

**ALASKA STATE LEGISLATURE
LEGISLATIVE COUNCIL
APRIL 23, 2018
4:30 PM**

MEMBERS PRESENT

Representative Sam Kito, Chair
Senator Bert Stedman, Vice Chair
Representative Matt Claman
Representative Bryce Edgmon
Representative David Guttenberg
Representative Charisse Millett
Representative Dan Ortiz
Representative Louise Stutes
Representative David Eastman, Minority Alternate
Senator John Coghill
Senator Cathy Giessel
Senator Lyman Hoffman
Senator Pete Kelly
Senator Anna MacKinnon
Senator Peter Micciche

MEMBERS ABSENT

Representative Harriet Drummond, Majority Alternate
Senator Mia Costello, Alternate

OTHER MEMBERS PRESENT

Representative Les Gara
Senator Donald Olson

AGENDA

APPROVAL OF AGENDA
APPROVAL OF MINUTES
RATIFICATION OF CHARITABLE EVENTS
CONTRACT APPROVALS
OTHER COMMITTEE BUSINESS
EXECUTIVE SESSION

SPEAKER REGISTER

Tina Strong, Procurement Officer, Legislative Affairs Agency

4:30:31 PM

- I. **CHAIR KITO** called the Legislative Council meeting to order at 4:30pm on Monday, April 23, 2018, in Room 519 (House Finance) of the State Capitol. Present at the call were Representatives Claman, Edgmon, Guttenberg, Millett, Ortiz, Stutes, Eastman (Alternate) and Kito; Senators Coghill, Giessel, Hoffman, Kelly, MacKinnon, Micciche, and Stedman. Absent were Representative Drummond and Senator Costello (Alternates).

II. **APPROVAL OF AGENDA**

CHAIR KITO asked if there were any proposed changes to the Agenda. Prior to meeting, the order was switched for item VI Policies so that the Sexual and Other Workplace Harassment policy will be heard before the Per Diem policy. He asked for a motion to approve the agenda.

SENATOR MACKINNON moved that Professional Workplace Conduct Policy be added to the agenda under Other Committee Business.

CHAIR KITO objected as that is an issue we started discussing with respect to the Sexual and Other Workplace Harassment and it is something I've not had adequate time to review in any draft form until Friday when it was submitted to my office and I did acknowledge there are workplace civility issues that needed to be addressed and that the Subcommittee that was identified for Sexual and Other Workplace Harassment would return the recommendations to Legislative Council who would then have a discussion about putting together a group to look at the workplace civility because there were people other than those identified in the Sexual and Other Workplace Harassment Subcommittee that had interest in engaging in the workplace civility discussion.

SENATOR MACKINNON said that with all respect, we have notified and been working on this policy since the beginning of Session and it was the intent of the Subcommittee to have both policies included together and be brought forward to this Committee for consideration. On advice of Legal Counsel we chose two phases: phase one being the legal issues that our staff and colleagues might face and then the issues that were related to professional workplace conduct, but they needed to go hand in hand together for this Committee's consideration in adopting any policy. For those reasons, I've asked for your consideration in amending the agenda to include both policy discussions. The meetings were all public, your staff and all folks in the Legislature were kept abreast to everything we did, it was recorded, we brought National Conference of State

Legislatures (NCSL) to review the policies that were before us and had an exchange and dialogue there. We put these products out for review for over a week, if not two, to ensure all staff and Legislators had an opportunity to review both policies and provide feedback to our Subcommittee. I hope the Subcommittee will support us in amending the agenda so that we can have both policies in front of us to protect our staff and the colleagues that we work with today.

SENATOR MICCICHE said that the Co-Vice Chair of the Committee covered it well. It was actually meant to be one. We were charged with this product. Legal had us split it out, but we were charged with this product and Mr. Chairman, this is not directed at any individual person, but we've had issues, not only with workplace harassment but we've had conduct issues and our staff and the public have been subject to the lack of a basic expectation for conduct in this building by Legislators and others. This is one package, I don't feel that it's two and I would just strongly request that you consider supporting adding... it's two pages... it's a very brief document and it's the very basics about human behavior in the workplace and I just hope you'll consider supporting it.

CHAIR KITO said to Senator Micciche, with respect, the task of Legislative Council was to address the legal, sexual, and other workplace harassment which is the reason that our Human Resources Manager, Skiff Lobaugh, was put as the Chair of that group. Mr. Lobaugh indicated that he did not feel comfortable chairing a group that dealt with workplace civility and that was one of the other reasons I requested that a request to deal with workplace civility come back before Legislative Council before another workgroup was established.

SENATOR MICCICHE responded that Mr. Lobaugh was uncomfortable having a voting seat on the second because of the employment law implications, but he was there as a mediator who led the meetings and we believe that this is, again, a very basic document about behavior in the workplace in this Legislature, in this Capitol that I think is very important. I don't think, in fact, I have a very difficult time understanding why you feel that it's different than what we were charged to do with the assignment.

