

Maine Indian Tribal-State Commission Meeting
Wednesday, September 11, 2019
10 am – 2 pm
Health Department, Conference Room
Houlton Band of Maliseet Indians

Commissioners Present: Zeke Crofton-Macdonald, Sam St. John, Michael Pearson, James Cote, Robert Checkoway, Richard Rosen, Jamie Bissonette Lewey (Chair); Bert Polchies.

Regrets: Pos Bassett, Matt Dana II, John Cashwell, Kevin Hancock, John Banks.

Staff Present: Paul Thibeault (Managing Director), April Nicholas (Admin. Assistant, by phone).

Tribal Leaders: Chief Clarissa Sabattis, Vice Chief Darrel Newell, Rep. Rena Newell.

Guests: Kim Patwardhan (Office of the Attorney General, by phone)

Welcome by Chief Sabattis

Chief Sabattis welcomed the Commission to the Houlton Band of Maliseet Indians community. The Chief and Commission Member Sam St. John described the progress that their Tribe has made in bringing Atlantic Salmon back to the Meduxnekeag River.

Review of Agenda

Chairperson Lewey opened the meeting by welcoming all the Commissioners, Tribal leaders and guests. Introductions were completed and the agenda was reviewed. She explained that the agenda is limited because of the need to spend substantial time on the issues of the Task Force on changes to the Implementing Act and the MITSC budget for FY20. Under Old Business the order of the first and last items was reversed

Review & Approval of Minutes

The Minutes from the August 14, 2019 meeting were reviewed.

Motion: James Cote made a motion to approve the Minutes; Bert Polchies seconded the motion. The motion passed unanimously.

Financial Report

The Managing Director, Paul Thibeault, discussed the August 2019 Profit & Loss Report and the Balance Sheet—inclusive of the current balances in the checking and savings accounts, which includes the annual State appropriation which has been received and deposited in the savings account. Paul reminded the Commissioners that the Financial Policies were approved at the August meeting, but we anticipate making some changes based on the recommendations from the pending audit. The audit proposal will be addressed as a separate agenda item. Richard

Rosen asked that for future meetings the financial report include a “year to date” column that shows variances from the budget. Paul stated that such variance reports will be provided each month once an annual budget is adopted. James Cote asked for clarification regarding the total projected funding for the current fiscal year and Paul clarified that most of our income is from State and Tribal appropriations, but we are projecting some rental income and a small amount of miscellaneous income from the sale of videos. Chairperson Lewey added that MITSC may get some funding from the Maine Community Foundation.

Managing Director Report

Managing Director Paul Thibeault summarized the written Managing Director Report which had been provided prior to the meeting. Paul stated that on September 13 he will be making a 30-minute presentation on behalf of MITSC at the next meeting of the Task Force on changes to the Implementing Act. Richard Rosen asked if we have created a proposal for supplemental State funding. Chairperson Lewey responded that such a request will be informed by the budget decisions that the Commission makes and that we anticipate developing the proposal in the coming months. Pau Thibeault added that there is a specific statutory budget process for MITSC that requires the Chiefs and the Governor to confer regarding the MITSC budget. Ms. Lewey added that State funding for MITSC has been static for several years and we will be trying to reinstitute the statutory budgetary process that was not used after the breakdown in Tribal-State relations under the prior State administration.

Paul Thibeault stated that our summer law clerk prepared a draft report on Article X, Section 5 of the Maine Constitution. Paul will be reviewing that draft and submitting the report for the next MITSC meeting.

Old Business

Personnel Policy- Chairperson Lewey explained that we are seeking approval of an interim policy. We anticipate making changes as the result of recommendations in the audit and the research that Commissioner James Cote is conducting on personnel policies for entities with a very small number of employees. Paul Thibeault added that the proposed interim policy basically reflects what we have in fact been doing without having a formal written policy, and that the perspective auditor has emphasized that a written policy needs to be in place. James Cote and Zeke Crofton-Macdonald made suggestions for revisions.

Motion: Bert Polchies made a motion, seconded by Michael Pearson that the proposed interim policy be adopted with the three changes suggested by James Cote and Zeke Crofton-Macdonald, as follows: that section 3a and 3b be revised to state that hiring and firing by the Managing Director will be done “in consultation with the Commission” and that in advertising for new hires will be done by public advertising and specifically advertised in the all of the Tribal communities. As revised, the motion was passed unanimously.

