

MAINE STATE LEGISLATURE

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Legislative Council Info.



STATE OF MAINE

116th LEGISLATURE

LEGISLATIVE COUNCIL

REP. DAN A. GWADOSKY
CHAIR

SEN. DENNIS L. DUTREMBLE
VICE-CHAIR

SEN. DONALD E. ESTY, JR.
SEN. PAMELA L. CAHILL
SEN. BEVERLY MINER BUSTIN
SEN. DAVID L. CARPENTER
REP. JOHN L. MARTIN
REP. WALTER E. WHITCOMB
REP. PATRICK E. PARADIS
REP. STEPHEN M. ZIRNKILTON

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

August 16, 1993

MEETING SUMMARY

Approved September 8, 1993

CALL TO ORDER

The Chair, Rep. Gwadosky, called the Council to order at 3:22 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: Sen. Dutremble, Sen. Esty, Sen. Cahill,
Sen. Bustin, Sen. Carpenter

Representatives: Speaker Martin, Rep. Gwadosky, Rep.
Whitcomb, Rep. Paradis, Rep. Zirnkilton

Legislative Officers: Sally Tubbesing, Executive Director,
Legislative Council
Martha Freeman, Director, Office of
Policy and Legal Analysis
Lynn Randall, State Law Librarian
John Wakefield, Director, Office of
Fiscal and Program Review
Richard N. Sawyer, Jr., Administrative
Services Director
Margaret Matheson, Interim Revisor of
Statutes
Joy O'Brien, Secretary of the Senate
Joseph Mayo, Clerk of the House

SECRETARY'S REPORT

The Summary of the July 14, 1993 Council meeting was approved and placed on file (Motion by President Dutremble; second by Senator Cahill; unanimous)

EXECUTIVE DIRECTOR'S REPORT

Sally Tubbesing reported that she had no items for members' consideration that were not otherwise on the Council agenda.

OLD BUSINESS

With no objection; the Chair, Rep. Gwadosky, proceeded to take up this item out of order.

Item #1: Report from the State House and Capitol Park Commission regarding the Vietnam Veterans' Memorial.

The Chair, Rep. Gwadosky, reminded Council members that the proposal from Mr. David Lovejoy to make various repairs and enhancements to the Memorial had originally been presented to the Council last fall and referred to the State House Commission at that time. He then recognized Earle Shettleworth, Chair of the State House and Capitol Park Commission. Mr. Shettleworth prefaced his remarks by acknowledging the Council's pivotal role in allocating funds for long overdue repairs to both the stone wall and fence surrounding the State House and the dome ceiling. He then proceeded with a brief description of both the process the Commission had employed in reviewing the proposal from Mr. Lovejoy and the history of the Memorial itself, which was erected in 1985 under the aegis of the Vietnam Veterans' Leadership Project. He described the original design process as an interactive one between the sculptor, Roger Richmond, veterans through VVLP, and the general public throughout the State of Maine, who had an opportunity to see models of the designs submitted by the two finalists and to comment on them.

Mr. Shettleworth noted that the Subcommittee he had formed to review Mr. Lovejoy's proposals included representatives from the original sponsoring veterans' organization -- VVLP; the designer of the Memorial, Roger Richmond; the Director of the Bureau of General Services, James Keil; members of the Commission, and Mr. Lovejoy himself. He acknowledged the value of Mr. Lovejoy's efforts, noting that he had heightened awareness about the Memorial's general State of disrepair.

Mr. Shettlesworth then described each of Mr. Lovejoy's proposals and the Commission's conclusions and recommendations. They included:

- Replacement of the lighting at the base of the Memorial.

The Commission has worked with the Bureau of General Services to explore options and has concluded that it will cost approximately \$5,000 to replace the lights. The Commission has agreed, with the Council's approval, to spend funds out of its budget for this purpose.

- Repair of the walk surrounding the Memorial.

The Bureau of General Services has agreed to take responsibility for restoring the walk.

- Enhancement of landscaping in the area surrounding the Memorial.

The Commission has worked with Marian Pressley to develop a plan that is consistent with the Olmsted Master Plan for Capitol Park; however, no funds are available in the Commission's budget at this time to purchase additional plants and trees.

- Addition of flags to the Memorial.

Mr. Lovejoy had proposed adding two flags to the Memorial -- the United States flag and the POW-MIA flag. Mr. Shettlesworth noted that the subcommittee had discussed this proposal extensively, and that discussions continue, as veterans' groups from across the State have come forward and expressed their views. He reiterated, in response to a question from Sen. Bustin, that flags had been considered when the Memorial was originally designed in 1985, but had been rejected at that time.

He reported that a consensus from the recent discussions appears to have emerged that a single flag pole which would fly the U.S. and Maine flags be placed in an area adjacent to the Memorial. Mr. Shettlesworth then presented the Commission's recommendation to the Council that a single flag pole be designed with a base which could include the names of military personnel from Maine who had lost their lives in Vietnam or were POW's/MIA's and that the exact placement and design of the Memorial be determined by the sculptor, Roger Richmond and Marian Pressley.

