



SEN. ROGER J. KATZ, CHAIR
REP. DAVID C. BURNS, CHAIR

MEMBERS:

SEN. MARGARET M. CRAVEN
SEN. BILL DIAMOND
SEN. EARLE L. MCCORMICK
SEN. NANCY B. SULLIVAN
SEN. GARRETT P. MASON
REP. DONALD E. PILON
REP. ANDREA M. BOLAND
REP. JOYCE A. FITZPATRICK
REP. LESLIE T. FOSSEL
REP. CHUCK KRUGER

**MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE**

Meeting Summary

January 27, 2012

Accepted February 10, 2012

CALL TO ORDER

The Chair, Senator Katz, called the Government Oversight Committee to order at 9:10 a.m. in the Burton Cross Building.

ATTENDANCE

Senators:

Sen. Katz, Sen. Craven, and Sen. McCormick

Joining the meeting in progress: Sen. Diamond and Sen. Mason

Absent: Sen. Sullivan

Representatives:

Rep. Burns, Rep. Pilon, Rep. Boland, Rep. Fossel, Rep. Fitzpatrick, and Rep. Kruger

Legislative Officers and Staff:

Beth Ashcroft, Director of OPEGA
Etta Connors, Adm. Secretary, OPEGA

Executive Branch Officers and Staff Providing Information to the Committee:

Clifford Wells, Director, Emergency Communications Bureau, Department of Public Safety
Donald McCormack, Director, Bureau of General Services
Jonathan Nass, Sr. Policy Advisor, Office of the Governor

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARY OF THE JANUARY 6, 2012 GOC MEETING

The Meeting Summary of January 6, 2012 was accepted as written.

NEW BUSINESS

• Consideration of Possible Rapid Response Review of Maine State Housing Authority Vendor Payments

The GOC Chairs asked the Committee to consider moving a piece of the MSHA review already on OPEGA's work plan into a rapid response project for OPEGA. OPEGA was not expecting to begin work on the review until at least March, but because there has recently been much publicity and rhetoric surrounding certain MSHA's vendors, the Chairs felt the GOC was the only forum where the issue can be aired in an objective, transparent and fair measured way, and it seemed that would be of value in this situation.

Chair Katz recognized Peter Merrill, Director, Communications and Planning, MSHA. Mr. Merrill said MSHA is frustrated by all of the banter in the press, so to that end, they do not object to moving forward with the rapid response investigation.

In response to Rep. Pilon's concern of who was going to be doing the review, OPEGA or the Maine Heritage Policy Center (MHPC), and that it not become a political issue, Chair Katz said that neither Chair Burns nor he has had any contact with MHPC or any organization with respect to the matter.

Sen. McCormick wants to make sure that if the GOC agrees with a rapid response investigation of MSHA that it is thorough and in depth enough to answer all the questions raised in the media. He would recommend that OPEGA be given enough time to do a thorough investigation.

Chair Burns cautioned the GOC that they not get into a protracted investigation that is going to put the current reviews on the back burner. He thinks the GOC needs to make sure that they focus on the issues that have to be answered now regarding MSHA, but not get into the full review.

Committee members discussed limiting the scope of the rapid response to Maine State Housing Authority's sponsorships, contributions, memberships and travel and meal expenses for the past five years.

Sen. Craven noted that the public controversy had involved payments over a 10 year period. If the timeframe is limited, all issues may not be addressed. Other members agreed OPEGA should have the flexibility to go back as far as necessary to address issues identified, but should not be required to cover a 10 year period.

Director Ashcroft would like to take the approach of reviewing a minimum of 5 years, and if needed, go back further to address all serious questions that have been raised publicly. Director Ashcroft said it is possible there will be more press regarding MSHA before OPEGA's investigation is complete and wanted the GOC to know that once they give the review to OPEGA to do, she would not expect to feel pressure, nor would she respond to any pressure, to conduct the review differently than what has been planned.

Rep. Boland noted that the issues that had been raised in the press included the high cost of affordable housing projects authorized by MSHA and thought that should be reviewed as well. Director Ashcroft wanted to make it clear to the GOC that the issue raised by Rep. Boland was an entirely different kind of review and a separate piece that would be better addressed in the broader review of MSHA that would still be on the work plan. Rep. Boland agreed to wait on the issue of cost per unit.

