

Alaska State Legislature

Select Committee on Legislative Ethics

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MINUTES from October 17, 2011 FULL COMMITTEE MEETING Anchorage LIO, Room #220

1. **CALL THE MEETING TO ORDER:** Chair Dennis “Skip” Cook called the meeting to order at 11:31 a.m. Members present: Representative Chris Tuck, Representative Carl Gatto, Senator John Coghill, Toni Mallott, H. Conner Thomas, Gary Turner, and Dennis “Skip” Cook. Staff present: Joyce Anderson, Administrator. Dan Wayne, LAA Legal joined the meeting at approximately 11:50 a.m. Absent: Senator Gary Stevens, Herman G. Walker, Jr.
2. **APPROVAL OF AGENDA:** Motion made by Member Turner to approve the agenda as written. No objections. Motion passes.
3. **APPROVAL OF MINUTES:** Chair Cook requested a motion to approve the minutes of House Subcommittee meeting held on September 27, 2011. Motion to approve made by Member Turner. There were no objections and minutes were approved. Chair Cook noted the minutes of the Full Committee meeting held on September 27, 2011, were in the process of being transcribed and would be available at the next Full Committee meeting.
4. **PUBLIC COMMENT:** None.
5. **CHAIR/STAFF REPORT:**
 - a. **Informal Advice Staff Report** - Ms. Anderson stated the September Staff Report had previously been sent to members and was also in the packet. No questions by members.

Ms. Anderson went over the log listing of calls received. There were 50 in inquiries which has average this year. The report includes only some of the routine calls handled by staff. Members requested the log report statistics be tallied month-to-month for each topic (Reason).

Ms. Anderson reported the status on the purchase of a new Anchorage legislative building stating the old Chevron/Unocal building at 909 W. 9th Avenue was being considered. Ms. Anderson attended a presentation by Executive Director Pam Varni of Legislative Affairs Agency, and toured the site. The plan included offices for legislators, visiting legislators, LIO staff and IT staff. However, no designated space was indicated for Ethics. There appears to be room to include Ethics since there were suites allotted for 10 visiting offices and/or staff overflows. Discussion was held by members. Ms. Anderson stated she would prefer the Ethics office be located on the same floor as “year round” departments, i.e. the Legislative Information Office and IT Department, rather than on a floor that is empty during session. A letter will be written to Legislative Council from the committee making known the committee’s preference.

b. Committee Member Vacancies 2012 - Ms. Anderson reported two members terms will expire in January of 2012 - Chair Cook and Herman Walker, Jr. Neither member has indicated their intentions at this time. Both will be contacted prior to sending a letter to Chief Justice Walter Carpeneti on November 1st notifying him of the expiring terms. Ms. Anderson stated she will follow procedures in the Committee’s Rules of Procedure regarding the upcoming vacancies, which are provided in today’s packet.

6. BUDGET: Ms. Anderson reported she had received incorrect budget figures from the Accounting Department which were distributed to committee members at the last committee meeting. Corrected numbers are in today’s packet.

a. FY11 Final Budget: Balance of \$28,187.

b. FY12 Budget Update: The correct amount expended for “Services” as of September 15, 2011, is \$2,008, not \$11,482.

7. MITIGATING FACTORS FOR LATE DISCLOSURES - Discussion:

Samples of late letters were in the committee packet. Ms. Anderson pointed out APOC passed a list of mitigating factors in February of 2009. She asked members several questions: Should the late letter incorporate mitigating factors, and should the late letter be changed. The current letters have been in place since before she began working in the Ethics office in 2001 with the exception of adding information on the type of disclosure that was late. Member Turner stated “disclosure” should be added after “Travel/Hospitality” in Sample Letter #1. Member Thomas suggested enclosing an attachment of the applicable statute and the Committee’s Rules of Procedures on late disclosures. Ms. Anderson provided background information: The committee was formed in 2000, and began

imposing “fines” in 2001. The Ethics office maintains a list of late disclosures and between 2000 and 2011 there have been 105 late disclosures.

Member Thomas motioned to add to the late letter an appendix including AS 24.60.260(c) and the Committee’s Rules of Procedure, Section 11(f), Late Disclosures. There were no objections. Motion passes.

- 8. LEGAL OPINION-Charity Event Clarification:** Chair Cook stated this topic was a continuation from the committee meeting discussions of July 12th September 27th. He referred members to the green pages in their packets. Chair Cook noted APOC was interested in any action the committee takes on this subject. He summarized the options before them – either request an advisory opinion so specific items are binding in interpreting AS 24.60.080(a)(2)(B), or accept the legal opinion from Mr. Wayne and take no action.

Ms. Anderson stated often times callers ask if there is an advisory opinion to which they could reference. A legal opinion is not something she would hand out because opinions usually provide options for the committee to act on.

Chair Cook reminded members of Sen Coghill’s suggestion about publishing a newsletter listing important questions to consider before attending a charity event. He also stated they could ask Legislative Council what criteria they use in sanctioning charitable events.

Senator Coghill explained the reason he suggested the questions was because legislators do not have a legal distinction between an entry fee to an event and a contribution given to the event. He stated eventually there needs to be clarification. What’s helpful for him to know before planning to attend a charity event is whether or not it has been sanctioned, and if it has not, he is likely to decline. He also stated if a lobbyist was involved, in addition to the event not being sanctioned, then he definitely would not attend the event. Not knowing the value of a ticket is another red flag for him. He stated when he sat in on Legislative Council, he did not recollect following criteria for sanctioning an event, but that is not to say there is not one. In the past, the statute was used. He stated as far as the fair market value determination goes, maybe there needs to be a declaration with the invitation. For instance, he would not want someone donating money on his behalf without knowing the amount ahead of time.

Chair Cook stated if the committee accepted the opinion, it could be published in the Ethics newsletter and provide direction to those who wish to attend a charity event by way of receiving a ticket from a lobbyist or someone else.

Member Thomas and Ms. Anderson noted the item to take out of the Legal Opinion referred to the tax-deductible portion of the ticket or admission fee.

Mr. Wayne stated his opinion would not change substantively if they eliminated the second half of the last paragraph on page 6 including the footnote as it was mostly just exploring possibilities and nothing more than that.

Rep Tuck asked for clarification with regard to the \$1500 entry fee paid by the employer of a lobbyist. Ms. Anderson stated the statute is clear in that a legislator is prohibited from receiving a gift from a lobbyist unless it's a pre-approved charity event. The \$250 cap still applies. Employers of lobbyists can gift a ticket to a charity event even if the event is not pre-approved keeping in mind the \$250 cap applies as well.

Member Thomas motioned to approve and adopt Mr. Wayne's Legal Opinion but strike the last sentence where it says, "If the committee determines that it is appropriate to consider the tax-deductible portion..." This would allow Ms. Anderson to use this opinion when giving advice. There were objections. Motion passes.

Mr. Wayne confirmed he would make the changes to his Legal Opinion, change the date on it to today's date and resend to Ms. Anderson.

Senator Coghill stated he felt listing the questions to ask before attending a charity event should be included with the legal opinion. Ms. Anderson stated she would put them in the next newsletter.

9. Motion to go into EXECUTIVE SESSION to discuss matters which by law must remain confidential. Member Mallott motioned to go into executive session.

10. PUBLIC SESSION:

11. OTHER BUSINESS: Chair Cook noted the next Ethics Committee meeting would be held the week of January 17, 2012, in Juneau, actual date to be determined.

12. ADJOURN: Meeting adjourned at 12:50 p.m.