Mr. Shettleworth closed his presentation with some general observations about Capitol Park, a Park which is even older than the State House, and which has been preserved since 1827 as a natural landscape to frame the State House. Referring to recent proposals to construct a new series of war memorials in the Capitol Complex, he noted the importance of finding a suitable location other than the Park.

Following Mr. Shettleworth's presentation, the Chair, Representative Gwadosky, recognized several persons in attendance at the meeting and invited each to speak briefly.

James Keil, Director, Bureau of General Services

Acknowledging the thoughtful work of Mr. Lovejoy, Mr. Keil noted that he had also been impressed to learn of the extensive time and effort that had gone into the design of the Memorial originally and committed the Bureau to working with others to restore the Memorial.

In response to a question from Sen. Cahill, he estimated that repair of the walk would be \$3,000 and that the Bureau of General Services could absorb this in its current budget.

David Lovejoy, Hallowell, Maine

Mr. Lovejoy thanked everyone who had been involved in the review of his proposals. He noted that he still hoped that there could be 2 flags, but that the plaque that had been proposed was an acceptable alternative at this time.

In response to a question from Sen. Cahill, he agreed that the plaque, not a second flag pole, represented the consensus at this point. Rep. Gwadosky congratulated Mr. Lovejoy on the effort that he has personally expended on this project.

Motion: That the Council adopt the recommendations of the State House and Capitol Park Commission, including immediate replacement of the lights and repair of the walk at State expense and the design of a single flag pole with a plaque at the base, to be fabricated and installed at such time as sufficient funds have been made available for this purpose (Motion by Sen. Carpenter; second by Speaker Martin).

The Chair then invited others to testify, and the following persons responded to his invitation:

Michael A. Williams, Perry, Maine

Mr. Williams, the Assistant Director of the POW-MIA group in Maine expressed his view that the POW flag should be flown over the Memorial.

Mr. John Sapp

Noting that he was not a part of any organized veterans' group, Mr. Sapp advocated the creation of a veterans' memorial park in Capitol Park and urged the Council to take up this issue before it made a decision about the placement of flags around the Vietnam Memorial.

Mr. Larry Bailey

Mr. Bailey expressed concern that the Vietnam Memorial was rusting. In response to a question, Mr. Shettleworth noted that the material had been chosen with the knowledge that it would rust to a point and then stop; thus its current condition was planned. Mr. Bailey also expressed support for flying the POW/MIA flag.

Richard Blouin, Legislative Chair, Maine Veterans' Coordinating Committee

Mr. Blouin deplored the lack of maintenance of the Memorial. He further noted that the request to install flags at the Memorial was not new, but that the Governor had agreed to fly the POW-MIA flags from the State House only on Veterans' holidays and any POW-MIA recognition day.

Elizabeth Soucek, Legislative Chair, Maine Federation of Garden Clubs

Ms. Soucek expressed concern on behalf of her organization about any further construction in Capitol Park, advocating that it be left green and complementary to the State House. She expressed support for the location of a memorial park somewhere else.

John Grady, VFW, Eastport Area

Mr. Grady advocated the use of a "mast" motif for the flag pole and expressed concern about maintenance.

Following these presentations, Council members returned to discussion of the pending motion, raising the following concerns and considerations:

- The relationship between Capitol Park and the area where the Naval Reserve Armory is located. (Sen. Bustin)

Mr. Shettleworth clarified that there are two distinct segments of the Park -- the first is Capitol Park, which is owned by the State and was originally set aside as a naturalistic area to frame the State House -- a designation which would argue against the construction of additional memorials in this area. The second part is the City-owned portion of the Park, which was originally conceived as a recreational area.

- The group Mr. Lovejoy represents (Sen. Bustin)

Mr. Lovejoy stated that he was working on behalf of a small committee that had no official name or title. Speaker Martin pointed out that the Vietnam Veterans Leadership Project had been a formally organized group and should continue to have a formal role in discussions related to the memorial.

- The reason the Memorial had been located in Capitol Park originally (Rep. Paradis)

Rep. Paradis' question grew out of discussion about issues of maintaining the security of the Memorial: the Memorial has been the target of vandalism several times since it was erected. He questioned whether there had been any discussion of moving the Memorial.

Mr. Keil responded that security cameras had been installed to address the vandalism and that they are operational. However, they require the lighting around the Memorial to be in good repair. Some general ensued discussion about other locations for the existing memorial. Sen. Carpenter noted that if had he been involved in the original discussions in 1985, he would have opted to put the Memorial on federal land.

Discussion again returned to the pending motion, with several members expressing concern about approving the addition of a flag pole and plaque to the Memorial based on a consensus that appeared to be elusive. Sen. Cahill offered the following amendment to the original motion:

Motion: That the pending motion be amended to approve only replacement of the lighting and restoration of the walk and that the Veterans' Coordinating Committee be asked to get together and report back to the Council at its September meeting regarding the flag and the plaque. (Motion by Sen. Cahill; second by Rep. Whitcomb).