Director Ashcroft asked for clarification for herself, as well as Mr. Merrill, that the GOC's intended scope included OPEGA researching any vendor payments where the nature of the vendor or amount of the payment raised questions. Even if it was not a sponsorship, contribution, membership, or travel expense, but some other unusual payment she thinks the GOC and the Legislature would be interested in knowing about, the Director would tend to report that. She wanted to make it clear that OPEGA will look at anything that would be of interest to the GOC if it is substantial or significant in anyway.

Sen. Diamond thinks the investigation of MSHA is important, and that the GOC will approach the issue in a nonpartisan manner and will have to be sensitive to the outside networking regarding MSHA. The Committee agreed.

Motion: That the Government Oversight Committee authorizes OPEGA to do a rapid response investigation of the Maine State Housing Authority's sponsorships, contributions, memberships and travel and meal expenses for at least the last 5 years, and going back further if the Director deems it necessary. (Motion by Sen. Craven, second by Rep. Kruger, Passed, unanimous vote – 11 – 0).

The Committee thanked Mr. Merrill.

- **Status of Follow-up on OPEGA's 2010 Report on Emergency Communications in Kennebec County**

Director Ashcroft summarized what has occurred since the release of OPEGA's Report and the current status of the implementation of the Report recommendations. She described the actions that had been taken by the Department of Public Safety (DPS), the Public Utilities Commission's Emergency Services Communications Bureau (ESCB) and the Legislature on the 8 recommendations. At this point, OPEGA will not be following up any further on 6 of the 8 recommendations where the expected actions had been completed such that the issues had been addressed. The two recommendations OPEGA will still be following up on are related to:

- improving consistency of E-911 call transfers between the State's emergency communications center (ECCs) including eliminating the blind transfers; and
- bringing more equity to the distribution of workload or costs associated with the answering of E-911 calls and from cell phones.

DPS has taken steps to improve the transfer of calls from the State run PSAPs to other ECCs. OPEGA understands that, in addition, the ESCB is currently field testing a call transfer policy developed by a stakeholder group that, if implemented, would apply to all PSAPs. OPEGA intends to continue its follow-up at least to the point of understanding what their field testing showed regarding the implementation of the policy.

To the degree it has made sense technologically, and there has been a willingness to receive the calls, the ESCB has been working with the communication providers to redirect cell phone calls out of the State run PSAPs and into the PSAP's in the locality of where those calls are generating from. There has been some additional redistribution beyond what was in place at the time that OPEGA conducted its review, but the Director thinks ESCB has primarily been waiting to see what the Legislature might do in terms of further consolidating the number of PSAPs. It does not make sense to spend a lot of time and energy going through the process for rerouting the calls if there were going to be fewer PSAPs.

OPEGA will continue to follow-up on what the Emergency Services Communication Bureau takes for action on cell phone calls.

The Director also brought the following to the GOC's attention:

- The issue of whether, and how, there should be further standardization and consistency in the handling of calls for police and fire is still being debated. The Quality Assurance audit of all PSAPs that the ESCB commissioned in response to the OPEGA report strongly advocates for adopting standardized protocols for fire and police similar to the Emergency Medical Dispatch protocol already mandated by the States. There are significant differences in opinion among the various ECCS, DPS and ESCB on the benefits and drawback on this approach. OPEGA will no longer be actively following up on this as the state agencies have done what they can to this point. The goal of bringing consistency across the State, however, whether that is through the adoption of rigorous protocols or on a more scaled back basis is something that should continue to be explored.

- The Maine Communications System Policy Board (MCSPB) did complete the task of redoing the rate methodology used for the State run PSAPs. The new rates were developed based on a more incremental methodology and the results were that about 27 out of the 29 municipalities being served by the State-run PSAPs now pay lower rates than what they had been paying although the State agencies are paying more. Director Ashcroft does not know whether those changes have had any result in reducing the fragmentation of the network in Kennebec County or actually resulted in any municipalities returning to the State run PSAP for their PSAP and dispatch services.

The GOC's discussion that followed included:

- The 2 bills pending before the Energy, Utilities and Technology (EUT) Committee. LD 1614 is for the further consolidation of the PSAPs. The Kimball Report recommended moving from 26 PSAPs to 15 or 17. Others think there should be 2 PSAPs. That decision would impact how the remaining outstanding implementation of recommendations from the OPEGA report would be implemented. LD 1761 deals with the PSAP funding.
- Whether the GOC could or should take any action to try to better understand or further the effort of standardizing call handling protocols for fire and police calls.