Task Force on Changes to the Implementing Act- Paul Thibeault reviewed and requested input from the Commissioners on the presentation that he is preparing for the next meeting of the Task Force. Commissioners made numerous comments and suggestions for additions and changes to improve the presentation.

Representative Rena Newell discussed how her proposed bill to require State consultation with the Tribes, along with various other bills, were essentially folded into the Task Force process. She recommended that a requirement for consultation be included in the Task Force discussions. Zeke Crofton-Macdonald stated the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) should be applied in the Task Force process. Paul Thibeault will provide the Commissioners with a copy of the Maine Legislature's resolution on UNDRIP. Chairperson Lewey added that at future meetings the Commission needs to carefully review the positions that MITSC wants to take in the Task Force process, including review of all the provisions in the current Tribal proposal that directly impact MITSC; prior proposals that MITSC has made for changes to the MIA regarding the role of MITSC; and proposals that other parties have made regarding the future role of MITSC. Chief Sabattis proposed and offered to organize a meeting of the Chiefs with MITSC to discuss the role that the Chiefs want for MITSC in an amended Implementing Act. Richard Rosen suggested that MITSC should consider and plan for its ongoing role in three possible scenarios: 1. Full application of federal Indian law as currently proposed; 2. Modification of the current MIA; 3. The status quo. Chairperson Lewey stated that she would follow up in creating a list of the MITSC-related proposals/ideas and she will coordinate with Chief Sabattis to schedule a meeting between the Chiefs and MITSC to discuss the future that the Chiefs want to propose for MITSC.

Fiscal Year 2020 Budget- Paul Thibeault presented three alternative budgets: 1. Proposed Budget that is essentially a status quo budget that would continue the current level of staffing and Commission activity and would use some of the carryover funds. 2. Balanced Budget that would use only current year income and not use any of the carryover funds. This budget illustrates the cuts in personnel and Commission activity that would be necessary if the carryover funds are not used. 3. Recommended Budget that would include a new Research/Projects position and would expend the carryover at a faster rate than the status quo budget. Paul stated that the benefit of a Research/Projects position was strongly demonstrated this past summer when we had a summer law clerk.

Bert Polchies asked for clarification of the role for the Research/Projects position. Paul responded that it would be primarily research but could also include other functions including projects, grant writing and various other ways of supporting the Managing Director, the Chairperson and Commission as a whole.

Paul explained that the Narrative entries in the Proposed Budget (#1) basically apply to all three alternative budgets. Several Commissioners asked questions. Paul and Jamie provided responses. Jamie summarized that the three alternative budgets present the Commission with three distinct choices: 1. Go backwards to a model where MITSC was understaffed. 2. Maintain the status quo where MITSC is not using the carryover to be more active in responding to current developments such as the Task Force and other activities that MITSC could undertake. 3. Use the carryover funds to add staff and increase MITSC activity to respond to the current opportunities that are open to MITSC, including increased involvement in the Task Force.

Richard Rosen commented that if MITSC is going to consider adopting the Recommended Budget that will spend the carryover funds at a faster rate, then it needs to be understood that it is a one-time budget that is relying on drawing down a one-time reserve that will not be replenished.

Audit proposal- At this point the Commission took up the agenda item for review and approval of the audit proposal.

Motion- Bert Polchies made a motion to approve the proposal from RHR Smith to conduct a one-year audit at the cost of \$2000. Seconded by Sam St. John. The motion passed unanimously.

Executive Session- Richard Rosen made a motion to go into executive session to discuss personnel issues that are intertwined with the budget proposals. Bert Polchies seconded the motion. The motion passed unanimously.

After a discussion in executive session Mike Pearson made a motion to end the executive session seconded by Zeke Crofton-Macdonald. The motion passed unanimously.

Budget discussion resumed in open session-

Motion- Richard Rosen made a motion to adopt the Recommended Budget (#3) with the revision that the Administrative Assistant position be included at the level of 15 hours per week. Seconded by Bob Checkoway. The motion passed unanimously.

Motion to adjourn- The Commissioners collectively moved to adjourn the meeting. The motion passed unanimously, and the meeting was adjourned.