

**Maine Indian Tribal-State Commission
Tuesday September 8, 2020
Remote Meeting by Zoom
With Audio Stream for Public**

Commissioners Present by Zoom:

James Cote, John Cashwell, Bob Checkoway, Kevin Hancock, John Banks, Bert Polchies, Sandi Yarmal, Matt Dana.

Staff Present by Zoom: Paul Thibeault (Managing Director)

Public: By audio stream

Welcome: Acting Co-Chair John Banks

Co-Chair John Banks welcomed the Commission and members of the public listening by audio stream. Introductions were made by the Commission Members.

Review of Agenda

The proposed agenda was reviewed. No changes were made.

Review & Approval of Minutes

The draft Minutes from the July 1, 2020 meeting were reviewed and approved as drafted.

Motion: Kevin Hancock made a motion to approve the Minutes. John Cashwell seconded. All voted in favor of the motion.

Financial Report and Managing Director Report

Managing Director Paul Thibeault referred the Commissioners to his written Managing Director Report which included the Financial Report and stated that he would answer any questions from Commissioners. Paul noted that the monthly financial reports were provided to the Commissioners. Paul stated the current balances in the checking and savings accounts. Paul pointed out that the MITSC financial reports for August overstate the expense for payroll taxes because of the way our payroll service reports employee tax withholdings. We expect to fix that defect soon.

Paul mentioned that MITSC has received a check for the full State appropriation for FY21, but there is still a possibility that some portion may have to be returned because of Covid-related curtailment. Paul stated that work on the next State biennial budget request for MITSC is ongoing and that the deadline for funding requests for the biennial budget has been extended to October 19.

Paul Thibeault stated that questions had come up regarding payment of stipends for Zoom meetings and other services by Commissioners apart from in-person MITSC meetings. Paul explained that the MITSC statute and By-Laws indicate that

Commissioners are entitled to stipends for their “services” and not only for in-person meetings. There was a consensus that stipends should be paid for such services when requested. Paul suggested that the By-Laws be clarified accordingly, and he described the proposed language that he had already provided to the Acting Co-chairs. John Cashwell made a motion to amend the By-Laws with the proposed clarifying language. Matt Dana seconded. In accordance with the amendment provision in the By-Laws, the motion to amend the By-Laws will be voted on at a subsequent meeting.

Managing Director Report- Paul Thibeault referred the Commissioners to his written Managing Director Report and asked if there were any questions. Paul emphasized that MITSC should do work planning. After discussion there was a consensus to start developing a Work Plan. Paul Thibeault was directed to poll the members for a date in October to hold an initial Work Plan meeting.

Old Business

Chairperson Search- Paul Thibeault summarized the status of the search. Four current Commissioners have been nominated and one outside applicant has submitted the requested application materials. John Banks and Bob Checkoway declined their nominations. Paul was directed to contact Richard Rosen about his nomination. Kevin Hancock stated that he would be willing to serve as chairperson and shared his thoughts about the role of the chairperson. He suggested that MITSC appoint additional officers such as a vice-chairperson and treasurer.

At this time John Banks had to leave the meeting. He requested that Co-Chair Kevin Hancock preside over the meeting.

After discussion, there was a consensus that further discussion of the chairperson selection should be moved to the end of the agenda as it would probably be necessary to go into executive session.

Administrative Committee Update- Considering the time left in the meeting, there was a consensus that the pending administrative issues be deferred to a later meeting. Some of those issues would likely be discussed as part of the Work Plan meeting.

Status of the Sustenance Fishing Study- Paul Thibeault stated that Tony Sutton and Lexis Anderson have been added as contractors to work with Judd Esty-Kendall on the study. Judd summarized the current status of the study. John Cashwell asked if current sustenance use by tribal people would be addressed. Judd stated that it would, and that Tony Sutton would be conducting focus groups with tribal people regarding current sustenance activity and their understanding of what sustenance means. John Cashwell stated that as a member of the MITSC Natural Resources committee he was satisfied with the outline for the study and he recommend hat the study move forward. Judd stated that the time frame for completion for the study was up to a year but hopefully sooner. Paul explained that MITSC has adequate funds to support the study as it has been outlined.

Kevin Hancock stated that he is excited about the study and that it is a good use of MITSC's time and resources.

Tribal-State Legislation Update- Paul Thibeault summarized the action that the Judiciary Committee took on the legislation, i.e. that three bills were passed by the Committee, but they did not reach the floor because the Legislature did not reconvene. Paul noted that the text of LD 2118 was completely removed and replaced. As a result, there is now no bill that addresses the consultation/dispute resolution issues and the role for MITSC that were included in LD 2118. Paul stated that he anticipates re-introduction of the bills in the next legislative session and he recommended that MITSC take specific positions on each of the bills. Paul also recommended that MITSC discuss and articulate specific positions regarding the LD 2118 language that was deleted and more generally the future statutory role of MITSC.

Update on PIN v. Frey Case- Bob Checkoway, who authored the MITSC amicus brief, stated that oral argument will be held on September 22, and that he will send information on how to access it when he gets it.

New Business

Sipayik Water Supply Update- Paul Thibeault stated that Sandi, Kevin and he had a phone conference with attorney Corey Hinton. Sandi summarized and offered to share her notes from that conversation. Kevin commented that this situation demonstrates how systemic problems prevent tribes from creating changes that they need, that obvious solutions that would be implemented in non-tribal contexts are unable to get traction, and solutions to the water problem at Sipayik are not close at hand. He encouraged MITSC to keep this issue on its agenda. MITSC has been invited to participate in the ongoing stakeholder meetings and Paul will inform the commissioners about meetings and developments. The Sipayik water issue will be discussed as part of work planning.

Review Revised Research Report on Article X, section 5- The draft report has been provided to the Commissioners. Paul stated that the Commission needs to decide what use to make of the report when it is finalized. Judd was available for questions, but none were posed. Paul and Judd encouraged to Commissioners to review the draft and offer their comments.

Chairperson Search (resumed)- Bert Polchies made a motion to go into executive session in accordance with the By-Laws provision on executive sessions. John Cashwell seconded the motion. All voted in favor. The Commission went into executive session.

Bert Polchies made a motion to leave executive session, seconded by Bob Checkoway. All voted in favor, The Commission came out of executive session.

John Bank stated that in executive session the Commission decided to extend the application period to September 25 and to hold interviews for existing nominees and any new nominees on October 5, followed by a vote in a public meeting.

John Cashwell made a motion to adjourn, seconded by Bert Polchies. All voted in favor and the meeting was adjourned.

Motion to Adjourn: Bob Checkoway made a motion to adjourn the meeting. Bert Polchies seconded the motion. The motion passed unanimously, and the meeting was adjourned.