

COMMUNITY DECISION-MAKING AND REVIEW PROCESS
MOHAWK COUNCIL OF KAHNAWÀ:KE ELECTION LAW
FIRST HEARING
MOOSE LODGE
21, Enniska/February 2024
6:00 PM – 9:00 PM

DRAFT RECORD OF DISCUSSION

FACILITATORS:

Chris Bush
Joe Delaronde

RESOURCE PEOPLE:

Alan John Rice
Andrea Montour
Gerald Taiaiake Alfred
Kevin Fleischer
Mary Lee Armstrong
Angus Montour

RECORDER(S):

Kasonniio Patton
Kiera Beauvais

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- ❖ **Opening Address** – Chris Bush
 - ❖ **Welcome/Respectful Behaviors/Process** – Chris Bush
 - ❖ **Proposed Amendments to the *Mohawk Council of Kahnawà:ke Election Law*** – Alan John Rice:
 - Amendments to reflect Kanien'kéha Terminology.
 - Amendments required due to the implementation *Kanien'kehá:ka of Kahnawà:ke Law* (KKL) to ensure Consistency.
 - Eligibility to Hold Office 12.1.
 - Eligibility to Hold Office Continued 12.1.
 - In the Case of a Vacancy on Council.
 - Amendments to process timelines in the Law.
 - ❖ **Next Steps** - Facilitators
 - ❖ **Closing Address** – Alan John Rice

Amendments to Kanien'kéha Terminology

Section 2. Subsection 2.1, **Section 4.** Subsection 4.1, **Section 8.** Subsection 8.3, **Section 10.** Subsection 10.1, 10.3, **Section 11.** Subsection 11.2, **Section 12.** Subsection 12.1, 12.1 (g), (i), (j), **Section 13.** Subsection 13.4, 13.7, **Section 14.** Subsection 14.2, 14.3, 14.8, 14.9, 14.10, **Section 15.** Subsection 15.3, **Section 16.** Subsection 16.1, 16.2, 16.3, 16.4, **Section 20.** Subsection 20.1, **Section 29.** Subsection 29.1, **Section 30.** Subsection 30.2, **Section 33.** Subsection 33.1, 33.4 (c), **Section 34.** Subsection 34.1, 34.4 and **Section 35.** Subsection 35.1.

The *Kanien'kehá:ka of Kahnawà:ke Law* (KKL) has been implemented since 2019, it is recommended to make language changes in the *Election Law* to reflect the KKL.

Discussion:

Q: Where did you get the Kanien'kéha words from and what is the translation for them?

A: It went to our Language & Culture Training Program; it was recommended that the terminology reflects the word “councilor”. The words mean, “stands in front of”, “guards the fire”, “protecting the fire”.

- Council system is not the traditional system, even though understand the desire to return to a traditional government, but we will not make the band council system a traditional system by using these words – it should be changed to ‘elected officials’, or ‘representatives.’
- Along with the Language & Culture Training Program and consulted Elders, these changes were suggested through consultation with the Governance Project and have been deemed the most accurate Kanien'kéha words for what these roles are and have been referred to in the past. The Elders confirmed they have been using these words for many years to describe these positions.
- One person disagreed with using the words until we enact a traditional system.
- Another agreed with the terminology because Kanien'kéha is very descriptive – We’ve made up words for things that never existed traditionally for us, such as ‘phones.’ So, if this is closest word for these roles, that’s fine.
- Having more Kanien'kéha in our laws will make more people pay attention to them. The Chiefs ‘stand in front’ because they are the ones speaking for the people at the top levels and with other governments. They ‘mind the fire’, as in the issues of the community. These terms have been used in Council since 2012/2013 when the Portfolios were first developed so it makes sense to ensure they’re reflected in the updated law.

Q: Are these terms used in the Longhouse?

A: These terms have been used for generations when referring to ‘elected councils’, these terms are not used in the Longhouse system or the Kaianere'kó:wa so there would be no conflict.

- It has taken 150+ years for our people to get where they are in terms of repairing the impact of colonization – so this language (Kanien'kéha) is preferred – less comfortable with using “Chief” or “Mayor” – the Longhouse also uses “Chiefs” and “Clan Mothers” which aren’t our actual Kanien'kéha words for those roles either.

- The names should be more descriptive of an administrative position rather than one of leadership.
- It's fine using Kanien'kéha, but it needs to be a word that describes the actual position.
- In a traditional system each Chief is given a specific Kanien'kéha name describing their role – we are not trying to go that far here.

Outcome: There was consensus reached regarding use of Kanien'kéha terminology to reflect usage of “Ohén:ton Í:iente’/ne Ohé:ton Í:rate’ Ratitsénhaienhs” in place of “Grand Chief”; “Íetsénhaienhs/Ratsénhaienhs” in place of “Council Chief”; and “Ratsénhaienhs”, in place of “Council.”

