

**ALASKA STATE LEGISLATURE
LEGISLATIVE COUNCIL
AUGUST 03, 2016
10:05 AM**

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator Anna MacKinnon
Senator Cathy Giessel, alternate
Representative Craig Johnson
Representative Sam Kito

MEMBERS PRESENT ON TELECONFERENCE

Senator John Coghill
Senator Lyman Hoffman
Senator Charlie Huggins
Senator Kevin Meyer
Senator Peter Micciche
Representative Mike Chenault
Representative Charisse Millett
Representative Steve Thompson, alternate

MEMBERS ABSENT

Senator Liesel McGuire, alternate
Representative Bob Herron, Vice Chair
Representative Mike Hawker
Representative Mark Neuman
Representative Harriet Drummond, alternate

AGENDA

APPROVAL OF AGENDA
APPROVAL OF MINUTES
RATIFICATION OF CHARITY EVENTS
CONTRACT APPROVALS
OTHER COMMITTEE BUSINESS

SPEAKER REGISTER

Curtis Clothier, Information Services Manager, Legislative
Affairs Agency
Doug Gardner, Director of Legal Services, Legislative
Affairs Agency
Pam Varni, Executive Director, Legislative Affairs Agency

[10:03:04 AM](#)

- I. **CHAIR GARY STEVENS** called the Legislative Council meeting to order at 10:05 a.m. in the Anchorage Legislative Information Office Auditorium. Present at the call were Senators Stevens, MacKinnon, and Giessel, alternate member; Representatives Johnson and Kito. Participating via teleconference were Senators Hoffman, Huggins, Meyer, Micciche; Representatives Chenault, Millett, Thompson, alternate member. Senator McGuire, alternate member, and Representatives Hawker and Neuman were absent.

II. **APPROVAL OF AGENDA**

[10:04:12 AM](#)

SPEAKER CHENAULT moved that Legislative Council approve the agenda.

The agenda was approved without objection.

III. **APPROVAL OF MINUTES**

- a. **December 19, 2015**
- b. **February 11, 2016**
- c. **March 31, 2016**
- d. **April 14, 2016**

[10:04:33 AM](#)

SPEAKER CHENAULT moved that Legislative Council approve the minutes of the December 19, 2015, February 11, 2016, March 31, 2016 and April 14, 2016 meetings as presented.

The minutes were approved without objection.

IV. **RATIFICATION OF CHARITABLE EVENT**

- a. **24th Annual Coal Classic Golf Tournament**

[10:05:08 AM](#)

SPEAKER CHENAULT moved that Legislative Council ratify the Chair's sanctioning of the following charitable event per AS 24.60.080(a)(2)(B): 24th Annual Coal Classic Golf Tournament.

The event was ratified without objection.

V. **CONTRACT APPROVALS**

- a. **2016 Annual IT Hardware Refresh**
- b. **2017 Microsoft Enterprise Agreement Renewal**
- c. **Stoel Rives Contract Amendment**

a. **2016 Annual IT Hardware Refresh**

[10:05:52 AM](#)

SPEAKER CHENAULT moved that Legislative Council approve the solicitation, award and expenditures not to exceed \$132,000 for computer upgrades from Legislative Council capital funds.

CHAIR STEVENS objected for the purposes of discussion.

CURTIS CLOTHIER, Information Services Manager for Legislative Affairs Agency participating via teleconference, said that the hardware refresh happens annually in order to replace aging computers and printers in legislative offices. This year's request will replace computers purchased in 2010 and laptops that were purchased in 2009, which exceeds generally acceptable refresh of computer hardware. The IT Subcommittee met, discussed these items and agreed to make this recommendation to Legislative Council, based on the cost to upgrade, keep the equipment going, and the performance, as well as meeting the Legislature's 3-Year Technology Plan.

SENATOR GIESSEL asked why the Legislature was continuing to invest in huge desktop computers when laptops were so readily portable and wouldn't need to be shipped to Juneau each session, staff and Legislators could simply carry them.