Discussion: Speaker Martin objected to the motion, noting that if the Council was going to approve changes to the existing Memorial, other groups in addition to the Coordinating Committee must be involved -- specifically the VVLP. He therefore offered the following motion:

Motion: That the work on the lighting and walks proceed and that the previously designated designers -- Marian Pressley and Roger Richmond -- bring the proposed design of the flag pole and plaque back to the Council for review. (Motion by Speaker Martin; second by Rep. Whitcomb).

Discussion: The Chair recognized Rep. Susan Farnsworth, who was in attendance. Rep. Farnsworth reported that she had talked with many people over the past weeks about the Memorial and that she had been struck that while all felt comfortable speaking for themselves, they did not wish to speak on behalf of any group. Noting that the addition of flags represents a major change to the original Memorial, she expressed her hope that work on the single flag pole for the United States and State of Maine flags could proceed while the discussion of the more controversial POW-MIA flag continued. The Chair clarified that the motion would authorize proceeding with the design of the single flag pole, including its location and the plaque, under the auspices of the State House and Capitol Park Commission.

The amended motion was approved unanimously.

The Chair thanked all of those who had participated in the discussion.

EXECUTIVE SESSION

Motion: That the Council proceed to go into Executive Session for the purpose of discussing matters related to personnel. (Motion by Speaker Martin; no objection).

The Council proceeded to go into Executive Session at 4:55 p.m.

RECONVENE

The Council reconvened in open session at 5:22 p.m. on the motion of Speaker Martin (second by Sen. Bustin, approved 9-1).

Motion: That the compensation of legislative employees be adjusted in a manner comparable to the adjustments that have already been implemented for Confidential employees at the direction of the Governor with the objective of reestablishing parity with Confidential employees. (Motion by Speaker Martin; second by Sen. Bustin).

Motion: That the item be tabled. (Motion by Sen. Esty; second by Sen. Cahill; failed 5-5).

Discussion: Council members raised several questions about the impact of the motion:

- The relationship of the motion to the Council's earlier actions with regard to budget cuts (Rep. Whitcomb).

- Whether it has always been the Council's practice to follow the executive branch (Sen. Carpenter). Speaker Martin replied that the Council had traditionally followed the compensation actions awarded to Confidential employees with the exception that no legislative employee had received either the 7% or 5% cost of living increases which were awarded to executive branch employees in July, 1992 and October, 1992 respectively with offsetting shutdown and furlough days. Rep. Gwadosky clarified that the proposal would award the 7% and 5% cost of living increases prospectively.
- Whether the motion included furlough days (Rep. Whitcomb).
- Whether legislative employees should track those employees who occupy "major policy-influencing positions as defined in statute (Title II and Title V MRSA). (Rep. Gwadosky)

Speaker Martin noted that the Council's tradition had been to track those Confidential employees who were not major policy influencing.

The vote was again taken on the original motion, and it failed.

The Chair then returned to the printed agenda.

REPORTS FROM COUNCIL COMMITTEES

Personnel Committee

Rep. Gwadosky, Committee Chair, reported that the Committee had met prior to the Council meeting and had had a lengthy discussion of "work rules" with the Secretary of the Senate, Clerk of the House and the Office Directors. He reported that the Committee would be developing some recommendations for future Council consideration.

Motion: That the Executive Director be authorized to proceed with advertising the vacant position of Revisor of Statutes. (Motion by Sen. Cahill; second by Sen. Carpenter; unanimous).

Committee on Total Quality Management in the Legislature

Rep. Gwadosky reported that the Committee had met and had begun to frame priorities for its work in the coming months.

No Council action was required on this item.

OLD BUSINESS

- Item #2: Request from Jt. Standing Committee on Audit & Program Review for Allocation of Resources to Support Committee's Interim Work Schedule (Tabled at July 14, 1993 meeting)

The Council took no action on this item.

NEW BUSINESS

Item #1: Submission of Interim Report from Joint Select Committee on Rules

Sen. Bustin, who is Senate Chair of the Jt. Select Committee, drew members' attention to the brief progress report which had been prepared pursuant to Joint Rule. She reported that the Committee was engaged in a thorough study of "concept drafting" options and would be issuing a complete report later in the fall.

No Council action was required.

Item #2: Request for Use of Capitol Park during Employee Recognition Week

Motion: That the request from Commissioner Millett be approved. (Motion by Rep. Paradis; second by Sen. Cahill; unanimous).

ANNOUNCEMENTS AND REMARKS

The Chair, Rep. Gwadsoky, reminded Council members that State Treasurer Sam Shapiro had arranged a meeting with representatives from Moody's on August 19 to discuss the state's credit rating.

ADJOURNMENT

The Council meeting was adjourned at 5:45 p.m., on the motion of Sen. Cahill.