

M I N U T E S
LEGISLATIVE COUNCIL

January 26, 1978

The seventh meeting of the 1977-78 Legislative Council was called to order at 8:15 a.m., Thursday, January 26, 1978 in Senate Committee Room 22 of the State House in Des Moines. Council members attending the meeting were:

Senator George R. Kinley, Chairperson
Speaker Dale M. Cochran, Vice Chairperson
Lieutenant Governor Arthur A. Neu
Senator Lucas J. DeKoster
Senator Gene W. Glenn
Senator Eugene M. Hill
Senator Philip B. Hill
Senator Calvin O. Hultman
Senator Fred W. Nolting
Senator William D. Palmer
Representative Gregory D. Cusack
Representative Elmer H. Den Herder
Representative Donald V. Doyle
Representative James I. Middleswart
Representative Floyd H. Millen
Representative Delwyn D. Stromer

Other persons present for the meeting included former Senator Lee Gaudineer, Chief Clerk of the House David Wray, Director Serge Garrison and Phil Burks of the Legislative Service Bureau, and a few other legislative staff personnel, representatives of the news media and other interested persons.

Speaker Cochran was recognized to present the report of the Council's Administration Committee pursuant to that Committee's meeting on the previous day. Speaker Cochran noted that pursuant to the action taken by the Council at its previous meeting, Mr. Gaudineer had been acting for the General Assembly in conducting negotiations toward the resolution of the State House space allocation issue. (See minutes of Council's December 19-20 meeting, pages 4-7.) Speaker Cochran reported that through former Senator Gaudineer's efforts, an agreement which may be acceptable to all parties concerned has been reduced to writing. Copies of the agreement were distributed to Council members present. A copy of the agreement is attached to and by this reference made a part of these minutes.

At Speaker Cochran's request, Mr. Gaudineer reviewed the agreement in detail. In the course of his remarks to the Council, Mr. Gaudineer expressed particular appreciation for the role played by Treasurer of State Maurice Baringer in bringing the State House space allocation negotiations to a successful conclusion.

Mr. Gaudineer asserted that without Treasurer Baringer's constructive attitude the agreement could not have been reached, and he particularly noted the commitments to the Treasurer regarding use of the space now constituting the personal office of the Treasurer of State, included in item 2 of the agreement. At the conclusion of the review, Chairperson Kinley called for discussion of the agreement and any related matters.

Senator Hultman complimented Mr. Gaudineer on the manner in which the negotiations had been conducted, and expressed the opinion that the agreement which had been achieved is a very reasonable one and is as fair to all parties concerned as could have been achieved. However, Senator Hultman expressed concern that while the disagreement between the General Assembly and the Supreme Court and Court of Appeals has apparently been resolved, there remains some potential for future disagreement between the General Assembly and the Attorney General with respect to the utilization of certain space within the State House. Mr. Gaudineer agreed that this potential does exist.

Representative Doyle raised the question whether item 10 of the attached agreement will be construed to have any effect on the General Assembly's authority to expend funds under section 2.12 of the Code to prepare the two large rooms at the northeast corner of the first floor of the State House for use as legislative committee space, pursuant to item 1 of the attached agreement. Mr. Gaudineer replied that he did not believe there would be any limitation on the use of funds under section 2.12 so long as the work being done or the items being purchased are primarily for the use and benefit of the General Assembly. He noted that there is no authority under section 2.12 to expend funds for purposes such as, for example, the refurbishing of quarters to be used primarily or exclusively by the Court of Appeals. Lieutenant Governor Neu expressed agreement with Mr. Gaudineer on this point. Mr. Gaudineer added that he had made a particular effort to make clear to members of Court of Appeals that section 2.12 cannot be used in that manner, although he added that he had also expressed confidence that the General Assembly would in the normal course of events appropriate funds for necessary refurbishing of the Court of Appeals quarters.

Speaker Cochran moved that the Council approve the agreement, in the manner contemplated by the last page of the attached agreement. The motion was seconded by Senator Hultman. There was a brief discussion, in the course of which Senator Philip Hill stated that while he is very appreciative of and gratified by the success of the efforts made by former Senator Gaudineer and is also appreciative of the attitude taken by Treasurer Barringer, he would vote against approval of the agreement because he disagrees in principle with the second paragraph of the introductory statement which asserts that the Council has determined that additional space in the State House is needed by the General Assembly to enable it to properly discharge its function. The motion to approve the agreement was then adopted on a voice vote, Senator Philip Hill voting in the negative.

Senator Glenn noted that pursuant to the Council's action on December 19, Mr. Gaudineer had been retained without fee to act for the General Assembly in the State House space allocation matter. Senator Glenn said he is appreciative of Mr. Gaudineer's willingness to act on that basis, but suggested that in view of the time and effort which has been expended in the successful negotiations it would be appropriate for the Council to consider the matter of some compensation for Mr. Gaudineer's services. Mr. Gaudineer thanked Senator Glenn for his concern, but stated that he had found the opportunity to act in behalf of the General Assembly very satisfying. He also commented that the Attorney General had informally raised some questions regarding the authority of the Legislative Council to retain private counsel, and that any intent to compensate him from public funds might well result in additional controversy on this point.

Senator Glenn then moved that the Legislative Council resolve deepest appreciation to former Senator Gaudineer for his conscientious and able efforts in behalf of the General Assembly in the matter of the State House space allocation issue. The motion was adopted by a unanimous voice vote.

