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SEN. BILL DIAMOND
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SEN. NANCY B. SULLIVAN
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REP. LESLIE T. FOSSEL
REP. CHUCK KRUGER

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

Meeting Summary
March 9, 2012
Accepted April 10, 2012

CALL TO ORDER

The Chair, Senator Katz, called the Government Oversight Committee to order at 9:03 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Katz, Sen. Diamond and Sen. McCormick
Joining the meeting in progress: Sen. Craven, Sen. Mason and Sen. Sullivan

Representatives: Rep. Burns, Rep. Pilon, Rep. Boland, Rep. Fitzpatrick and Rep. Kruger
Joining the meeting in progress: Rep. Fossel

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Etta Connors, Adm. Secretary, OPEGA

Legislators: Rep. Benjamin Chipman
Rep. Maeghan Maloney

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

EXECUTIVE SESSION

• **Personnel Matters**

Motion: Pursuant to 1 MRSA section 405, subsection 6A, the Government Oversight Committee moves into executive session for the purpose of discussing personnel matters. (Motion by Chair Katz, second by Chair Burns, Passed, unanimous vote).

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The Government Oversight Committee recessed at 9:05 a.m. to go into an executive session.

The Government Oversight Committee adjourned its executive session at 9:22 a.m. (Motion by Chair Burns, second by Sen. Diamond, Passed unanimous vote).

SUMMARY OF THE FEBRUARY 24, 2012 GOC MEETING

The Meeting Summary of February 24, 2012 was accepted as written.

NEW BUSINESS

- **Quarterly Requests List for OPEGA Reviews for GOC Consideration**

- **Contracts and Agreements Related to the Operation and Management of the State-owned Juniper Ridge Landfill**

Director Ashcroft briefed the GOC on this request that had been submitted by a group of ten legislators.

Possible areas of focus include whether:

- JRL is being operated in a manner consistent with existing agreements, including the Operating Services Agreement, the Host Community Agreement, and the State of Maine's Solid Waste Hierarchy protocol;
- potential conflicts of interest exist that impact the oversight of JRL by the SPO and/or DEP;
- the RFP and contract selection process for JRL management contractor was properly conducted;
- the use of public funds in the operation of JRL is effective and proper; and
- all waste disposed of at JRL is done so properly and in accordance with all laws, permits and agreements.

Director Ashcroft reported that OPEGA has not done much independent research on the topic.

In response to GOC members' questions Director Ashcroft shared information that had been provided by the requestors:

- Members of the public have been attending numerous public hearings, work sessions, Board of Environmental Protection meetings, hosts community meetings and contacting the media and their representatives with their concerns. Apparently citizens found that changes have been made in contracts, agreements, etc. without an opportunity for the public to be informed or have their concerns heard. She didn't think the topic had been before the policy committee.
- The way JRL was to be operated, what was allowed to go into the Landfill for waste, how big it was going to be, etc. was established in an initial agreement and statute. There have been subsequent changes to Casella's original contract that have not had public review, and allowed things to be different at the Landfill. Minor changes in the wording to statute also allows waste that would have been considered as out-of-state waste, to now be considered in-state waste and therefore eligible to go to JRL. The basic concern is that there have been changes over time that behooves Casella that are not in concert with what the public expected.

Chair Katz recognized Rep. Chipman and Rep. Maloney, two of the sponsors of the review request. Rep. Chipman said the request includes a review of operations, policy and use of public money related to contracts between the State of Maine and Casella Waste Systems, Inc. Rep. Maloney said the concern is in regard to performance and accountability.

Director Ashcroft said the State Planning Office administers the contract. Rep. Maloney noted it is the SPO who grants the permits and does the oversight, but when the permits for the changes were granted it was 2 years later before those changes became known to the public. There is now a process in place that if there is going to be a permit change it needs to go through the committee of jurisdiction, but previous to that, that process was not in place so there was not a public hearing or the opportunity for the public to be involved. Currently there is no place to appeal. Rep. Maloney also noted the great concern regarding the trash coming from out-of-state and the type of waste.

