

MAINE STATE LEGISLATURE

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REP. ELIZABETH H. MITCHELL
CHAIR

SEN. MARK W. LAWRENCE
VICE-CHAIR



118th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. CHELLIE PINGREE
SEN. JANE A. AMERO
SEN. ANNE M. RAND
SEN. R. LEO KIEFFER
REP. CAROL A. KONTOS
REP. JAMES O. DONNELLY
REP. MICHAEL V. SAXL
REP. RICHARD H. CAMPBELL

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

MEETING SUMMARY

TUESDAY, OCTOBER 13, 1998

Approved November 18, 1998

CALL TO ORDER

The Chair, Speaker Mitchell, called the Council to order at 2:25 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Lawrence, Sen. Rand, Sen. Kieffer Absent: Senators Pingree and Amero
Representatives:	Speaker Mitchell, Rep. Kontos, Rep. Saxl, Rep. Campbell Absent: Rep. Donnelly
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council John Wakefield, Director, Office of Fiscal and Program Review James Clair, Deputy Director, Office of Fiscal and Program Review David Boulter, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Lynn Randall, State Law Librarian

SUMMARY OF SEPTEMBER 14, 1998 COUNCIL MEETING

Motion: That the Meeting Summary be approved. (Motion by Senate President Lawrence; second by Rep. Kontos; unanimous).

OLD BUSINESS

Item #2: State House Renovations: Guaranteed Maximum Price presented by Granger Northern, Inc.

The Chair, Speaker Mitchell, recognized Ed O'Brien, President of Granger Northern, Inc. and Bruce Hilfrank, Senior Project Manager for the State House renovations. Mr. O'Brien drew Council members' to his October 10 letter, which presented Granger's Guaranteed Maximum Price (GMP) for the renovations underway. Speaker Mitchell asked Stan Fairservice, the Council's Owner's Representative, to comment on the proposed GMP, and he stated that he had reviewed the letter and supporting documents carefully and found everything to be "in line."

Senator Kieffer, referring to information that had been prepared in response to a Freedom of Information request and recently distributed to Council members, asked why there appeared to be discrepancies between that information and the information in Granger Northern's letter. Mr. O'Brien responded that the GMP document includes all of the renovation work under way, while the information provided to the Bangor Daily News was specific to the renovation of the House Chamber.

Senator Kieffer then asked what was included under the category "Balance to Complete", and Mr. O'Brien explained that these were estimates for work that were not quantifiable when some subcontracts were originally negotiated. As an example, he pointed to the contract for painting: while it was possible to quantify some work at the time of contract signing, it was not possible to quantify all of the painting that would be required; thus, the contract included a unit price for additional painting, and this amount is included in the GMP. Speaker Mitchell, in an effort to clarify the essence of a Guaranteed Maximum Price, offered that "if actual costs are over, you (Granger) absorb it; if they are under, the Legislature pays only the actual cost." Mr. O'Brien affirmed this.

Rep. Campbell then asked how the GMP compares to the original estimates for work. Mr. O'Brien stated that while some of the work originally contemplated was not being completed this summer (e.g. the stairwells), the GMP carries allowances for those projects; overall, the GMP is within 2% (plus or minus) of the original budget. Rep. Campbell then asked for confirmation that none of the funds originally budgeted for these deferred projects had been shifted to fund other work. Mr. O'Brien offered the requested confirmation.

Speaker Mitchell asked Sally Tubbesing to explain the implications if the Council were to again defer approval of the GMP; and Ms. Tubbesing responded that she would have no authorization to process additional invoices from Granger Northern for work that has already been completed.

Motion: That the Council approve the Guaranteed Maximum Price as presented by Granger Northern, Inc. (Motion by Rep. Saxl; second by Sen. Pingree; approved 6-3).

The Chair, Speaker Mitchell thanked Stan Fairservice for his extraordinary efforts on the Council's behalf through the renovations; and Senator Kieffer added his appreciation for Mr. Fairservice's work. Speaker Mitchell then thanked Mr. O'Brien and Mr. Hilfrank for their presentation and their work.

She then returned to the printed agenda.