CONSENSUS REACHED

Consistency with the Kanien'kehá:ka of Kahnawà:ke Law

Section 5. Subsection 5.1, **Section 8.** Subsection 8.1 (b), **Section 12.** Subsection 12.1 (a), **Section 21.** Subsection 21.5, and **Section 26.** Subsection 26.1 (a).

Discussion:

Q: Are there any questions/concerns with ensuring this law is in alignment with the KKL?

A: Alignment between laws makes them stronger.

There were no issues/comments/objections with this topic.

Outcome: There was consensus reached by those in attendance.

CONSENSUS REACHED

Eligibility to Hold Office 12.1

To be eligible to hold office the Grand Chief or Council Chief: “(new provision to be added) it is recommended that to be eligible a person must have at least a high school education.”

Discussion:

A discussion about whether to include an educational requirement for individuals running for office, with some expressing concerns about potential legal challenges and others emphasizing the importance of considering various forms of education and life experience.

- Even if there are legal challenges education should be addressed somewhere since those elected should be literate and financial literacy is also important.
- In previous years life skills were taken into account: having a home, family, a job – maybe this should be a requirement again.

- All Chiefs get paid the same rate, yet some are more skilled/educated therefore they get heavier portfolios, those that can't handle files, or keep up with technology dump extra work on the other Chiefs.
- An educational skill/requirement would ensure balance of the workload amongst Chiefs
- Not sure this can be addressed in the law, but it should be addressed internally within the OCC and the Chiefs procedures.

Outcome: The topic of education requirements for elected Chiefs warrants further discussion, including defining what constitutes “education”.

NO CONSENSUS REACHED

Eligibility to Hold Office Continued 12.1

To be eligible to hold office the Grand Chief or Council Chief, a person: (b) “must have at least 50% or more Kanien’kehá:ka of Kahnawà:ke Blood Quantum, and (a) “be recognized on the KKR”, was discussed extensively regarding consistency with the KKL.

Discussion:

Q: Should this match what is written in the KKL?

- One person raised the issue of not being able to run for Chief, since under 12.1 f), a person “must be ordinarily resident” – if a person lives outside due to lack of housing, there should be clarification that this is sometimes out of a person’s control.

Q: Should the requirement of b) must have fifty (50%) or more Kanien’kehá:ka blood quantum” be removed, aligning it with other laws, since blood quantum was removed from the KKL.

- Blood quantum is not the way of our people, it’s not real and it’s been talked about in other hearings before as actually being designed via the Indian Act to reduce our blood status – it has nothing to do with us – it is meant to diminish our blood, status and people.
- Others stated they would prefer to keep this in the law – if taken out we’ll be allowing people who are practically non-native to run for Council – it goes back to our original membership requirements and if it’s removed then anyone can run for Chief – the only choices are lineage or quantum and leaving it to lineage is too dangerous.
- This has been in here for too long, now is the time to remove it – even though this person admitted she was one of the last people fighting to keep the wording in the KKL, upon reflection she agrees it shouldn’t be referenced anywhere anymore – it should be changed to 4 Kanien’kehá:ka great-grandparents to match KKL requirements – historically our people have been of mixed heritage and needing 4 great-grandparents is essentially the same as 50% blood quantum now.
- 50% blood quantum is essentially non-existent anymore – only heard of it occasionally asked for at the border when going to the US.
- A recommendation was to keep 50% blood quantum and add that Chiefs should have an official clan too.

- If the 50% was removed it would open the door for those with acquired rights to run for Council.
- Reply to that statement was that since the KKL came into place – those who had ‘acquired status’ and were “grandfathered in” were moved to, “Approved Kahnawake Resident Status (AKR)”, which means they are not members on the KKL – they are not entitled to all of our services and wouldn’t be eligible to run for Council even if this blood quantum clause was taken out of the law – everyone who gets put on the KKR goes through extensive lineage verifications first.
- It would be disappointing if 50 % stays in this law – if it remains then everyone who votes should also be required to prove their 50% blood quantum – it only makes sense for people electing Chiefs to be on the same level as those running – it doesn’t make sense to have this discrepancy especially since it would mean not being in compliance with the KKL.
- Suggestion that if it stays in then the next time the law is amended it should include an addition that all voters have to meet this requirement as well – people may re-think the 50% altogether since some may end up not being able to vote anymore if it’s implemented for them too.
- It was mentioned that the community worked very hard over the years to develop the KKL– during the KKL sessions everyone agreed that we would no longer allow the government to decide who our people are and took blood quantum out of that law. – allowing blood quantum to remain is a violation of the KKL – it goes against all the work our people did on membership – it is essentially a slap in the face of that process and the people who worked hard on it.
- A representative of the OKKR stated that through the current membership process – the Registrar determines who is eligible based on lineage and people need to have at least 4 great-grandparents to meet requirements – the Registrar has to determine whether the applicant’s great-grandparents are eligible themselves, since that’s the requirement, which means going back a total of 8 generations – it replaced the 50% blood quantum and it is a lot of work for the Registrar to complete – the umbrella services that KKR members are eligible for was removed from the law, so it’s up to each organization to determine eligibility for their services.
- It was mentioned that membership needs to be determined on a case-by-case basis rather than strict criteria – if someone was adopted and grew up here, they should have rights like other members. The OKKR representative clarified that there is criteria set in the law for adoptees – if they are able to prove their lineage from another community and were adopted by members from here, they qualify as a member.
- It is best to ensure all of our laws complement each other and having a clause like this creates a second tier of community members that are considered “less than”. – Following KKR membership – community members should be able to decide for themselves when voting whether they think someone’s background is good enough for them -if they don’t think so, they don’t have to vote for that person.