CHAIR KITO said to Senator Micciche, my understanding is that the Sexual and Other Workplace Harassment document is a legal document that protects the Legislature's employees and Legislators in respect to violation of Federal law. That was the reason we put our Human Resources Manager as Chair of the

Subcommittee. I will maintain my objection. Please call the roll.

CHAIR KITO the question is whether we add the civility policy component to the motion on the policy for Sexual and Other Workplace Harassment.

A roll call vote was taken.

YEAS: Claman, Edgmon, Guttenberg, Millett, Ortiz, Stutes, Coghill, Giessel, Hoffman, Kelly, MacKinnon, Micciche, Stedman

NAYS: Kito

With 13 yeas, one nay, the civility policy has been added to the agenda.

[4:39:08 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council approve the agenda as amended.

The motion passed without objection.

III. APPROVAL OF MINUTES

CHAIR KITO stated there are minutes from: March 28, 2017; April 12, 2017; April 27, 2017; May 18, 2017; June 20, 2017; August 17, 2017; October 25, 2017; November 21, 2017; February 3, 2018; and February 15, 2018.

[4:39:49 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council approve the minutes dated: March 28, 2017; April 12, 2017; April 27, 2017; May 18, 2017; June 20, 2017; August 17, 2017; October 25, 2017; November 21, 2017; February 3, 2018; and February 15, 2018.

The motion passed without objection.

IV. RATIFICATION OF CHARITABLE EVENTS

[4:40:25 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council ratify the Chair's sanctioning of the following charitable events per AS 24.60.080(a)(2)(B): The Canvas at REACH Annual Fundraising Dinner (1/28/18); 2nd Annual Catholic Community Service Formal Gala (2/3/18); 26th Annual Girl Scouts Fundraiser (2/10/18); Thanksgiving in March (2/22/18); The Silver Gala (2/22/18); Legislative Skits (2/23/18); Reach 40th Anniversary (2/27/18);

Lawmaker's Round Up (3/3/18); Juneau's Got Talent (3/12/18); Haven House (3/14/18); 33rd Annual Sham Jam (3/17/18); and Juneau Lyric Opera Spring Gala (4/28/18).

The motion passed without objection.

V. CONTRACT APPROVALS

CHAIR KITO asked Ms. Strong to come forward.

[4:42:08 PM](#)

CHAIR KITO called a brief at-ease.

[4:42:29 PM](#)

CHAIR KITO we are going to bring up contract approvals one approval at a time.

a. Ketchikan Lease Extension

[4:42:45 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council approve Renewal No. 2 of the Lease Extension with Ketchikan Gateway Borough in the amount of \$47,569.44

CHAIR KITO objected for discussion. Ms. Strong, can you give us a briefing on the Ketchikan Gateway Borough?

TINA STRONG, Procurement Officer for the Legislative Affairs Agency, said that the original lease between the Legislative Affairs Agency and Ketchikan Gateway Borough for Office Space in Ketchikan, Alaska was for a five-year term that began March 1, 2012, and terminated Feb. 28, 2017. There were five additional one-year renewals available. We have exercised one of the five renewals. The Renewal No. 1 of lease expired on February 28, 2018. We would like Legislative Council's approval to proceed with Renewal No. 2 for the period March 1, 2018 through February 28, 2019 for an amount of \$47,569.44. Additional lease information is attached to your memo and I'd be happy to answer any questions.

CHAIR KITO asked if there were questions about the Ketchikan lease? Seeing none, he removed his objection. That lease moves forward. Are there any further objections to this lease? Seeing none, the lease is approved.

b. Bethel Lease Extension

[4:44:15 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council approve Renewal No. 1 of the Lease Extension with Tunista, Inc. in the amount of \$79,593.60.

CHAIR KITO objected for discussion. Ms. Strong?

TINA STRONG, Procurement Officer for the Legislative Affairs Agency, said that the original lease between the Legislative Affairs Agency and Tunista, Inc. for Office Space in Bethel, Alaska, was for a three-year term that began July 1, 2015, and will terminate June 30, 2018. There are three additional one-year renewals available. We would like Legislative Council's approval to proceed with Renewal No. 1 for the period July 1, 2018, through June 30, 2019, for an amount of \$79,593.60. Additional lease information is attached to your memo. Please note that on this attachment it lists Representative Fansler as one of the occupants. This memo was written before Representative Fansler's resignation. Please replace Representative Fansler with Representative Zulkosky.

CHAIR KITO asked if there were questions? Seeing none, he removed his objection. Are there any other objections to approval of the Bethel lease? Seeing none, the Bethel lease is approved.

c. Juneau Storage - Goldstein Lease Extension

[4:45:36 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council approve Renewal No. 3 of the Lease Extension with Goldstein Improvement Company in the amount of \$37,768.68.

CHAIR KITO objected for discussion. Ms. Strong?

TINA STRONG said that the original lease between the Legislative Affairs Agency and Goldstein Improvement Company for Juneau Goldstein storage was for a five-year term that began July 1, 2011 and, and terminated June 30, 2016. There were five additional one-year renewals available. We have exercised two of the five renewals. The Renewal No. 2 of lease expires on June 30, 2018. We would like Legislative Council's approval to proceed with Renewal No. 3 for the period July 1, 2018 through June 30, 2019 for an amount of \$37,768.68. Additional lease information is attached to your memo and I would be happy to answer any questions.