MR. CLOTHIER said he personally agreed. The IT Subcommittee ordinarily does a survey of all the offices to get their preference for a replacement - either a laptop or a desktop computer. Consistently, it has been approximately 66% in favor of desktop computers over laptops. The laptops cost more than the desktops, but he agreed that they are much more portable; however, even for those offices that do choose laptops, they prefer to ship them, so there wouldn't be much savings on shipping. The IT Subcommittee does encourage offices to use laptops, but the standing preference has been for desktops.

SENATOR GIESSEL said she was concerned about continuing to invest in something that wasn't affordable and not the best long-term option for the budget.

CHAIR STEVENS noted for members that there is an IT Subcommittee and refer this issue to them to study further.

REPRESENTATIVE KITO said his experience is that desktops are less expensive per unit and the challenge the Legislature has is moving them from location to location. He said he had heard that it might be worth the investment to have computers in both locations; although that meant maintaining a much larger pool of computers. He offered to sit down with the IT Subcommittee to figure out the most efficient way to do the computer refresh.

REPRESENTATIVE JOHNSON said it appeared that we get an extra year out of the laptops and asked if the longevity of the laptop was longer. He said he agreed with Senator Giessel that it made more sense to make that move.

MR. CLOTHIER responded that he wasn't sure that laptops had more longevity and might be more a factor that laptop users always have their computers with them and resist replacing them until absolutely necessary. He said we haven't had more problems with laptops despite the fact that they are used while traveling and probably get bumped more often, left in cars, etc. He said there have been no issues that laptops are more fragile. In response to Rep. Kito mentioning having computers in many locations, it is not economically feasible because of the licensing cost and additional hardware to upkeep. Laptops do solve that problem as they could travel with the Legislator or staffer. He said the IT Subcommittee would be a great place to address this issue, as suggested by Chair Stevens.

REPRESENTATIVE JOHNSON said Legislative Council has had this discussion over the last six years and every time it was suggested to take it to the IT Subcommittee. He said perhaps as Chairman, some direction from this committee might be appropriate. He said Legislative Council has sent it back to the IT Subcommittee two or three times.

CHAIR STEVENS asked Ms. Varni and Mr. Clothier to get the IT Subcommittee together and fully vet this issue before the end of his time as Chair, and it would be nice to have it done before this calendar year.

SENATOR MICCICHE asked if Legislators would see any operational difference on their monitors between a desktop and a laptop.

MR. CLOTHIER confirmed that performance is quick and responsive; and there's no difference to the users between a laptop and a desktop computer. Monitors can be used with laptops to give users a better screen size to work with.

SENATOR COGHILL noted that he joined the meeting.

SENATOR MACKINNON asked the Chair if he was planning to advance this particular item for appropriation or set it aside so that we have the urgency to the issue.

MR. CLOTHIER, in response to a question by Chair Stevens, said that we'd like to move ahead with this as quickly as possible. It will take another 30-45 days before the equipment arrives after ordering and staff can begin upgrades to legislative computers prior to the session. If it is put off, it will put us behind schedule. Obviously, with the Capitol under construction and legislative moves going on, it will be another item. He said, if the committee would like, we can modify this proposal to increase the number of laptops as a stop-gap measure, encourage people to go with them. Laptops are a little more expensive, and we could decrease the number of desktop computers and increase the price of the recommendation. Short of that, he encouraged the committee to move forward with this and look at getting more laptops during next year's cycle.

SENATOR MACKINNON said that while she didn't know enough about this issue, and addressing her comment to Representative Johnson since he noted this has been an ongoing issue that had not been resolved, she didn't want to purchase more desktops that we would then have for the next five or six years.

REPRESENTATIVE JOHNSON said that he agreed this was the ideal time to make the transition.

SENATOR MACKINNON asked how many computers the Legislature owned, and if we were going to make this transition, did we want to make sure we had at least one good working computer in every legislative office so that the transition is smooth in that regard. She asked about the cycle of replacement; for instance if 75 was a third of the desktop computers owned by the Legislature.