REPORTS

Item #1: Renovations: Status Report Stan Fairservice and Sally Tubbesing

Mr. Fairservice offered a brief status report on work in the various projects.

No Council action was required.

Item #2: Updates from Staff Offices

▪ **Interim Studies**

David Boulter, Director, Office of Policy and Legal Analysis, drew members' attention to the printed summary. He noted that all studies are either underway or have a definite schedule to begin and that some were, indeed, in the process of completing their work.

This item required no formal Council action.

▪ **Legislative Record**

Paul Mayotte, Director of Legislative Information Services, reported that the indexes for the Records for the 114th, 115th, and 116th Legislatures are all in various stages of final review and that they would be ready to send to the printer. Rep. Kontos expressed her deep appreciation to Mr. Mayotte and all of the staff who had worked on this project for their efforts.

This item required no formal Council action.

▪ **Revenue Update**

John Wakefield and Jim Clair provided Council members with a packet of materials that included the following:

- General Fund Revenues for September
- Information related to some specific requests from the September Council meeting.
- Update on the General Fund "Structural Gap" for the 2000-2001 Biennium.

Council discussion focused on the structural gap and, specifically, on questions related to the status of the Rainy Day Fund and its relationship to the Tax Relief Fund. Discussion concluded with consensus that the Council should request a formal opinion from the Attorney General regarding the maximum allowable limit that the statute currently defines for the Rainy Day Fund.

Motion: That staff in the Office of Fiscal and Program Review draft a letter to the Attorney General. (Motion by Rep. Kontos; second by Senate President Lawrence; unanimous).

REPORTS FROM COUNCIL COMMITTEES

Migration Oversight Steering Committee

- **Year 2000**

Paul Mayotte, in the temporary absence of Senate President Lawrence, Committee Chair, drew members' attention to the materials in their packet regarding the pending proposal to contract for Year 2000 work on the Legislature's computer system. He reported that he and his staff had done additional reference checking on the 3 firms being considered and that Sally Tubbesing had written to the two firms who proposed to use off shore facilities for this work, asking them to provide additional information regarding employee compensation. One of these firms, Datamatics, is based in Florida; and the other, CST2000, is based in Portland. Jim Clair stated that the Office of Fiscal and Program Review had examined the information provided in response to this request and concluded that both firms pay wages that would place the employees in the middle class in India - or higher.

Senator Kieffer asked Mr. Mayotte if he was comfortable with the technical expertise of all 3 firms; and Mr. Mayotte responded that extensive reference checks supported the technical capabilities of all 3. In response to a question from Speaker Mitchell, he commented that while the project is fairly small, it is an advantage to have a vendor that is available to meet face-to-face. The discussion then turned to the discrepancy in the amount of the bids: CST had submitted a revised bid of \$200,000 for the work; and Datamatics \$76,640.

Motion: That the Council accept the bid proposal submitted by Datamatics. (Motion by Senate President Lawrence; second by Rep. Saxl; failed 5-4).

Motion: That the Legislative Council accept the bid proposal submitted by CST2000. (Motion by Sen. Rand; second by Sen. Pingree; approved 6-3).

Senator Amero, referring to the information available regarding references, emphasized her opposition to the Council's action to approve a contract that was three times the amount of the low bid.

- **Migration Project Status**

Senate President Lawrence reported that the Committee had met the previous Thursday. A consultant will be brought in to work with the Secretary of the Senate, the Clerk of the House and their staffs to define the scope of the work that must be incorporated in the Migration project to support the chambers. The Committee has also concluded that it is desirable to have KPMG come in to review the Legislature's business processes and to identify opportunities for achieving efficiencies in the process before any work on Bill Drafting and Bill Status proceeds. President Lawrence noted that this would delay the project.

EXECUTIVE SESSION

Motion: That the Council go into Executive Session to discuss matters related to pending contracts. (Motion by Senate President Lawrence; second by Sen. Rand; unanimous).

The Council proceeded to go into Executive Session at 3:55 p.m.

RECONVENE

The Council reconvened at 4:40 p.m.

NEW BUSINESS

No items were considered.

ADJOURNMENT

The Council meeting was adjourned at 4:41 p.m., on the motion of the Chair.