The GOC discussed whether these concerns should go before the committee of jurisdiction, and that there is possibly more than one committee having jurisdiction here. Both the Environment and Natural Resources (ENR) and State and Local Government (SLG) Committees were mentioned. The GOC decided it wanted to hear from those Committees prior to making a decision on the request.

Director Ashcroft summarized the GOC's discussion regarding this request for a review. She will draft a letter from the GOC to the ENR and SLG Committees, asking if they have considered any of the issues raised today, and if so, what occurred. In addition OPEGA will interview the OPLA analysts assigned to these Committees. That information will be brought back to the GOC prior to making a decision. Chair Burns also wanted to hear from Commissioners. Director Ashcroft said OPEGA can conduct interviews with the Commissioner of DEP and the Director of the SPO. Sen. Sullivan recalled some task forces created by past Administrations regarding Casella and suggested Director Ashcroft may want to review whether there was anything relevant from those efforts as well.

The Committee thanked Representatives Chipman and Maloney for the information provided.

- Education Financing – Essential Programs and Services Funding Formula

Director Ashcroft said the Education and Cultural Affairs (ECA) Committee was not requesting an OPEGA review, but rather asking for technical assistance for a legislative study they want to conduct. ECA would issue an RFP to solicit proposals from a consultant with the proper expertise to conduct a study regarding education financing, and in particular, the essential program and services funding model. OPEGA would help frame what needs to go into the RFP to make sure that the scope was sufficiently defined to get at what the ECA Committee wants to know. OPEGA would also assist in reviewing the RFPs received, monitoring the contractor's work to make sure it stays on track and focused on what the desired end results are, and help as necessary in interpreting any of the results that come from the study.

GOC members generally wanted to be supportive of the ECA Committee but were concerned about stretching OPEGA's resources too thin or setting a precedent that may cause other policy committees to request similar assistance. Director Ashcroft said that based on her understanding of what OPEGA's role would be in this special project, she thought OPEGA could fit it in around other projects as it did not require OPEGA to actually do the review.

Motion: That the Government Oversight Committee authorizes OPEGA to assist the Education and Cultural Affairs Committee in a special project by providing technical assistance with a contracted independent review of the Essential Programs and Services Funding Act. (Motion by Rep. Fossel, second by Sen. Sullivan, Passed, unanimous vote, 12-0).

-Public Utilities Commission

Director Ashcroft made the GOC aware that OPEGA had received a number of emails and letters from citizens interested in seeing this review go forward. The theme of the communications received was the lack of responsiveness on the part of the PUC, and the difficulty in accessing the process for lodging complaints, in particular with regard to the smart meters, and to a lesser degree, the transmission line project. Citizens felt it was difficult to find a place to address general issues regarding utilities.

Another issue raised in these communications regarding the PUC is that the Commission fails to enforce the orders it has issued, some of which could adversely affect the health of Maine citizens. The PUC is seen as discriminatory in the way it enforces its own process and citizens say the PUC seems biased toward the large electric utility in particular.

Sen. Sullivan said the committee of jurisdiction directed that people be notified 2 weeks before their smart meter replacement, and then be notified again upon the day the smart meter in a neighborhood was installed. She thought that had been agreed to and the PUC was going to require CMP to do it, but it did not happen. She is concerned that the PUC did not follow what the committee of jurisdiction asked.

Rep. Boland was concerned that the PUC did not address citizens' health and safety concerns well. Director Ashcroft agreed that appeared to be a theme in the communications OPEGA had been receiving. An OPEGA review of the PUC process and how it worked for citizens might identify if there are particular kinds of topics that the PUC does not want to take on or address well.