MR. CLOTHIER responded that they endeavor to replace one quarter of the legislative computers ever year. It's a four year cycle, give or take a few years, depending on whether

the computer is in a remote location. In response to a follow-up question by Chair Stevens, Mr. Clothier said that when the IT Subcommittee conducts surveys, there's about a 50 percent response rate and takes about two weeks. He said that if Legislative Council wanted to push folks toward using laptops, he'd advocate, as a compromise between speed and accuracy, to make it a 50/50 split between desktops and laptops, and encourage people to go the laptop route. He said he knows a lot of offices are strongly in favor of using desktops and some, in fact, don't use laptops at all. The 50/50 split would begin the transition of moving offices to laptops, even those that may not want them; and Information Services would still have the opportunity to get most of the new equipment set up and installed before session starts.

In response to a question by Representative Thompson, Mr. Clothier said laptops can support dual monitors.

[10:25:01 AM](#)

REPRESENTATIVE JOHNSON moved to amend the motion such that in the acquisition of computers, that we divide the laptops and the tower computers 50/50; in that it would be 50 laptops and 50 tower computers.

There was a roll call vote on the amendment.

YEAS: Meyer, Coghill, Huggins, MacKinnon, Micciche, Giessel, Chenault, Johnson, Kito, Millett, Thompson, Stevens

NAYS: None

The amendment passed 12-0. NOTE: There was no response from Senator Hoffman.

CHAIR STEVENS asked if the amendment decision would impact that cost noted in the original motion.

MR. CLOTHIER confirmed that was the case. As he mentioned previously, laptops are more expensive than desktops; approximately \$300 more per unit. He recommended modifying the total estimated cost to \$140,000. The Chair requested a second amendment to change the requested amount.

[10:27:22 AM](#)

REPRESENTATIVE JOHNSON moved that Legislative Council increase from \$131,207 for the computer refresh to \$140,000 to accommodate the transition to laptops.

There was a roll call vote on the second amendment.

YEAS: Meyer, Coghill, Huggins, MacKinnon, Micciche, Giessel, Chenault, Johnson, Kito, Millett, Thompson, Stevens

NAYS: None

The amendment passed 12-0. NOTE: There was no response from Senator Hoffman.

CHAIR STEVENS reiterated for members that there were two amendments approved for the original motion: (1) to purchase 50 desktops and 50 laptops; and (2) to increase the requested amount to \$140,000.

SENATOR MACKINNON asked if fax machines were included in this request.

MR. CLOTHIER said that the specific items in the request were listed in the memo to Council members and did not include fax machines. While fax machines fall under the purview of the Supply section, he said that the Agency is well aware that many offices simply don't use fax machines anymore. The Executive Branch has been considering an initiative to have faxes come through via email and, in working with that group, he said he has been encouraging them to move forward with that proposal. Many offices want to completely abandon fax machines and Information Services is supportive of that move.

SENATOR MACKINNON wanted to put on the record that she hoped that in the legislative branch there wasn't going to be any money invested in purchasing fax machines as they are an obsolete piece of equipment. If there continues to be a need, she recommended one fax machine per floor of the Capitol.

10:30:38 AM

A roll call vote was taken on the motion as amended.

YEAS: Meyer, Coghill, Huggins, MacKinnon, Micciche, Giessel, Chenault, Johnson, Kito, Millett, Thompson, Stevens

NAYS: None

The amendment passed 12-0.

b. 2017 Microsoft Enterprise Agreement Renewal

10:31:24 AM

SPEAKER CHENAULT moved that Legislative Council approve the expenditure of \$123,301.49 to Software House International for the Legislature's portion of the annual Microsoft Enterprise Agreement.

CHAIR STEVENS objected for purpose of discussion.

MR. CLOTHIER said this was an annual agreement that the State of Alaska has entered into with Microsoft. The State has negotiated with Microsoft for an Enterprise Agreement to provide Microsoft products to all State employees, including Windows 7, operating systems, and the office suite of Word, Excel and Outlook. It also covers the network software - the exchange for email; the SQL databases, which is the information behind BASIS; websites; N drives; basically all the computer resources we use. This agreement provides reduced pricing, enhanced technical support, and the ability to do upgrades. For instance, one of the upgrades we envision in the next 24 months is transitioning to Windows 10. That will be a free upgrade under this agreement. Another benefit is the Home Use Program - which provides practically free pricing for State employees to use these products at home. The State, and the Legislature, has been a member of this agreement for the past eight years and this year's portion is the same amount as last year.

