can protect against what Representative Gruenberg was talking about and she would hope that would never happen.

MS. VARNI said that she didn't think that was necessary. There are school buses that go right by the Capitol. We are located in a city zone and there is just not another way. People will be driving by, school buses will be driving by, and it is a side street, so she doesn't think that is a solution.

CHAIR HAWKER, on behalf of Senator Micciche, moved that the Executive Policy outlined in the memorandum sent by the Legislative Council Chairman to Legislative Agency Employees dated April 10, 2013, be made official Legislative Council Policy and be included in all Legislative Employee Handbooks and incorporated in mandatory employee ethics training.

CHAIR HAWKER, after some discussion about including Joyce Anderson, Ethics Administrator, in the contact hierarchy, pointed out that the policy states that employees must go to Legislators in positions of administrative authority. He then repeated the question for members.

The motion passed with no objections.

Chair Hawker, addressing Senate President Huggins, said that it is an imperfect world, it is not intended to be a solution to his concerns, but it certainly elevates the initial response by his office into official Legislative Council policy. He asked if there were further comments.

SENATE PRESIDENT HUGGINS expressed his appreciation to everyone for listening to his frustrations. He said he hoped we have all learned from this in our own way and certainly wouldn't be one of those things that'd you'd want

him to support a reoccurrence of, because he will be ruthless with anybody, he doesn't care who they are.

REPRESENTATIVE GRUENBERG said, on a personal note, it's not often that we, as professional politicians, feel deeply and put our feelings on the record. He thanked the Senate President for sharing that with us and said that it meant a lot to him.

There being no further business before the committee, the Legislative Council meeting was adjourned at 1:23 p.m.

[1:23:27 PM](#)