SENATOR MACKINNON said that as I recall when we discussed this particular renewal before we were looking at consolidation and actually getting rid of this storage unit. Can you tell me

what we've done? As I understand it, we had hardware that was being stored there that we needed to go through and we could dispose of those items, or relocate to other facilities.

TINA STRONG replied we are continuing to consolidate, but that is not to get rid of this entire section. We were trying to consolidate to minimize the square footage that is in this location. We have not minimized the square footage at this time. We do have several locations where we may be able to reduce a few hundred square feet, but that has not happened at this time, but we do continue to consolidate.

SENATOR MACKINNON asked what is being stored there for \$37,000? Is there an increased value to what is being stored there? Is there personal records? What is being housed?

TINA STRONG responded that each department in the Agency has a section down there. Supply has all their extra supplies for the supply room. At the beginning of each session, we do a large order to reduce pricing so we do store a lot of our extra supplies there, then when we run out of supplies, we run down to the Goldstein and bring them up to the Capitol. Supply has quite a bit of room down there. We have a "Save For" section when Legislators come to Juneau and you have boxes that you want us to save for you, that is where we store the "Save For" boxes. Legislators are allowed to store files there, so we have several Legislators who have files in that location. Accounting has all of their past years items that they have to retain. Does that answer your question Senator MacKinnon?

SENATOR MACKINNON Thank you Tina. Mr. Chairman, it answers the question. I wonder whether someone should go through—we have a new Executive Director—to audit what is in there. I do not feel able to vote no on this particular proposal that is before us at this time, but this particular lease space has been under scrutiny for multiple years and we are not seeing a reduction of lease space in the square footage and we have asked for that repeatedly, so I will pass.

CHAIR KITO asked if there were any other questions about the Goldstein space? He removed his objection. Are there any other objections to the approval of this lease? Seeing none, the Goldstein lease is approved.

CHAIR KITO asked Ms. Strong to talk about where we are at with the Ombudsman procurement.

d. Ombudsman - Anchorage Lease Extension Update

TINA STRONG said that the original lease agreement between the Office of the Ombudsman and JRW Ventures, Windward Town and Country Plaza, Inc. for the Office of the Ombudsman's Anchorage office space was for a three-year term that began May 1, 2013, and terminated April 30, 2016. There were three renewals of lease available under the lease agreement, each for a one-year period. We have exercised two of the three renewal options. The new Ombudsman does not want to exercise the third renewal option and would like to relocate their Anchorage office.

We had contacted the State of Alaska, Executive Branch, to see if they had available space that would work for their office. There was space available, however, the leasehold improvement costs needed to make the space work was over budget.

We then issued RFP 624 to solicit for office space for them. We did receive proposals and conducted evaluations, however, it was determined that the RFP did not provide for consideration of all factors of significance to the Office of the Ombudsman. Therefore, the RFP was canceled. We issued the new RFP 627 today and it closes on May 23, 2018. We hope to come back before Legislative Council by the end of June for award of an RFP.

Our current Renewal No. 2 of Lease expires April 30, 2018. Section 36 (Holding Over) of the Lease allows the Office of the Ombudsman to continue tenancy in a hold over status for a period up to six months at the same monthly lease rate. This gives the Office of the Ombudsman through October 31, 2018, to have a final decision and any leasehold improvements needed completed.

No action is needed at this time. This was just an update for the Ombudsman's office.

CHAIR KITO Thanked Ms. Strong for that information.

SENATOR MACKINNON asked Ms. Strong if we found space inside an existing State facility what was the improvement cost?

TINA STRONG replied that it was over \$100,000 for leasehold improvement costs. The new Ombudsman did not want to move forward with that option.

VICE CHAIR STEDMAN maybe we should ask Ms. Strong to come back to the Committee with a comparison so that we can actually see

some of those numbers if we are going to take a new position, new location, and spend whatever we are going to spend versus the lease.

TINA STRONG said she can provide that information when we come back to the Council.

CHAIR KITO said he can have his office work with Ms. Strong to come up with a memo that outlines the information on the Ombudsman.

e. Office of Victims' Rights (OVR) Lease Extension

4:53:13 PM

VICE CHAIR STEDMAN moved that Legislative Council approve the Lease Extension with L92, LLC for the time period July 1, 2018 through June 30, 2023, in the amount of \$47,250 per year excluding CPI-U adjustments each July 1.

CHAIR KITO objected for discussion.

TINA STRONG said that the OVR lease between the Legislative Affairs Agency and L92, LLC expires June 30, 2018 with no renewals available. We contracted with Bond Filipenko Commercial Properties, LLC to do a market rental analysis under AS 36.30.083. We received the completed analysis and proposed a rate of \$2.10 per square foot to the landlord or \$47,250.00 per year. The landlord accepted our offer. This is for a 5-year lease extension with five, one-year renewals. Our current rent is \$54,179.64 each year. This is a \$6,929 reduction in lease costs. We would like Legislative Council's approval to proceed with the lease extension for the time period July 1, 2018 through June 30, 2023 in the amount of \$47,250 each year excluding CPI-U increases each July. Additional lease information is attached to your memo and I would be happy to answer any questions.