• Review and Discussion of OPEGA's Current and Potential Work Load

Director Ashcroft reported on the tentative project schedule for currently assigned projects and those recently under consideration. On that schedule, she was estimating that the Child Development Services (CDS), Cost Per Prisoner (CPP) and Maine State Housing Authority (MSHA)-Rapid Response reviews may all be ready for releasing a report to the GOC in May, 2012. The broader review of MSHA would not be completed until March, 2013 and she estimated the OIT-Structure/Capacity review may be completed in July, 2012. She noted that she had previously promised the Legislature that OPEGA would be prepared to share with the committees of jurisdiction information from any work that had been completed, even if the final written report was not yet out, in the CDS and CPP Reviews.

Sen. Diamond had concerns about the State's Radio Project and the contract for that project. He asked whether that was being included in one of OPEGA's reviews. He is very concerned that the radio frequencies needed were supposed to be obtained by January 1, 2013 and they do not even have half of them yet. His understanding is that this is because the FCC is behind on approving or issuing the frequencies. He is concerned the State of Maine is headed for another MECMS-type debacle on a very expensive project. There is an urgency to this in terms of is the State again going to be holding the bag on a major contract which has no bench marks in it and which the previous Attorney General approved without having those bench marks.

Sen. Mason reported that although it has not been formally scheduled, the Criminal Justice and Public Safety Committee did inform the Department of Public Safety that they wanted a report on the radio system this legislative session. Director Ashcroft said the review of OIT currently on OPEGA's Work Plan was not scoped to focus specifically on this project other than perhaps as a case study of how project management was working. She noted it seemed the questions regarding the Radio Project had to be asked now and she was not sure how an OPEGA review of it could help move it any faster than it is unless it was a matter of whether the GOC wants a specific review of why the State is not where it expected to be at this point in the project. That could be done as a separate piece of work.

Director Ashcroft noted that if the GOC put the PUC topic on OPEGA's work plan, she estimated that the work on that review would begin about July and ending in October or November, 2012. The following motion was made.

Motion: That the Government Oversight Committee votes to add the Public Utilities Commission review to OPEGA's Work Plan. (Motion by Rep. Fossel, second by Sen. Mason, Passed unanimous vote, 12-0).

UNFINISHED BUSINESS

- **Update on Referral of Guardian *ad Litem* Review to Judiciary Committee**

Director Ashcroft said the Judiciary Committee discussed guardian *ad litem*s at their meeting on March 8th. Chief Justice Saufley was at the meeting. There was general agreement that doing something to improve the process available for people to complain or lodge their concerns about guardian *ad litem*s and get them reviewed in an independent way would be one step in the right direction. Chief Justice Saufley committed to thinking about how to pull together resources to do that and will report back in the fall to the Judiciary Committee with a proposal of how to move that forward. The Judiciary Committee will be forwarding a letter to the GOC of what was discussed and what actions will be taken.

- **Update on Status of LD 1843**

The public hearing on LD 1843, An Act to Implement the Recommendations of the Office of Program Evaluation and Government Accountability and the Government Oversight Committee Regarding Quasi-independent State Entities is scheduled for Monday, March 12, 2012 before the State and Local Government Committee. Chair Burns urged GOC members to attend Monday's public hearing to support the bill.

- **Update on GOC/OPEGA Input to State and Local Government Committee's Review of the Government Evaluation Act**

As the GOC requested, Director Ashcroft attended the SLG Committee meeting on March 7, 2012 to give the Committee's and OPEGA's suggestions for improvement regarding the GEA process. The SLG Committee seemed appreciative of having some specific suggestions to consider.

REPORT FROM OPEGA DIRECTOR

- **Project Status Report**

The project status was discussed earlier in the meeting.

SCHEDULE NEXT COMMITTEE MEETING

The next GOC meeting is scheduled for Tuesday, April 3, 2012, time to be determined.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 11:40 a.m. on the motion of Sen. Sullivan, second by Rep. Fossel, unanimous.