Tuesday, December 15, 2020
1:02 p.m. – 2:09 p.m.
Via Microsoft Teams

Members present:
Lieutenant Governor Peggy Flanagan
Representative Ryan Winkler
Representative Jim Nash
Senator Scott Dibble
Senator Warren Limmer
Justice Barry Anderson (proxy for Chief Justice Lorie Gildea)

Advisors present:
Shelly Schrofer, Lt. Col., State Patrol
Eric Roeske, Captain, State Patrol
Commissioner Alice Roberts-Davis, Dept. of Administration
Commissioner John Harrington, Dept. of Public Safety
Chris Guevin, Facilities Management Director, Dept. of Administration
Bob Meyerson, Sergeant-at-Arms, MN House
Sven Lindquist, Sergeant-At Arms, MN Senate
Marilyn Logan, Assistant Sergeant-at-Arms
David Kelliher, Minnesota Historical Society
John Eastham, Ramsey County

Guests:
Cal Ludeman, Secretary of the Minnesota Senate
Col. Matt Langer, State Patrol

I. Call to order
Lt. Governor Peggy Flanagan called the meeting to order at 1:02 p.m.

II. Approval of August 10, 2020 Meeting Minutes
Motion to approve the minutes of August 15, 2020 made by Sen. Dibble and seconded by Sen. Limmer. There were no further comments. By a vote of 6-0 the motion prevailed.

III. Updates regarding fence surrounding the State Capitol Building
Lt. Governor Flanagan noted that since the last ACCAS meeting there were high hopes that COVID-19 cases and deaths would be declining and protests would have slowed. But that is not the case. Minnesotans are frustrated and want to engage in activities as they did before the pandemic. The Legislative Session will start in a few short weeks and we know that the Capitol building does not look like it normally does. The fence remains in place. Lobbyists, insiders and regular citizens find themselves in the same position and cannot get close to the Capitol. We will discuss how Capitol operations are impacted by the fence and what changes have been made to the fence.
a. Commissioner Alice Roberts-Davis, Department of Administration
Commissioner Roberts-Davis stated there have been 23 protest groups on average each month during September and October which includes counter-protesters. Admin worked with the Department of Public Safety (DPS) to ensure access to the Capitol Complex. Admin is not able to grant access to large events due to the Governor’s Executive Order. The Facilities Management Team searches social media postings and reaches out to groups to ensure they seek a permit and are encouraged to apply for a permit which ensures safety for everyone and protects the Capitol Complex grounds. Since the last ACCAS meeting there have been 48 acts of vandalism on the complex from graffiti to destruction of property. Three gates have been added to the fence including on the south steps on the Aurora Promenade, on Parking Lot N and on the east steps.

b. Commissioner John Harrington, Department of Public Safety
Commissioner Harrington reviewed the protests in Minneapolis after the George Floyd murder. Protests also spilled out in the U.S. He noted that Utah was the first Capitol vandalized on May 30. On May 31 and June 1 the fence went up at the Minnesota Capitol. Minneapolis and St. Paul public safety headquarters put up a fence. Hennepin County Sheriff’s Office headquarters and jail has been spray painted and has had fires set after controversial arrests. Metro Transit has had tracks and facilities attacked. US Bank stadium was spray painted. Idaho, Wisconsin, Ohio, Colorado and Pennsylvania have had their Capitols defaced. Public park statues in Minneapolis were defaced and toppled. There was $15 million dollars in public property damage over the course of the year in Minneapolis. St. Paul had damage of $1.5 million over a two-week period. There have been 366 events at the Capitol since June and 86 have been controversial. There have been attempts to drive onto the Capitol lawn, camp at the Capitol and affix signs. The Ohio Capitol had red hand prints defacing it. Because of good information, a plan to deface the Minnesota Capitol with red paint in an October event was blocked as we had the information and we knew what would happen and reduced that possibility. DPS monitors protests on a daily basis. The fence has provided a buffer zone and thus far this buffer zone has helped the Capitol abstain from major damage.