SENATOR MACKINNON Thank you Mr. Chairman. I have no additional lease information. I actually asked for that earlier today because the backup documents I have for the Office of Victims' Rights shows an increase of .25 cents, actually .259 and \$60,000. Is there new backup information that we should have received?

TINA STRONG said that, yes, the last email that Crystal sent out had the updated information.

SENATOR MACKINNON said maybe it was not printed for me. I'll take a look, thank you.

CHAIR KITO asked if there were any other questions?

REPRESENTATIVE CLAMAN said to make sure I understand the CPI-U, is there a CPI adjustment each year, or for the first five years there is no CPI?

TINA STRONG said that each year there is a CPI-U adjustment.

REPRESENTATIVE CLAMAN continued that if we approve this, we are going to five years with an adjustment each year based on the Anchorage consumer price index?

TINA STRONG said yes.

CHAIR KITO removed his objection. Are there any other objections? Seeing none the Office of Victims' Rights space lease has been extended.

f. Kodiak Lease Extension

[4:56:05 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council approve the Lease Extension with Trident Seafoods Corporation for the time period November 1, 2018 through October 31, 2023 in the amount of \$66,015.60 per year excluding CPI-U adjustments each July 1.

CHAIR KITO objected for discussion. Ms. Strong?

TINA STRONG said that the Kodiak lease between the Legislative Affairs Agency and Trident Seafoods Corporation expires on October 31, 2018 with no renewals available. We contracted with Bond Filipenko Commercial Properties, LLC to do a market rental analysis under AS 36.30.083. We received the completed analysis and proposed a rate of \$2.03 per square foot to the landlord or \$66,015.60 per year. The landlord accepted our offer. This is for a 5-year lease extension with five, one-year renewals. Our current rent is \$71,383.92 each year. This is a \$5,368.32 reduction in lease costs. We would like Legislative Council's approval to proceed with the lease extension for the time period November 1, 2018 through October 31, 2023 in the amount of \$66,015.60 each year excluding CPI-U increases each July. Additional lease information is attached to your memo and I would be happy to answer any questions.

SENATOR MACKINNON Mr. Chairman, I just wanted to thank you, your team, and Ms. Strong for negotiating a lower cost lease in the Kodiak region. Good job, thank you.

CHAIR KITO asked if there were any other comments, questions? With that I will remove my objection. Are there any other objections? Seeing none the Kodiak Lease has been extended.

SENATOR MACKINNON said in our January 28, 2018, scheduled meeting that did not take place, there were multiple other leases that were being considered at that time and I am wondering if we can get a procurement update on at least Homer and the Eagle River location. They were both over \$30,000 and it appears we have taken care of Southeast Alaska with lease space, to some extent, and I am wondering what is happening what is happening with some of the other areas of the state that were on that agenda.

TINA STRONG said that Eagle River and Homer we will need to come back to Legislative Council for approval at a later time. Those do not expire until October, I believe. The Kodiak lease was also in October, but we had already done the market analysis so we had the information for that, so we went ahead and moved forward with Kodiak. The other leases that were on that agenda were just for your notification, they did not require Legislative Council's approval. So those we are still taking care of with Chair Kito's office, like we normally do. It does not require Legislative Council's approval, so we are still handling those in-house.

SENATOR MACKINNON said there are multiple leases that are under \$30,000 and I appreciate that and I appreciate you going forward and negotiating that. The other item that was on that particular Council meeting was the Juneau Department of Administration yearly leases for surplus warehouse costs for \$65,000 and there were multiple other high ticket items on the memo dated January 24 for interagency leases; I'm wondering if you have negotiated those and those will come back before us at a later time or whether something else has happened with those leases?

TINA STRONG said that those leases do not fall under the Alaska Legislative procurement procedures because they are contracts with another State agency, so those do not require Legislative Council's approval. We do still negotiate those, but for the most part, like Legislative Budget and Audit, Kris Curtis takes care of her lease, so each department would typically take care of their leases under that section.

SENATOR MACKINNON said that again, this is lease space, it's 2825 square feet rented at \$1.92 per square feet for a total of \$65,123.98 and we are storing furniture, tires for vans,

maintenance supply, lumber, carpet, packing supplies. I am just wondering if we can dispose of some of that lease space so that there is less cost for the State.

TINA STRONG said that is our surplus warehouse and that is very full. I would be happy to give anyone a tour, but we do have our excess furniture there, which helps us keep costs low for purchasing new furniture. Many staff and legislators have gone out to look through the items out there. We have a binder that has all the items that are out there. Maintenance has all of their carpet that they use during their carpet projects. There is no possible way at this time that we could reduce that square footage.

SENATOR MACKINNON thank you Mr. Chairman.

