

MINUTES
HOUSE STATE AFFAIRS COMMITTEE
BARBIERI SUBCOMMITTEE
Rules-Subcommittee #1

DATE: Monday, January 14, 2013
TIME: 10:00 A.M.
PLACE: Room EW40
MEMBERS: Chairman Barbieri, Representatives Andrus, Holtzclaw, Smith
**ABSENT/
EXCUSED:** None.
GUESTS: Monica Hopkins, ACLU; BG John Goodole, JFHQ Idaho Guard; Col. Brad Ricky, JFHQ Idaho/BHS; Steve Steiner, BHS Public Safety; Robert Hugi, BHS Public Safety; Barbara Pinkerton, self; Gene Bray, self; Anne Hausrath, self; Ann McClanahan, self; Leroy Fiscus, ACLU; Teresa Luna, Dept. of Admin; Keith Reynolds, Dept. of Admin; Jennifer Pike, Dept. of Admin; Raeveen Welton, Westerberg & Associates; Roger Brown, Governor Otter's Office; Kathy Sims, self; Parrish Miller, Idaho Freedom Foundation; Ed Lawley, Dept. of Admin; Dennis Stevenson, Dept. of Admin.; Brad Hunt, OARC.

Chairman Barbieri called the meeting to order at 10:01 a.m.

**DOCKET NO.
15-0603-1201:** **Steve Steiner**, Branch Chief, Bureau of Homeland Security Public Safety, presented **Docket No. 15-0603-1201**. He stated that their agency has never had a set of rules for their funding. All of their fees are currently passed on to the agencies. They started researching fees two years ago and found that they need a new fee schedule.

In answer to committee questions, **Mr. Steiner** stated that the current funds come from the agencies. They are billed monthly, quarterly, or annually depending on the agency. They also receive federal funding for the radio billing systems. The fee increase only includes time and materials and not salaries.

Mr. Steiner stated that the Bureau employs 23 full-time employees and 2 contract positions with 2 technicians per district. After reorganization, several years ago, and 5 positions were cut. Everything they do is nonprofit or government work. They have tried to make the work more efficient but it is labor intensive and public safety is important.

In response to questions, **Mr. Steiner** stated it is difficult to justify fees to the agencies. They have different fees for each agency. He stated the budgets project an increase in time and materials. In response to further questions, Mr. Steiner stated using federal and local partners in contracting work has been successful, but the Bureau needs the hourly increase. Without these rules, they could not support all of the work.

Mr. Steiner also stated the agencies have a standard package but most of the jobs the Bureau does are custom. He said the last fee increase was 23 years ago and did not include the IT packet, the Bureau has upgraded the technology and it is not reflected on the billing.

In response to questions, **Mr. Steiner** stated the Bureau has always had face-to-face contact with all of its constituents regarding fees and have also sent letters to each. They have not had any negative feedback regarding the increase.

Gene Bray, representing himself, said that he has worked for 31 years as an engineer. He said he was astounded that the Bureau could do the work they have done for \$45 an hour because it is such a low fee. He stated that the fact they have not had an increase in 23 years is outstanding. Mr. Bray supports the increase in fees.

MOTION: **Rep. Smith** made a motion to recommend approval of **Docket No. 15-0603-1201**. **Motion carried by voice vote.**

DOCKET NO. 38-0406-1202: **Teresa Luna**, Director, Department of Administration, presented **Docket No. 38-0406-1202**, which governs the use of the exterior of state property in the Capitol Mall and other state facilities with the exception of the Capitol Building. These rules are very similar to what Boise City uses. The rules proposed were posted for 30 days last year in September and then changed. The Idaho State Historical Society has asked to be included in the rules as well.

DOCKET NO. 38-0407-1202: **Teresa Luna**, Director, Department of Administration, presented **Docket No. 38-0407-1202**, which governs the use of the interior of state property in the Capitol Mall and other state facilities with the exception of the Capitol Building. This rule is nearly identical to the previous chapter. The rules also cover the state offices in Lewiston and Idaho Falls. The rules only refer to the common areas, the rest is state agency space and is not public.

DOCKET NO. 38-0408-1202: **Teresa Luna**, Director, Department of Administration, presented **Docket No. 38-0408-1202** which governs the use of the Idaho State Capitol exterior. She reviewed the reservation times for the Jefferson Street steps.

In response to questions, **Ms. Luna** confirmed no open flames are allowed on the Capitol grounds. She also explained that no public hearings were requested in regards to these rules.

Monica Hopkins, ACLU of Idaho, said she is opposed to the new rules because they are extreme and have caused confusion. She said the First Amendment has always meant the regulation of things like graphic displays on hats, buttons, etc. The new rules have unrealistic time constraints and make it hard for working people to get together.

Ms. Hopkins also stated that there is a competing use, the State is using its authority to cut people out of the loop. She said this violates our First Amendment rights and there are rules currently in litigation. Ms. Hopkins wants an end to the rules, because they are erroneous and exceed government powers.

Barbara Pinkerton, representing herself, urged the Subcommittee to reject the rules. She said she would have liked a public hearing on the rules, and she agrees with the ACLU. She said the agency is trying to micromanage behavior, and the public would be confused on the language in the rules. The rules would disallow the public to meet, and urged the Subcommittee to reject all three new chapters.

In response to questions, **Ms. Luna** stated there is a 5-day waiting period for all permits, and there are lots of reasons why a no waiting period is not workable.

Gene Bray, representing himself, said he agrees with the ACLU. He believes candlelight vigils are good and having them disallowed shows the overly powers of the government. He said we have operated for 120 years without such rules.

In response to questions, **Ms. Luna**, stated "no open flames" has been a rule since 1992. Most people use battery operated candles or cell phones, etc. She said this rule has been enforced.

Anne Hausrath, representing herself, said she has served on the Boise City Council for two years. She said there was never a public hearing on these rules. She thought there should be a public hearing and that Idaho residents, as taxpayers, have the right to consult and direct the legislators.

MOTION: **Rep. Smith** made a motion to send **Docket Nos. 38-0406-1202, 38-0407-1202,** and **38-0408-1202** to the full committee without recommendation for further discussion. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 10:45 a.m.

Representative Barbieri
Chair

Kasey Perkins
Secretary