IV. Updates from House, Senate and Supreme Court on planned operations in the Capitol Building
a. Bob Meyerson – House Sergeant of Arms
Bob Meyerson stated that to the extent possible, the House will continue to operate remotely going forward, through the end of the 2021 session. House spaces will be closed to the public with the exception of floor sessions held in the House Chamber. Most staff will continue to telecommute. All committee meetings will be conducted remotely, with no in-person meetings. Floor sessions will be conducted in the House Chamber; member gathering in person will be limited. Those not present in the Chamber will have the opportunity to participate remotely from locations on the complex and elsewhere. Staff that will be attending floor sessions will be limited to those that are critical to the floor proceedings. Other areas designated in the Capitol near the House Chamber have been and will be used by House members remotely participating in floor sessions. There will be limited space for pubic attendance on the 3rd floor House Gallery. Public attending floor sessions will be given a pass and escorted in and out of the Capitol.

Rep. Nash asked if there have been conversations on swearing in day as to what will happen at the Capitol as the Oath of Office needs to be taken in person. Mr. Meyerson stated that is being discussed currently with consideration to legal requirements.

Sen. Limmer asked if those policies are originating from your office or leadership in the House. Mr. Meyerson responded that he takes his direction from leadership and under rules from the House. He takes direction and establishes a plan under the direction of House leadership.
b. Secretary of the Senate – Cal Ludeman

The Senate has a comprehensive COVID Preparedness Plan and has instituted a rule change which allows Senators to vote remotely, but like the House they will have daily sessions in the Chamber that could include Senators stationed at alternate locations. Their participation is conducted by telephone to their leaders to report their votes. That is not expected to change. There will be limited staff participating in the Chamber and the Capitol as well. As it relates to the opening day, a plan will be communicated to all 67 senators on how they will be sworn in. They will have a Zoom strategy that satisfies the legal requirements to take the Oath. That is being vetted legally. Committees will be different from what you heard from Mr. Meyerson. The Senate will have hybrid committees. Some technology is being purchased and will be installed by February. That will allow partial participation in person. Training and technology is being prepared and installed as we speak. There will be strict limitations on who can attend. Like the House, the Senate would have some public attendees but it would be very limited and the public would be escorted as well. Staff have a teleworking agreement and up to half would be at MSB, and approximately 30 or so at the Capitol on average.

c. Justice Anderson – Supreme Court

Justice Anderson stated the Judicial Branch has been conducting hearings from their Judicial Center Court Room on a remote basis since last spring and will continue until they are able to return to the Capitol Courtroom. It has worked pretty well according to the feedback received from lawyers and participants. They look forward to returning to the Capitol Courtroom when the fence comes down and public access is restored.

Sen. Limmer asked if it was a concern that there was not a fence around the Judicial Center, although there was one around the Capitol. Justice Anderson responded that he was not aware that there were issues at the Judicial Center. He cannot say that it has been a concern to date. There have been improvements providing additional internal security which they are very grateful for and are looking forward to.

V. Discussion of proposed factors in determining fence placement

The Lt. Governor noted that the Capitol should be a welcoming place as it has always has been. It would be helpful to get a sense of what factors the Department of Administration and Public Safety would consider before making a recommendation of removing the fence.

a. Commissioner Alice Roberts-Davis, Department of Administration

Commissioner Roberts-Davis noted Admin’s role would be to work with DPS to determine when the threat has diminished. Their main role would be to facilitate removal of the fence. They will ensure there are a lower number of protests happening, lower number of vandalisms happening on the Capitol Complex and they will work cooperatively with DPS to ensure that things that are happening are safe for all visiting the Capitol.

b. Commissioner John Harrington, Department of Public Safety

Commissioner Harrington noted they are looking at personal safety of the staff, visitors and elected representatives. And also the facility itself and protecting it from vandalism, fire and other destructive acts. The fence has provided a buffer zone to keep the Capitol facility safe. DPS tracks on a daily basis threats to other State Capitols and facilities. Before we would suggest the fence come down, we would like to see a diminution of the number of protests that are organized with groups that have vandalism or assaultive behavior history. DPS would also look at the political climate as there are groups that are volatile that are in conflict with each other.
Sen. Limmer asked about the threats, and are these times different? During the anti-war volatile protests of the 1970s there was not a fence around the Capitol. What is the threat level? The Capitol is intended to invite the public to satisfy its role of government. Also, are there enough Capitol Security personnel to satisfy a potential threat while the Capitol is being used?