CHAIR KITO said that completes the leases. Thank you Ms. Strong.

VI. OTHER COMMITTEE BUSINESS

a. Policies

i. Sexual and Other Workplace Harassment

CHAIR KITO said we do have a document from the Subcommittee.

SENATOR MACKINNON said there are two documents in front of you. Did you want to take up the Legal policy first?

CHAIR KITO replied, yes.

[5:03:04 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council adopt the revised Sexual and Other Workplace Harassment policy.

CHAIR KITO objected for discussion.

SENATOR MACKINNON said that she did not prepare a presentation. This document was distributed to all members of Legislative Council as well as the entire Legislature. It updates Alaska's sexual assault workplace harassment policy, it tells individual staff members where they can go to make reports, it talks about confidentiality, it creates a formal/informal reporting process, it addresses reports and investigations involving a Legislator and how a Legislator may take that policy to an outside investigation in consultation with the Human Resource Department. It has final reports and disciplinary actions, as well as an appeals process, and it

speaks to, as I've said before, confidentiality and ethics duties and training.

CHAIR KITO asked if there were any questions?

REPRESENTATIVE CLAMAN noted that the committee spent many, many mornings early working on this policy and we had tremendous assistance from our Personnel Director, Skiff Lobaugh, and the best comments were what we got from NCSL who said we have a strong policy and the changes made it much stronger.

CHAIR KITO asked if there were any other comments or questions?

REPRESENTATIVE EASTMAN said his only question was have we gotten public comment to the policy? I haven't heard much from my constituents and I'm curious if the public has been given a copy and we've gotten any input one way or the other.

SENATOR MACKINNON replied that this is an internal working document. Like a business, a business develops their own policy. It certainly has been on Gavel to Gavel for every meeting recorded and available for the general public to comment on, as well as distributed wide with a survey to all those that are in the Legislature and our staff for comment. And it's been publicly posted.

CHAIR KITO said without other questions, I will remove my objection. Are there any other objections to moving the policy forward?

SENATOR MICCICHE said he wanted to point out that we have a Frequently Asked Questions (FAQ) document which is the result of the survey that went to every employee that is associated with LAA if you will. We had numerous comments and questions and we tried to answer them, thanks to Skiff and his team, tried to answer them in a way that points them to the different sections of the policy.

CHAIR KITO said with that, the Sexual and Other Workplace Harassment policy has been adopted by Legislative Council.

ii. Professional Workplace Conduct

[5:06:11 PM](#)

VICE CHAIR STEDMAN moved that Legislative Council adopt the professional Session Workplace Conduct Policy.

CHAIR KITO objected for discussion. Any comments or questions?

SENATOR MACKINNON said what we found out when we were going through the legal aspects of the policy that we currently had in place that there were opportunities for clarity for both staff and Legislators in understanding what is a safe and professional workplace environment. And so, to the best our ability, we presented the two pages before you that some consider broad, but do discuss appropriate behavior in an attempt to define, not all inclusively, what disruptive behavior would look like, what threatening behavior looks like, what violent behavior looks like, and prohibitive sexual conduct. It also speaks to that retaliation is prohibited. Thank you Mr. Chairman.

REPRESENTATIVE EASTMAN said for the record that I share the Chairman's concern that the policy is not been fully vetted yet. I did discuss it with my staff and my impression, having looked at it briefly, is that it is very one sided. It is very one sided in terms of protecting Legislators and protecting staff, but I don't see the appropriate balance in taking in for the public and the fact that we do undertake our business on their behalf and they have an interest in this policy.

As a brief example, I know we do have in this policy a statement with regards to how making a false statement is going to be prescribed by this policy and I know there are many statements that are made every day in this body, or in this building, which some of us might view as true and factual and others of us might view, for our political perspective, as inaccurate and not factual. By way of two personal experiences this Session, I know one member of leadership got to complimenting other members on the floor about how average we all look, lest there be an interpretation that somehow there was something subjective or inappropriate in commenting. I think that was just in response to the fact that there are a lot of things that are subjective that this policy touches on. I know in my own personal experience this session, I was spoken with by leadership after I asked another Representative why it was they voted a particular way on a particular measure. I was told that was kind of a form of harassment because that might be intimidating if I voted a different way and was asking someone why it was they voted the other way, perhaps they could be taking that in the wrong manner, other than what it was intended. So if our job is to be asking hard questions, certainly there is tact and a good way to ask hard questions, but I fear that by not putting the public interest squarely in the document, that we could fail to allow Legislators to ask some of the hard questions that the people sent us here to ask. Thank you.

CHAIR KITO added that I do think trying to address workplace civility is an extremely important discussion. I do think that this document is a step in the right direction, but in my view I think there a lot of other things that the Legislature needs to do in order to promote workplace civility and I do think there might be some opportunities within our existing policies, or even to look at all of our policies, and consider additional policies. That is why I was requesting that civility be discussed as a separate working group. I don't have any problem specifically with the information presented, I just do think there is a lot more to it than doing this and I hope that this does not become the only opportunity we have to address workplace civility, because there are a lot of other things I do believe we could do. With that I will remove my objection.