Chair Katz recommended asking the EUT Committee for a letter reporting what they are doing with respect to the recommendations. Representative Boland and Senator Craven agreed. Director Ashcroft suggested sending the same letter to the Criminal Justice and Public Safety (CJPS) Committee because the questions regarding quality assurance and standardization of protocols comes under the jurisdiction of that Committee. This review is under two legislative committees and both are trying to stay within their roles.

Sen. McCormick's districts are within Kennebec County and he is interested in knowing if the changes in the rates for municipalities that have been made have actually brought anyone back to the Kennebec County Center. Chair Burns recognized Director Wells who said that 2 communities in Aroostook County came back, and he recently met with 1 town in Kennebec County to discuss rates.

Director Wells said the disagreement on protocols is whether or not they should have them as there is a desire among many dispatch centers to have flexibility to address the particular situation presented rather than spending time going through a list of required questions. When OPEGA's report first came out and the EUT and CJPS Committees were discussing whether there should be standard dispatch, beyond emergency medical, DPS considered piloting the fire and law protocols from the same vendor that the medical comes from. For DPS' 4 Centers the cost would have been \$444,000 and that was a problem. Director Wells has his supervisors working on developing their own set of protocols that will be used across DPS's 4 Centers, but anticipates with next gen 911 that the ESCB will have implemented fire and law protocols as well.

GOC members agreed to send a letter to the 2 Committees and asked Director Ashcroft to draft a letter making inquiry about their follow-up on OPEGA's report recommendations.

The Committee thanked Director Wells for the information he provided.

UNFINISHED BUSINESS

- **GOC Discussion of What Action to Take on DAFS State-wide Policy on Real Estate Sales**

Director Ashcroft wanted to clarify what the GOC wanted her to pursue regarding the Policy DAFS had developed. She asked if the GOC wanted her to draft legislation, and if so, how they want to handle Inland Fisheries and Wildlife (IFW) and Conservation that have within their own statutes authority to sell land that does not go through DAFS, like that of Maine DOT.

The approaches they could take are:

- make whatever adjustments necessary to the individual statutes to make sure everyone is aware of the expectations; or
- to set up a system by which whenever property is sold DAFS is involved as a central coordinator to make sure those procedures have been followed.

Several Committee members expressed a preference for having DAFS serve as some central coordination or review point. The GOC also discussed whether DAFS' policy be routine technical or major substantive rules instead of just a department policy. There was general agreement that rules were preferred so that the Legislature would get notification or have input if there were changes made. There was uncertainty about which type of rule may be more appropriate.

The GOC asked for DAFS input to the discussion. Director McCormack said he does not have the expertise right now to know what statutes are involved, or what additional steps the other agencies may have in their process that DAFS does not have, but he would be willing to work with the other agencies to create their own processes that includes all the elements the Legislature is looking for. In the end though, it would be each agency's process, not DAFS. He was concerned that DAFS might not be able to cover all sales. Sen. Diamond noted that DAFS could let the agency do their process, but at the end it would filter through DAFS so there is at least one final check point. He did not think the additional work load would be high. Chair Burns agreed.

In response to Rep. Kruger's question regarding rules and statutes, Chair Katz said the current statute does not allow for IFW and Conservation sales to go through the DAFS' Commissioner.

Mr. Nass agreed with the Committee in that the Thomaston issue was a breakdown in how the State should be disposing of property. In response, DAFS has created a good policy that should rectify those issues going forward. He noted there may be management issues in IFW and Conservation and did not think DAFS should be held accountable for what occurred in IFW and Conservation. Those agencies should be held accountable. He suggested that every agency that is disposing of property should have their own adequate policies in place.

In response to Sen. Katz's question of why IFW and Conservation does not go through DAFS, Director Ashcroft said the legislation has distinctions being made between non-reserved and reserved public lands, and designated lands and the Legislature determined that sales of property and proceeds from the sales in those various categories are to go to particular purposes. The authority for those sales lies with the Commissioner of each Department but an agency Director is driving what is being done. There was at least one property sale in Conservation a number of years ago that raised questions. People had concerns about the motivation for the sale and what was being done with the proceeds from the sale. She thinks they are different because of the types of properties and assets they hold, and what is supposed to be done with them.

Sen. Diamond would argue that by virtue of DAFS' structure, the Commissioner already oversees all the other Commissioners when it comes to their budgets. He is not suggesting that DAFS has to have the responsibility of putting together and working with other agencies through an entire sale. He is simply saying that when a Department finishes its work, it would be nice to have one check point for final review and everyone knows the Commissioner of DAFS will be reviewing it.