Commissioner Harrington discussed the staffing, which needs to be looked at. He noted there are always threats. DPS is trying to balance those threats with access to the Capitol while protecting a major state investment. The significant difference is that he has not seen the Capitol and public buildings targeted in the same way that they are being targeted now. Intel and information is still being charted on defacing the Capitol as a tactic. Having the fence stay up is prudent while those threats continue and he recommends the fence stay up.

Commissioner Roberts Davis again noted that since the last time the ACCAS met there have been 48 incidents, most of which have been graffiti, broken windows and chips in memorials. After a major investment of $310 million of the Capitol, we are cautious of what we would want to see happen close to the Capitol.

Rep. Winkler noted as long as the House, Senate and Governor’s Office are operating remotely, public access will not happen due to COVID related reasons. The fence doesn’t change anything in terms of public access. At such time when the legislature, Governor’s Office and other state officials begin conducting business in person, the fence will need to come down. Admin and DPS will plan for that to happen in 2021. The public will have the same or similar access that they had before.

Sen. Limmer asked Secretary Ludeman if the Senate was planning on hybrid committee meetings in person, Zoom, face-to-face in both the Senate office building and the Capitol hearing rooms? Secretary Ludeman responded that it would be an In Zoom or Super Zoom and your CA or CLA will be trained to allow Senators in person or on Zoom, to conduct useful publicly streamed You Tube or senate streaming. They have a constitutional obligation to do their business in public and that meets the demand of public business.

Sen. Limmer asked since this is a budget year, are the bonding proposals that this committee recommended to the legislature still alive and real. Just like any bonding proposal, some items were not covered. Are there enough Capitol security personnel in the building? Do we have enough budget to cover this responsibility?

Lt. Governor stated she cannot speak on behalf of the House or Senate and what they plan to move forward. On their end they are still determining what will be included in the Governor’s Proposal. Chris Guevins may speak on what is included.

Chris Guevins noted they are considering that. Out of the $26-28 million requested, $10 million was received. The physical security initiatives are severely unfunded. The draft report for 2021 is being put together. It is in its early draft stages and Capt. Roeske and Chris are recommending a slight pause on additional bonded funds. They are asking for that as so much time has elapsed time since the additional studies. A refreshment on threat assessment needs to be completed. In 2012 when the initial study was done, things were a little different. They are preparing for a consultant to take a look at the remaining elements that are part of the predesign on the buildings not completed and look at the Capitol grounds and around the Minnesota Senate Building just to see if there are better technologies and more poignant security measures based on the threats today vs. the threats of 2011. We want to make sure that what we do is based on the latest security threats. We suspect that elements put into the study and predesign will be pertinent, but we do need to look at things based at what is going on based on the recent security threats.
Commissioner Harrington discussed staffing, which needs to be looked at. He noted that at least a couple of people on this call have had some people show up at their house in the last few years. This might be because we are not in session but there is an aggressive tone to protests these days. There is concern for not being able to staff all members of the House and Senate and provide the level of security that is appropriate. Even given that we are meeting virtually, there have been 236 troopers at Capitol events, 20,000 total hours, $1.3 million dollars spent since July providing security at the Capitol which is additional resources.

Sen. Limmer noted this is a reminder to look at Capitol security officers as an agenda item for an upcoming meeting.

VI. Other Business
Rep. Winkler noted that two members of the House have asked about accommodating their spiritual needs on smudging and sage burning in the Rotunda. Commissioner Roberts-Davis stated she will look at that. Please email her and she will work with facilities on a plan. Lt. Governor stated the plan is to do that early in the morning and if we could have flexibility that would be welcome. Members will be updated when the plan is available.

The Lt. Governor thanked members for their thoughtfulness, care and concern that Minnesotans are seen, heard, valued and safe. Legislative, executive and judicial branches are able to conduct their business and feel safe as well. We have additional items to talk about. The Annual Report of the Advisory Committee on Capitol Security is due in mid-January so we will review the document.

VII. Adjourn
Sen. Limmer moved to adjourn; seconded by Rep. Winkler. By a vote of 5-0 the motion passed and the meeting adjourned at 2:09 p.m. (Justice Barry Anderson was excused from the meeting earlier.)