SENATOR MICCICHE requested an opportunity to chat about this just for a moment. What this document says is that we expect a safe and respectful workplace and this does include the public. It is Legislators, legislative employees, interns, and third parties that are in the building and, frankly, I am obviously not going to point out any specific incidences through the years, but it is a gap. We have a gap. We have a gap in our existing policies. Is it perfect? Probably not. Let me give you an example of some of the prohibited, unprofessional conduct and you can tell me if you think it's appropriate in this document: workplace harassment; sexual harassment; disruptive behavior; threatening behavior; violent behavior; and prohibited sexual conduct. All of these have been issues.

These are basic expectations in the workplace that every other workplace has in policy, in code, and we expect the same level of behavior here. If there is something in here that needs to be improved, and I think there probably is in time, but I will tell you that we spent a significant amount of time on this document, it is the basic expectations of operating in this building for everyone. We put Legislators on equal footing, we expect the same out of them. People should not operate, and I can tell you right now, I am not one who is easily intimidated, but I expect a certain level of professionalism and courteous behavior and that is what this basic one and half page document covers, and it goes no further than that. I certainly invite improvements in the future as people have suggestions, but I support this level at this point.

REPRESENTATIVE CLAMAN began to comment, but an at-ease was called.

[5:12:49 PM](#)

CHAIR KITO called a brief at-ease.

[5:13:02 PM](#)

CHAIR KITO said he actually removed his objection. Are there additional objections or are you just wanting to provide comment?

REPRESENTATIVE CLAMAN said he had wanted to make a comment before you removed your objection.

CHAIR KITO reinstated his objection so that Representative Claman can comment.

REPRESENTATIVE CLAMAN said this also got a lot of discussion in the committee and it was actually an area that the National Conference of State Legislatures (NCSL) recommended that we have both a legal policy and a conduct policy and their comments on this was that it was an improvement over what we have today, which would make sense, because currently we don't have any conduct policy and so I broadly think this is good work and we should support approving this. Thank you.

CHAIR KITO removed his objection. Are there any other objections to movement of the civility policy? Seeing none the policy is approved.

iii. Per Diem policy

The next item before us is the Per Diem policy and I have provided a memo and will provide a brief discussion where I ended up coming from and where I do believe we should go, not that I am expecting support at this point.

Starting last Fall, I was dealing with the Alaska Officers Compensation Commission, they provided several recommendations and ultimately ended up with a recommendation that reduced the Juneau Legislator or the Legislators within fifty miles of the Capital from receiving per diem. The more I looked at the issue, the more I realized that there was an inequity in compensation that was not addressed by the Alaska Salary Compensation Commission. In my memo, I reference AS 39.23.580 that says it is the policy of the Legislature that the Commission recommend an equitable rate in form of compensation, benefits and allowances for Legislators. As the Alaska Salary Compensation Commission did not address equitability, I felt compelled to do a review of equitability for compensation and have provided a recommendation that

appears before you in this memo that addresses the Salary Compensation Commission discussion of removing per diem for Juneau Legislators, it also addresses a change that is in process right now, which is suggesting that the Legislature receive a flat per diem annually, and it also addresses the additional issue of compensation for per diem when a Legislator is only in the Capital city or in the location of the meeting place to receive that per diem.

This memo was quite difficult for me to put together because I knew I would make 59 enemies in this body, but I felt as the Chair of Legislative Council, in order to try and make sure that, and it doesn't apply to me as I have decided very clearly that I am not going to continue my service in the Legislature, but the situation as it rests is infinitely inequitable to those Legislators that are currently residing in Juneau, therefore I felt compelled to bring this issue of per diem before the Legislative Council. Legislative Council certainly has the ability in this case to choose whether or not to support my recommendation moving forward or not support my recommendation moving forward, but because I am the Chair of Legislative Council, I have the ability and the responsibility to put policies forward that provide for equitability of compensation, I felt compelled to move this memo to Legislative Council for consideration. I would like to open it up to any discussion, if there is any discussion.

REPRESENTATIVE GUTTENBERG said he introduced legislation in this Legislature to disapprove of the salary commission's recommendations because their reasoning was irrational and poor public policy. I listened to two of their meetings and it was some of the least thoughtful, comprehensive, and public debate I have heard in any body that was charged with doing the public's duty. Because of that I introduced the statute which is what is required to not accept the salary commission's recommendations. There is a long and larger dialogue to go forward if we were to do these recommendations from you Mr. Chair. This is as inequitable as anything else I have seen. There are lots of conversations between what it takes to maintain homes, what it takes to maintain distances. It's not just between Juneau and everyone else, there are considerable calculations built into what it costs to not be in Juneau, besides what the per diem might be to rent a house or an apartment or bring your car down here, so I am not going to be supporting this. This is a much larger dialogue. There are things that needed to be built into the calculation as to what is fair. For two years I represented a district that came out of the coast, came out of Fairbanks and went to the coast, I had to fly to Anchorage, to Bethel, and get on local

commuter flights all over that area. Responsibilities for having a district so far fetched, so far and wide is inherently unfair to people who live in the urban areas. So there is a much larger conversation between Juneau and just everybody else. If we want to have a conversation about the differences and what is fair, then we should have that, but this does not represent that. I am not going to be supporting the motion at this time.