Chairperson Kinley next recognized Senator Eugene Hill, who distributed copies of a proposed bill providing for removal of the Auditor of State's Savings and Loan Division from the State House. Senator Hill remarked that he had earlier noted that the General Assembly's need for additional space within the State House would necessarily affect not only the Judicial branch but also the Executive branch of state government. He moved that the Council recommend to the Senate Rules and Administration and House Rules Committees that the proposed bill be introduced as a companion bill in each house.

Senator Hultman suggested that the action proposed by Senator Eugene Hill is premature. He noted that Senate File 137, which was passed by both houses last year and is presently in a conference committee, proposes the establishment of a new state Financial Institutions Board, and that the Savings and Loan Division would be placed under the jurisdiction of this Board. He stated that should this bill become law in something like its present form, the objective sought by Senator Eugene Hill would very likely be accomplished without the necessity of further legislative action. Senator Eugene Hill agreed, but added that it might be well to have the bill he is proposing available as a backup if Senate File 137 is not enacted.

Senator Glenn suggested that action on Senator Eugene Hill's motion be deferred pending further action by the General Assembly on Senate File 137. Senator Eugene Hill said he has no objection to this procedure if the Council's chairperson will call another Council meeting should it appear that Senate File 137 is not going to be adopted. Chairperson Kinley indicated he would be willing to do so, and Senator Eugene Hill then requested and received unanimous consent to defer his pending motion.

Chairperson Kinley recognized Senator Palmer to present a report from the Council's Service Committee with respect to the matter of the appointment of a Citizens' Aide. Senator Palmer stated that despite numerous and lengthy interviews and consideration, the Service Committee has been unable to agree upon a recommendation to the Council for an appointee to the office of Citizens' Aide. He said that two of the applicants for the position, House Legal Counsel Dan Dudley and Mr. Jerry Szumski, each have the support of three of the six members of the Service Committee. He therefore suggested that these two applicants not be given further consideration at this time and that the Council chairperson either appoint a new Council committee or refer back to the Service Committee the matter of appointment of a new Citizens' Aide.

Senator Philip Hill moved that Deputy Citizens' Aide Ruth Mosher be appointed permanently to the position of Citizens' Aide, which she has held on an acting basis since February 5, 1977. The motion was seconded by Representative Stromer. Senator Philip Hill expressed confidence in Ms. Mosher, and stated that further delay in the appointment of a Citizens' Aide would be a waste of the time of the Legislative Council and of its Service Committee. The motion was opposed by Senator Palmer, who expressed the view that other persons whose applications for the position are on file should also be considered.

After further discussion, Senator Philip Hill's motion was defeated on a roll call vote of six-nine. Those voting yes were Senators DeKoster, Philip Hill and Hultman and Representatives Den Herder, Millen and Stromer; those voting no were Chairperson Kinley, Speaker Cochran, Senators Glenn, Eugene Hill, Nolting and Palmer and Representatives Cusack, Doyle and Middleswart.

Representative Stromer then observed that the Council appeared to him to be unwilling to consider Ms. Mosher for the position, and suggested that her name as well as those of Mr. Szumski and Mr. Dudley be removed from further consideration for appointment as Citizens' Aide. He added that the other applications on file should be further reviewed.

Senator Glenn said it would be a mistake for the Council or a committee of the Council to disregard the two persons whom the Council's Service Committee members think best qualified for the position of Citizens' Aide. He then moved that the Council chairperson appoint a new committee of the Council to consider applicants for the position, without restriction as to who may be so considered.

In response to a question from Lieutenant Governor Neu, Senator Glenn said it is the intent of his motion that the discretion to appoint members of the Council to the committee would rest with the Council chairperson. However, he added that as a member of the Service Committee, which has had this matter before it

for a considerable period of time, he personally would not wish to be appointed to the new Council Citizens' Aide selection committee.

Representative Cusack noted that he is also a member of the Service Committee, and said that like Senator Glenn he would not wish to be appointed to the new committee contemplated by Senator Glenn's motion. Representative Cusack added that he disagrees with Representative Stromer's assumption that a majority of the present Council members are unwilling to consider the permanent appointment of Ms. Mosher as Citizens' Aide. Representative Cusack said he regarded the roll call vote taken a few minutes earlier as a procedural, rather than a substantive matter.

Senator Philip Hill inquired whether the new Council committee contemplated by Senator Glenn's motion would have authority to seek and accept new applications for the position of Citizens' Aide. He noted that the permanent position has now been vacant for nearly a year, and that a number of the original applicants have accepted other positions or may no longer be interested. Senator Glenn said that his motion does not address that particular matter, and that it would be within the discretion of the Committee to accept new applications or not, as it sees fit. Senator Philip Hill then said he would support Senator Glenn's motion, and said he believes the committee should accept new applications.

Speaker Cochran and Senator Hultman both expressed reluctance to support Senator Glenn's pending motion, based on the limited time that any Council member appointed to this committee will probably have to devote to it while the current session of the General Assembly is in progress.

After further discussion, Senator Glenn's motion was adopted by a divided voice vote. Chairperson Kinley then announced that the new Council committee on selection of a Citizens' Aide would be composed of Senator Eugene Hill as chairperson, Senators Hultman and Nolting, Speaker Cochran and Representatives Fitzgerald and Varley.

Chairperson Kinley recognized Mr. Garrison, who noted that he had distributed to Council members present a compilation of reports of educational leave received by the Legislative Service Bureau for submission to the Council since the Council's previous meeting. Copies of the compilation are on file with the Legislative Service Bureau. On motion of Senator Philip Hill, seconded by Senator Hultman, the report was received by the Council.

The Council adjourned at 9:15 a.m.

Respectfully submitted,

SERGE H. GARRISON
Director

PHIL BURKS
Senior Research Analyst