

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Tuesday, January 22, 2013

TIME: 8:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Loertscher, Vice Chairman Batt, Representatives Anderson(1), Andrus, Luker, Crane, Palmer, Sims, Barbieri, Holtzclaw, McMillan, Monks, Packer, Smith, Gannon, Woodings

**ABSENT/
EXCUSED:** None.

GUESTS: Gene Bray, self; Anne Hausrath, self; Barbara Kemp, self; Monica Hopkins, ACLU; Pamela Murray, self; Leroy Fiscus, self; Dennis Stevenson, Administrative Rules; April Rice, Dept. of Admin.; Mary Bolognino, Occupy Boise; Rachel Raue, self; Glen Garity, self; Richard Morgan, self; Ed Wardwell, self; Raveen Welton, Westerberg and Associates.

Chairman Loertscher called the meeting to order at 8:00 a.m.

MOTION: **Rep. Packer** made a motion to approve the minutes of the January 16 and 17, 2013 meeting. **Motion carried by voice vote.**

DOCKET NOS. 38-0406-1202, 38-0407-1202, 38-0408-1202 **Teresa Luna**, Director of Dept. of Administration, presented **Docket Nos. 38-0406-1202, 38-0407-1202, and 38-0408-1202**, Rules that govern the use of the exterior of the state property in the Capitol Mall and other state facilities, the interior of the state property in the Capitol Mall, and the Idaho State Capitol exterior. She stated the rules were first released for 30 days for public review in May and June of 2012, in which they had 29 comments from the public. She also stated that they took the comments into consideration and made changes to the rules and posted them for comments again in September and October of 2012, in which there was no public comment. She stated the reason for the change in the rules is because of safety concerns.

Ms. Luna presented two videos to the Committee members. She stated the first video was of a man who had a side arm weapon and was initially in a "Know your Rights" meeting then joined a boyscout tour of the House floor. She indicated that the video was focused on the House Chambers because that is where the man wandered off to rummage through some of the Representatives' desks and took pictures on his phone. She stated that as the current law stands, security can only ask him to leave and has no other authority. **Ms. Luna** presented the second video which contained footage of the "Occupy Boise Clowns". She stated they were hanging posters on the walls and balconies of the Capitol Building which was not allowed. She pointed out that the person in the video told the security officer that there was no law to prevent her from hanging anything in the Capitol. She also stated this is the reason for the new Rules, to protect state property.

In response to committee questions, **Ms. Luna** went over the candle light vigil rules and stated that the sidewalks around the Capitol Building are open for use, they are not state property. She also clarified that the reason why amplified sound or meetings are only allowed on the Jefferson Street steps is to allow the businesses on those sides to continue doing business without interruption.

In response to further questions, **Ms. Luna**, indicated that the state was sued by the ACLU in early 2012 due to lawmakers passing the "anti-camping" legislation and is currently set for a Summary Judgment hearing in late February.

In response to further questions, **Ms. Luna**, spoke about **Section 400.07**, and stated the section is for the State to recover damages for direct costs due to trash collection, janitorial services, and security services.

Julie Weaver, Deputy Attorney General, Department of Administration, responding to committee questions, stated there is an appeals process for the recovery charge, if disputed.

Chairman Loertscher reminded the Committee that if the Rules are not rejected, they will go into effect.

In response to committee questions, **Ms. Luna**, stated the Department is working on a short handout of the rules for the public using general terms. **Ms. Luna** also explained the penalties for violating the rules are a verbal warning, asking the citizen to stop the behavior, and then calling Idaho State Police (ISP) to determine if an infraction is warranted.

In response to further committee questions, **Ms. Weaver**, indicated that as long as it is determined to be an appropriate public use, signs can be carried around the Capitol Building and other state buildings during the hours specified in the rules. She also stated that ISP will decide if it is within the parameters.

In response to committee questions, **Ms. Luna**, stated the times are set regarding state properties because there are safety issues and lighting is poor. She also stated that the intent is to secure and maintain all state buildings, and that daylight hours are the best for use because it is difficult to secure after hours.

Gene Bray, representing himself, stated that there is no mention regarding firearms in the rules and the guards at the Capitol have stopped school children from carrying signs with sticks attached. He also stated that there is nothing in the rules pertaining to the public use of showers in some state facilities and it should be addressed. He also stated that he believes the rules discourage the exercise of free speech.

Anne Hausrath, representing herself, stated the rules need to be easy to understand and the proposed rules are not. She also stated that she is glad to hear that 24-hour vigils will be allowed. She urged the committee to reject the rules in their entirety.

Barbara Kent, representing herself, stated she is opposed to all of the rules. She also stated there are 18 reasons why permits are currently denied which makes it hard for people to gather at the Capitol.

In response to committee questions, **Ms. Kent**, stated it is difficult to apply for and receive a permit within a day. She said this is sometimes needed because sometimes laws are heard and passed within one day, and it is hard for the public to engage and rally in such cases.

In response to committee questions. **Ms. Luna**, stated that the public does not need a permit to gather together at the Capitol Building. She stated that a permit is only necessary to ensure a group has reserved access to the steps and is provided with a sound amplification system.

Monica Hopkins, Executive Director, ACLU, urged members of the Committee to reject the rules. She stated she believes the proposed rules are extreme and an unnecessary approach in regulating Idahoans' individual freedoms. She also stated she believes there are multiple sections in the rules that violate the First Amendment.

In response to committee questions, **Richard Eppink**, Legal Counsel, ACLU, stated he believes if the committee strikes down the proposed rules, the current case would not proceed because there would, in essence, be no reason for it to.

In response to committee questions, **Ms. Weaver**, stated that the rules process and the current lawsuit are two parallel processes. She also stated it would be up to the Plaintiff's as to whether or not they would drop the lawsuit if the rules were rejected.

In response to questions, **Mr. Eppink**, stated the current lawsuit challenges are from two different categories. One being the **H 404**, anti-camping legislation statute, and the other being the promulgation of the rules.

Mary Bolognino, representing herself, stated that she is opposed to the rules. She stated she believes they are restrictive and, as a lay person, hard to understand.

Rachel Raue, representing herself, urged the Committee to reject all the rules. She stated the current rules are not being enforced for every group and wondered how the new rules might be enforced.

Glen Garrity, representing himself, stated he believes the proposed rules are not needed because there are already laws in place regarding security and safety issues that police enforce.

Ed Wardwell, representing himself, stated he is opposed to the rules.

Ed Waters, representing himself, stated he is concerned that the rules are left up to interpretation regarding free speech.

MOTION: **Rep. Luker** made a motion to approve **Docket No. 38-0407-1202. Motion carried by voice vote.**

MOTION: **Rep. Crane** made a motion to **HOLD Docket Nos. 38-0406-1202 and 38-0408-1202. Motion carried by voice vote.**

ADJOURN: There being no other business to come before the Committee, the meeting adjourned at 10:03 a.m.

Representative Loertscher
Chair

Kasey Perkins
Secretary