There being no questions on this motion, a roll call vote was taken.

YEAS: Meyer, Coghill, Huggins, MacKinnon, Micciche, Giessel, Johnson, Kito, Millett, Thompson, Stevens, Hoffman

NAYS: None

The motion passed 12-0.

Council took a brief at ease.

CHAIR STEVENS said that the "at ease" was to address the issue of alternate members and votes. He said Council needed to re-vote because the Senate had a full membership present with Senator Hoffman on teleconference; therefore Senator Giessel would not be voting on this item.

A second roll call vote was taken.

YEAS: Meyer, Coghill, Hoffman, Huggins, MacKinnon,
Micciche, Chenault, Johnson, Kito, Millett, Stevens

NAYS: None

The motion passed 11-0. Representative Thompson did not respond to the second roll call vote.

c. Stoel Rives Contract Amendment

[10:36:42 AM](#)

SPEAKER CHENAULT moved that Legislative Council approve an amendment to the legal services contract with Stoel Rives LLP, in the amount of \$260,000 to represent the Legislature with any matters related to 716 W. 4th Avenue and 1500 W. Benson Boulevard.

CHAIR STEVENS objected for purpose of discussion.

DOUG GARDNER, Director of Legal Services, said that the last time he came before Council regarding the Stoel Rives contract was in April. Legislative Council approved some additional funding for Stoel to do work for the Legislature. At the time, what was pending was the Gottstein matter, we were in the process of discussing with the Legislature the possible purchase of 716 W 4th Avenue. During that intervening period of time, the Gottstein matter came to a final ruling on a summary judgment motion declaring the lease void. At one point, Legal Services and Stoel Rives were working on a purchase and sale agreement for 716 W 4th Avenue; and then Legislative Council made the decision to purchase the Benson building, and Legal Services and Stoel Rives shifted gears and begin the process of negotiating with Wells Fargo for the purchase and sale agreement to buy the Benson building. It was a complicated transaction in the sense that Wells Fargo was going from being a landlord to a tenant; so a purchase and sale agreement and a simultaneous lease are being negotiated. The last item that has come in is a procurement claim that 716 W 4th Avenue has filed, pending before Senator Stevens, who is the Procurement Officer for Legislative Council as Chair. He said that matter is being evaluated and Senator Stevens will be advised in the next couple of weeks on options on how to proceed. Stoel Rives has been involved and will continue to be involved unless Legislative Council directs otherwise on all of those matters.

Mr. Gardner said he wanted to note that much of this work happened in April, May and June while the Legislature was in session. There were times when Legal Services was able to do a lot of work on specialty items where they have expertise for the Legislature, constitutional matters, etc., and then there were large pieces where Legal Services had no expertise. For instance, the Legislature has never purchased a large office building, and Legal Services has certainly never done the kind of commercial lease that involved with the Wells Fargo lease. He said we have quite a number of months of accumulated services and that's the bill.

CHAIR STEVENS said that during the negotiations for the Benson building, he found Stoel Rives just crucial and invaluable; assisting and understanding negotiating with a major corporation like Wells Fargo is big time and we needed that advice and that support from Stoel Rives. He said he can't speak highly enough of the attorneys from Stoel Rives that worked with us on these issues.

MR. GARDNER said, in response to the Chair's comments, that we did have Stoel Rives most experienced real estate lawyer take over for Serena Carlsen and handled the vast amount of the work with an associate from Anchorage where appropriate. We have, in this transaction, taken the approach after having talked with Council members some months ago in Juneau, to eliminate any risk of issues with this transaction, whether it's the lease, whether it's the purchase, whether it's seismic studies, whether it's mold in the walls, we have literally squeezed this project to try and wring out of it any risk to the Legislature. Obviously, this building has been a complicated transaction, has been in the media a lot, and they are trying to make sure that they do all the due diligence that's necessary for a public entity to buy a larger building from a big corporation. The amount of negotiation that was required was unbelievable and it was a daily project for Stoel Rives and, at times, for Legal Services.