The GOC agreed they were comfortable with DAFS' Policy on the Sale of Real Estate.

The GOC discussed whether they wanted to leave it as a policy, a major substantive rule or a routine technical rule with respect to DAFS Policy and Procedures on Real Estate Sales. For their next meeting they asked Director Ashcroft to have information on the differences between major substantive rule or a routine technical rule and how that might apply to DAFS' Policy of Real Estate Sales. Sen. Diamond noted there was not enough time left in this session to do a major substantive rule so that would have been done in the next Legislature.

The GOC agreed that 17 MRSA § 3104 had to be changed. To start, Director Ashcroft will meet with the Attorney General's Office regarding that section to find out what their interpretation of the Statute is and why they are interpreting it the way they are.

- **Review Draft Legislation Regarding Quasi-Governmental Agencies**

Director Ashcroft summarized the information provided to the GOC regarding the draft legislation for quasi-governmental agencies. A copy is attached to the meeting summary.

The Committee discussed the options the Director had laid out for how to handle reports to the Legislature under Section 4 of the draft legislation. The GOC agreed they preferred the first option. Director Ashcroft will include the language discussed by the GOC.

Director Ashcroft next steps are:

- Determine whether the entities with question marks should stay or be removed from the list.
- Make the changes the GOC have suggested to the draft legislation and get it out to the agencies that are on the list who might be affected. Director Ashcroft will share with the GOC the comments received from agencies for any changes they may want to make.
- Ask the Revisor's Office to prepare a draft bill for the GOC's review prior to submitting it into the bill process. The draft legislation will be brought back to the GOC either at the next meeting or via email for Committee approval.

Once it leaves the GOC it will go through the regular bill hearing process.

REPORT FROM OPEGA DIRECTOR

- **Project Status Report**

Director Ashcroft reported that OPEGA is currently engaged in detailed data analysis with both Child Development Services and Cost Per Prisoner Reviews and hopes to be in a position to share some of the data, information and analysis OPEGA has done with the Legislature in an interim report or briefing. She does not think the full written reports will be done until later in the first quarter, but wants to be able to be responsive to the Legislature's needs and will have some information that will be useful to the committees that are dealing with those subject matters.

- **Status of OPEGA's Annual Report for 2011**

Under statute OPEGA is required to submit to the Legislature by January 15th of each year its Annual Report on OPEGA's activities. Due to other matters, Director Ashcroft respectfully requested that she be able to submit OPEGA's Annual Report to the GOC at the February 10, 2012 meeting. The Committee agreed.

ANNOUNCEMENTS BY GOC MEMBERS

Sen. McCormick addressed the letter the GOC sent to the Chairs of the Health and Human Services (HHS) Committee, dated January 6, 2012 regarding potential OPEGA assistance in addressing the long-term care issues in the Department of Health and Human Services. He reported that the issue was brought up in the HHS Committee and they also heard from the DHHS on their progress and goals regarding long-term care issues. It was the HHS Committee's feeling that there was not a role for OPEGA to play in long-term care at this time.

Sen. Diamond reminded the GOC that the State Police radio system is a \$48 million contract the State signed almost 3 years ago and there is still a significant problem with the acquiring of frequencies and the project is behind schedule. He asked when the GOC would look at that issue. Director Ashcroft said OPEGA has on its Work Plan the Office of Information Technology, but does not envision that it necessarily is specific to looking at the State Police radio system project. If that project is a focus for the GOC, the Director would need to know. Sen. Diamond thinks the Committee should have an opportunity to hear some kind of report or review on the issue because they should at least be updated on the status.

Chair Burns had suggested to the Department that they contact the CJPS Committee Chairs to give an update before it is too late. Sen. Diamond agreed, but if the GOC is going to be reviewing OIT, it was a significant role that they played in the radio system in the past 3 years. He said the new radio system is supposed to be in place January 13, 2013 with all 302 frequencies well in advance of that date.

Sen. Mason, Senate Chair, CJPS Committee will ask the State Police to attend a meeting to address the issue. He invited the GOC members to that meeting and will let them know when the date has been set.

SCHEDULE NEXT COMMITTEE MEETING

The next GOC meeting was scheduled for Friday, February 10, 2012 at 9:00 a.m.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 12:27 p.m. (Motion by Rep. Fitzpatrick, second by Rep. Fossel, unanimous).