SENATOR HOFFMAN stated that the Legislature set up a salary commission. That commission is responsible for recommending to the Legislature salary and salary structure. When we set that up as a body, it was not the salary and per diem commission. Obviously, the salary commission has addressed it. I don't think it was their purview to make any recommendations, they can make suggestions if they want to, but that was never an issue that was allowed by law. It is the right of this body to review per diem and set the standards and I believe you as a Chairman can make those recommendations, but I also agree with Representative Guttenberg. The proposal that is set forth is not equitable. Many people here have to maintain their homes. Everyone realizes, I think Representative Guttenberg alluded to it, that maintaining a home in rural Alaska compared to maintaining a home in Anchorage, Fairbanks, or Juneau is much, much different. I am not suggesting there should be an adjustment for those in rural Alaska, but for individuals that are getting per diem, it is to replace the cost of what we are expending in our homes back home. We have to be compensated for the housing that is down here, maintaining basically two homes. When you look at it from that perspective, everyone needs to take that into consideration and to have a seventy-five percent reduction if we ended up dealing with this and we ended up in a special session, hotel costs down here are going to run us anywhere from \$130-\$200. In many instances, we are not the ones that are brought down here. The Governor calls us into Special Session and we have to be down here. But for us to consider something to the magnitude of a seventy-five percent reduction is wrong. If this council wants to discuss the issue of per diem and what level or whether or not a fifty-mile radius is adequate, this council should do it and that would fall under our purview, but basically we need to look at the policy and what is a fair policy for all members of the Legislature.

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CHAIR KITO called a brief at-ease.

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CHAIR KITO added that he did do research with respect to the authority of the Alaska Salary Compensation or Officers' Compensation Commission and they have broad authority in statute actually to set compensation, per diem, allowable account, anything that a Legislator is entitled to receive - the Compensation Commission has the authority to provide recommendations on and those recommendations will take effect unless the Legislature reacts in the negative within sixty days of the start of session, so I do understand theoretically that they should be dealing with compensation, but in reality they deal with everything.

In my review of the compensation, one of the things, I think just off the top, a ninety day session, currently, with the Salary Compensation Commission recommendations Juneau Legislators are receiving \$18,000 plus less than they would have before. all other legislators receive \$24,000 in ninety days for per diem. That does seem a bit on the excessive side for being able to maintain two households, so it does not seem equitable. And when pressed with respect to the Department and the Governor and oversight of the Compensation Commission in their keeping with the policy of the Legislature to provide equitable compensation no action took place, so I am bringing this forward to Legislative Council to provide for some discussion of equitability with respect to compensation.

SENATOR STEDMAN stated he does not support this proposal in front of us. There will be another one following this discussion for us to consider. Clearly we have an issue. Historically, in this building when we had easy access to some of our colleagues that were financially strapped and made them susceptible to behavior that is unbecoming of a Legislator and we've seen that in the press and in the courts. Going down this road I think will help put us in the same position that we came from several years ago when we had Veco Bill and company in the building. There are sixty of us, they only have to find a couple weak targets. As we all know it's easier to stop stuff than move issues.

I do not support this. I think the issue of singling out Juneau is problematic. I think the fifty mile radius could hit other communities around Juneau where you would still have to come, like Hoonah, if you had to come from Hoonah. If you live in Hoonah or you live in Bethel, you still have to relocate to Juneau, you can't drive to Hoonah every night. We have some issues I think to sort out here at the Committee over the next several months, through the summer and maybe into the fall, and get this addressed. But I cannot Mr. Chairman support such

a draconian policy that I think will weaken the stability of the Legislature immensely and we deal with hundreds of millions and in the billions of dollars in decisions. We need to have and be able to attract middle-aged men, like yourself Mr. Chairman, with a family. Not guys my age that are closer to the geezer patrol on the end of the age section, but we have made it very difficult for working families in the thirties, forties and fifties that have come to Juneau and participate in the democratic process. We need to take some of that into account Mr. Chairman, so I will not support your action and like I mentioned, there will be another motion following this to help deal with this just for members information.

CHAIR KITO stated he did understand that and respect that. I guess one of the things I really want to be very clear about is given the current Officers Compensation Commission decision and the Legislators that will be coming in representing Juneau starting in January, I worry that what we have established now becomes the new normal and that there will not be motivation from 57 other Legislators to address an issue of inequity for Juneau and I do fear, and the reason I brought this forward, again not because of myself, but because I fear that Juneau will end up short. As you had mentioned Senator Stedman about the concerns over inadequate compensation and making people vulnerable to corruption, we just created a similar situation like that for Juneau legislators, no other Legislators. To me that is not equitable and this committee has the ability to address per diem in order to make compensation more equitable and I wanted to give this committee that choice. If that choice is to vote in the negative, then that is certainly the choice of members of this committee.