CHAIR STEVENS noted for members that after the action items, there will be updates on the Wells Fargo building, updates on the 4th Avenue building, and updates on the *Patterson v. Walker* litigation.

10:43:20 AM

A roll call vote was taken.

YEAS: Meyer, Coghill, Hoffman, Huggins, MacKinnon,
Micciche, Chenault, Johnson, Kito, Millett,
Thompson, Stevens

NAYS: None

The amendment passed 12-0.

VI. OTHER COMMITTEE BUSINESS

- a. Update on Wells Fargo Building**
- b. Update on 716 W 4th Avenue Building**
- c. Update on *Patterson vs. Walker* Litigation**

a. Update on Wells Fargo Building

PAM VARNI, Executive Director of the Legislative Affairs Agency, said that an attractive purchase price of \$11,850,000 was negotiated versus the listing price of \$12,500,000; \$650,000 below the listing price. The Legislature appropriated \$12.5 million. The purchase agreement was signed on July 19, 2016, and the lease will be signed with business terms before closing. There is a 45 day due diligence period and \$125,000 earnest money was deposited. Closing date is estimated to be September 15, 2016. There is also personal property including office furniture, fixtures, and certain artwork that will come with the purchase of the building, included in the \$11,850,000 purchase price. There is a 10-year lease with Wells Fargo, renting a little less than half of the first floor space for their branch operations. It will be over \$2.4 million over the initial terms of the lease and an additional \$623,000 for office space on the third floor for 18 months, giving them time to relocate.

In FY 17, we estimate that there will be more revenue than expenses (operating and maintenance) and the price per square foot will be \$-0.16, and it would probably be even lower under net present value. In FY 18, there will be revenue of approximately \$125,000, and about \$-0.31/square foot; and in FY 19, operating expenses will be about \$0.37/square foot. She said that at the Atwood Building, the lease cost for office and parking was going to be \$1.84/square foot, so the Wells Fargo building represents a substantial savings. Also, under the 10 year lease, there are two five-year renewals for the branch space. There are 190 parking spaces and recent upgrades in the building:

roof replaced in 2013; the HVAC system upgraded in 2014; two elevators upgraded in 2015; and boiler upgrades in 2014. The plan is for the Agency to slowly do renovations, we will move in as-is, and look at remodeling the third floor after the 18 month rental period by Wells Fargo. Also, the plan is to have a property manager like we did at 716 W 4th Avenue.

In response to questions by Senator MacKinnon, Ms. Varni said that notice was given to the 716 W 4th Avenue landlord for a move-out date of October 16, 2016; also, moving costs are estimated to be in the \$20,000 range. It will be temporary quarters initially; cubicles for staff and some private offices that Senator Stevens' office will be assigning to the Anchorage Legislators. Renovations will occur slowly and generally during session when members are in Juneau.

CHAIR STEVENS said he wanted to mention the comparison between the Atwood Building and the Wells Fargo building. At one time, we were seriously talking about moving into the Atwood Building and there were many objections to and concerns about that proposal. He wanted to go step-by-step through those issues so that members would understand and be able to defend the choice.

Chair Stevens, referring to a one page comparison sheet before members, said that the Atwood Building offered 34,102 square feet of space at a cost of \$1.84/square foot. Our full service lease with Department of Administration would be \$752,972/year. The Governor's Office, Tanci Mintz, the Commissioner of Administration have all been very good to work with and he said he appreciated that. In the end, it was a better decision to move to the Wells Fargo building. He said, additionally, the Atwood Building was not move-in ready. Tenant improvements would have to be completed before we could move into the building in 2018; some space would be available prior to that, but not all that was needed. Tenant improvements were estimated to be \$3.5 million. It would have involved relocation to temporary space until Atwood was ready; and we'd be sharing space with the Executive Branch and parking as well as with the public (although some underground parking would be reserved for the Legislature).