Outcome: Despite extensive discussions, consensus could not be reached on this issue. It will be discussed when the law is reviewed for amendments in future.

NO CONSENSUS REACHED

In the Case of a Vacancy on Council

Section 34. Subsection 34.1 “The vacancy of a Council position due to death, resignation or removal from office occurring more than eighteen (18) months before the date of the next selection of Council Chiefs, will be filled by calling for nominations to fill the vacancy. This should be done one (1) week following the vacancy. A by-election should be called two (2) weeks following the nomination, with such modification or adaptation of this Law as the Electoral Officer deems necessary.”

Discussion:

Q: Should the timeframe be two (2) weeks rather than one (1) week for the initiation of a by-election in the event of a Chiefs vacancy?

- Previously, there was no provision for holding a by-election within eighteen (18) months of an election. This led to challenges when a vacancy occurred close to an upcoming election.
- To address this issue, a provision was proposed to allow for an internal process to cover vacancies occurring within six (6) months of an election for Grand Chief, and eighteen (18) months for Council Chief. This would prevent the need for a by-election in such cases.
- Previously, there was an Assistant Grand Chief who was voted in – they were to step in as Interim Grand Chief if that role became vacant – it was proposed that the “Assistant Grand Chief” position be brought back – it was mentioned that the current Council of Chiefs did select an “Assistant Grand Chief” this term who works closely with the Grand Chief and can fill in when required – this is more of an internal process since there is no official Assistant Grand Chief voted in – the provision to have an Assistant Grand Chief was put in after the first phase of the Governance Project – the new Council of Chiefs Terms of Reference now includes this as part of their orientation – so moving forward someone will be designated to this role.
- It was suggested that the Grand Chief by-election should be limited to other sitting Chiefs since they already have experience and worked closely with the Grand Chief, instead of opening it up for anyone to run.
- **Q:** Would this be considered removing the voice/will of the people if the voting pool was limited in any way?
- **A:** The remaining Chiefs would be able to run without risk to their position which will ensure they can return if they are not voted in as Grand Chief – only other way a by-election would have to take place is if one Chief was successfully voted in as Grand Chief, then their position would need to be filled.
- The timeline is that at least six (6) months is needed to orient someone for the position of Grand Chief, so any vacancies up to that point would initiate a by-election. For the other

Chiefs a by-election could take place if there is a vacancy up to eighteen (18) months before the next election.

- There is a suggestion to shorten the timeframe for holding elections in the event of a vacancy, with one participant proposing a change to twelve (12) months instead of eighteen (18) months. There's an opinion that individuals who are elected should fulfill their terms unless they are unable to do so due to illness or other incapacitating factors. If someone takes the time to run, get support from the community and be elected then it's disrespectful to their voters to leave before the term is up. There were three (3) Chiefs who left before the end of this term and it costs the community time and money for every by-election – people running for Council should be ready to commit to the three (3) year term – there should be a penalty for Chiefs who leave early – such as not being allowed to get a position within the MCK for a certain time after – since otherwise it would be considered as setting themselves up while they were in office.

OUTCOME: There was consensus by those in attendance about the amendments to Vacancies in Council.

CONSENSUS REACHED

Following the Main Points Covered - Full Review of the Recommended Amendments Contained in the Law:

Part I – Generalities

Section 4 - Definitions

“Criminal Offense”:

It was recommended to clarify what is considered a “Criminal Offense”. The recommendation is that regardless of whether a Judge has given someone a conditional discharge, any guilty pleas would be considered a criminal offense.

OUTCOME: There was consensus for this amendment.