SENATOR MICCICHE stated he did have a comment, but do we have a motion on the table?

CHAIR KITO stated he will be asking for a motion.

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CHAIR KITO moved that Legislative Council Policy on Travel and Per Diem to reduce per diem for Legislators living within fifty miles of their primary residence to zero, and a reduction of per diem to twenty-five percent of the Federal winter rate and that Legislators who are not in the Capital, or the meeting site location, during a regular or special session would not be entitled to receive that per diem.

SENATOR STEDMAN objected.

CHAIR KITO asked if there were any comments?

SENATOR MICCICHE said he just wondered what is the question we are addressing? I feel like the question is, respectfully, how do we get back at the other 57? The reason I bring that up is the question should be what is a fair rate that compensates Legislators for their expenses while serving, the definition of per diem. I worry about the unintended consequences here. What a rate like this does is it attracts the wealthy and the destitute, and no one in between. I want it to be available to all Alaskans, no matter what their financial situation may be.

I agree that we probably don't have it right, but we talked about putting together a working group on evaluating what is a better system of per diem. We talked about it, but you brought this forward without that result. I think the result in the other policy we just passed was a good result, we had people from both bodies, both genders, representing different groups that came together in a pretty good policy. I would propose that we, we may have another change here, but still for the longer term Mr. Chairman, I would propose that we put a diversified working group together that can be a public discussion that avoids those unintended consequences that results in an adequate system of compensating Legislators for their expenses.

CHAIR KITO responded to Senator Micciche, with due respect, we've actually given that responsibility to the Salary Compensation Commission and that's a challenge for us to do something that would be different than that, unless we considered statutory changes and I had not seen the desire to work on a statutory change to address compensation commission.

SPEAKER EDGMON said the he does not support the motion either. I do recognize the genesis of your concerns and I would go so far as to say the Salary Commission I think having been somewhat reconstituted in the last few months with a couple of Legislators as part of a five member commission I think brings forward, certainly has the opportunity to bring forward, a more balanced viewpoint and I would also go as far as to echo your comments, put it in my own terms, I thought that the Salary Commission that made the recommendation to remove per diem for Juneau, essentially acted in a punitive manner. That's my comments and I think to echo what the Vice Chair said, it is highly problematic and I hope we, as the Legislative body with appropriating powers, can do something about that so that we make it more equitable for the three Juneau Legislators, vis-à-vis what the other 57 Legislators are receiving.

I would hope that this discussion today, which to me, again to join in to what others have said, is sort of coming at us pretty quickly here at the latter part of the session without sort of the benefit of having the deliberative process built around it, which I would definitely be supportive of for going forward, but that this discussion still serves to inform the Salary Commission and future deliberations of their own that they should take another look at rates for Juneau Legislators. I strongly believe that. So for those reasons I can't support the motion before us, I think it came too quickly and without the benefit of us being able to really look into this. I would certainly support going forward looking into the matter, but in a more comprehensive way.

CHAIR KITO said he would just like to add one more item on the Salary Compensation Commission. One of the things I did look at when I reviewed the Salary Compensation Commission was their actions in regard to compensation and up until January of this year, the Compensation Commission provided no recommendations on Legislative compensation one way or the other. On two separate occasions, the Compensation Commission has recommended increases to executive salaries. On one of those cases, the increase was accepted and the other case the increase was rejected by our chief executive, but never in the last three times that the Compensation Commission met since their first decision increasing Legislative salaries to \$50,400 in 2008 or 2009 session, had they ever even discussed compensation of Legislators. They did not discuss it at all. So that is a concern to me. They are not adequately reviewing compensation and trying to make an informed decision and I felt compelled to respond. With that I will keep my motion active and I think we still have an objection.

A roll call vote was taken.

NAYS: Claman, Edgmon, Guttenberg, Millett, Ortiz, Stutes, Coghill, Giessel, Hoffman, Kelly, MacKinnon, Micciche, Stedman

YAYS: Kito

With 13 nays, one yay, the motion has failed.

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SENATOR STEDMAN made a motion that we set the per diem rate at the Federal winter rate \$275 for the Second Session of the Thirtieth Legislature.

To explain, that would match our budget and we would not have a bump up to the summer rates on May 1st. So we hold it constant at the winter rate.

CHAIR KITO asked if there was any objection to the motion as stated. Seeing none, the motion passes.

VII. EXECUTIVE SESSION

[5:37:15 PM](#)

SENATOR STEDMAN moved that Legislative Council go into executive session under uniform rule 22(b)(2) and (3), discussion of subjects and matters that may, by law, be required to be confidential.

Any Legislators not on the Council are welcome to stay. The following staff may stay in the room: Jessica Geary; Doug Gardner; Crystal Koeneman; David Scott and Randy Ruaro.

The motion passed without objection.

Legislative Council went into executive session.

[5:58:37 PM](#)

Legislative Council came out of executive session.

VIII. ADJOURNMENT

CHAIR KITO said with no other business to come before Legislative Council we will stand adjourned. Thank you.

[5:58:37 PM](#)