In the Wells Fargo building, there is 52,214 square feet of rentable space; of which we'll be leasing to Wells Fargo 5,889 square feet for their bank space on the ground floor for 10 years. We'll also be leasing to Wells Fargo 13,075

square feet of office space on the third floor for 18 months. We've negotiated a purchase price lower than the original offering. We estimate that our maintenance and operating costs are about \$575,000 annually. To offset the operating and maintenance costs, we'll receive over \$214,000 a year (\$3.035/sq ft) for the bank space, with a 2.5% increase annually, as well as \$623,677 for the next 18 months that Wells Fargo will be leasing the third floor. Additionally, we'll receive over \$18,000 a year from GCI for the rooftop antennas and there are built-in increases in that agreement as well. Once Wells Fargo vacates the third floor and once renovations are completed, it's been discussed that Eagle River Legislators could be moved into the Benson building, for a savings of over \$75,000 a year. Legislative Audit Anchorage employees could also be moved into the Benson building for further savings of over \$53,000 a year.

Chair Stevens said the building is ready to move-in as is, with some minimal tenant improvements and costs; with long-term improvements being completed in phases over time and if and as we want to. Wells Fargo would be our own building, it would be autonomous, not shared with the Governor's Office; there are 190 parking spaces, much more than we have today.

REPRESENTATIVE KITO said one of the things that needs to be considered as we're already moving down this path, is that if we did not purchase the Wells Fargo building, we'd be moving into the Atwood Building. The Atwood Building is not estimated to cost us \$11.8 million to move in, so the \$11.8 million should actually be incorporated into some of that calculation as an amortized cost as opposed to something that is not costing the State. We are spending \$11.8 million to realize this savings, so it's not an apples-to-apples comparison.

There was no action needed on this item.

b. Update on 716 W 4th Avenue Building

[10:56:11 AM](#)

DOUG GARDNER, Director of Legal Services, said that during the course of this conversation, we've actually touched on the points of discussion: the notice that was given; the timeline to move out of the building; and that the lease was declared void, which was old news. He said he didn't have more to add, but if Council wanted to get in a

discussion about legal issues, he'd be happy to do so in an executive session.

There was no discussion and no action needed on this item.

c. Update on *Patterson v. Walker* Litigation

MR. GARDNER remained on record and said that it has been his practice to let Council know when Legal Services has been authorized to litigate on behalf of Legislative Council, the Legislature, or a former Legislator. He said the outcome on this issue is in the packet, and that it was a good decision, a well-written decision by Judge Menendez. Basically, the decision stands for the proposition that when Legislators as elected officials are involved in the passage of bills or the consideration of matters at the committee level, that they have absolute immunity. Mr. Patterson was upset about his conviction and the passage of some criminal laws that he felt affected him unfairly. The reality is that while some people may agree with laws and some people may not, but when Legislators are passing laws, we will vigorously defend them. Understanding the immunity issue, the case was dismissed. As you all know, if you are sued after you leave office for a matter that you undertook in your official duties as a Legislator, we will continue to defend you just as we have over the years for other members that are no longer active.

In response to a question by Chair Stevens, Mr. Gardner said that the Legislature and former Senator Hollis French were dismissed from the case. He went on to say that named in the lawsuit were others, such as the governor and possibly other officials. The case continues to go forward, but the Legislature and former Senator French were dismissed out of it. In essence, Mr. Patterson was convicted of a sex offense and he felt that the laws that had been passed affected him unfairly. The salient point is that, regardless of the merits of the law, someone has to make the decision and when a person is in that mode, like you are here in this committee meeting, you have absolute immunity for the decisions you make. The theory is that if you didn't have that, how could you ever go forward and take the steps that you need to, so that's the policy underlying it and it's a constitutional power.

CHAIR STEVENS summed it up to say that the point for Council was that legislative immunity has been upheld, the former Legislator has been dismissed from that case, and

while there are others still involved in that case, the Legislature is no longer a part of it.

There being no further business before the committee, the Legislative Council meeting was adjourned at 11:00 a.m.

11:01:12 AM