CONSENSUS REACHED

“General Manager of the Office of the Kahnawà:ke Kanien’kehá:ka Registry (GM of the OKKR)”:

Recommendation to match what is written in the KKL.

OUTCOME: There was consensus for this amendment.

“Representative”:

Recommend clarifying that the representative must also be eligible to vote.

Discussion:

- **Q:** Should both nominators be present to witness the counting of the ballots?
- **A:** This would be in the Nomination Procedure – which is different from the “Representative”.

OUTCOME: There was consensus for this amendment.

“Voters List”:

Recommend change from “Membership Registrar” to the “General Manager of the OKKR”.

OUTCOME: There was consensus for this amendment.

CONSENSUS REACHED

Part II – Administration of Election

Section 5 – Election of Electoral Officer

Changes to 5.1, 5.4, 5.5, 5.8.

Section 6 – Duties of Electoral Officer

Changes to 6.1 e), 6.3.

Section 8 – Eligibility Requirements

Changes to 8.1 b) and d), 8.2, 8.3.

It was noted that 8.1 d) is written incorrectly and they will ensure it is changed to match the same clauses in the rest of the document.

OUTCOME: There was consensus for these amendments.

CONSENSUS REACHED

Part III – Elections

Sections 10 through 20

Terminology changes for the Grand Chief and Chiefs as well as for the General Manager of the OKKR.

Section 21 – Voting

Changes to 21.3 and 21.5.

Section 22 – Special Poll

Changes to 22.3.

OUTCOME: There was consensus for these amendments.

At this point participants were asked whether they would like to extend tonight's session to complete the review of **Sections 23 to 37**. All participants except for two expressed interest in completing the review tonight. Two participants left the meeting at 9:00 PM., a quorum of 10 people was maintained, therefore the session continued.

Section 24 – Criteria for Voting in a Special Poll

Changes to 24.1 a).

Section 25 – Special Poll Ballots and Special Poll Lists

Changes to 25.2.

Section 26 – Eligibility to Vote

Changes to 26.1 a) and removal of c).

Part IV – Post-Election

Section 28 – Counting the Votes

Changes to 28.1 now includes the “Representative” definition.

Section 29 – Recount of Votes

Changes to 29.1, terminology for “Council”.

OUTCOME: There was consensus for these amendments.

CONSENSUS REACHED

Section 30 – Declaration of Poll Results

Changes to Section 30.2, addition in case of emergency to extend the changeover timeline for Council to one (1) week, so the previous Council can handle any emergency issues that the incoming Chiefs may not be ready to address.

Section 32 – Pre-Election Reviews

Changes to Sections 32.4 and 32.5, added to make the review process clearer.

This section should state ‘Justice Services’, rather than ‘Justice Commission’. The change will be made for the revised draft.

- Suggestion that, “e) any other way that reasonably ensures proof of reception” should state “excluding email” because the MCK system sometimes blocks emails and doesn't send a notification that it wasn't received.
- It was clarified that this amendment was made specifically to ensure email was included. Since so long as the person submitting a request to review a decision can show proof they sent the email, that would be sufficient since the receipt issue is on MCK's end.

OUTCOME: There was consensus for these amendments.

CONSENSUS REACHED

Section 33 – Post-Election Appeals

Changes to Section 33.1, terminology. Addition of Sections 33.2 and 33.7, matching the last Section 33.3 includes an appeal deadline of ten (10) days following the election. Changes to Section 33.4 for terminology. Section 33.10 changed from “Court” to “Court of Kahnawà:ke”.

OUTCOME: There was consensus for this amendment.

CONSENSUS REACHED

Section 34 – Vacancies in Council

Changes to the Section title to match terminology for “Council”.

Changes to the rest of this section to ensure proper terminology is used and the previous change approved by the group for the Grand Chief vacancy/by-election is implemented.

OUTCOME: There was consensus for this amendment.

CONSENSUS REACHED

DECLARATION OF CONCLUSION:

As the draft amendments to the MCK *Election Law* have been reviewed in their entirety. And, the Kahnawà:ke Legislative Commission (KLC) and the Technical Drafting Committee (TDC) have done their due diligence informing the community of the amendments through extensive Front-End work, the First Hearing is now complete.

NEXT STEPS:

The next steps involve finalizing the draft law, sending out for a 30-day review period, a Second Hearing, followed by the TDC presenting an Implementation, Operational, and Financial Plan and Legal Review, to the Council of Chiefs before the Reading of the Law into the Record and signing the Certification of the Process.

The process will then move into Phase III, where an enactment package will be prepared and presented to the Council of Chiefs for enactment. Once enacted, the law will be published on the CDMRP website.

FINAL OUTCOME

Consensus was reached on the majority of the proposed amendments, where consensus was not achieved, was in regard to the reference “has at least 50% or more Kanien’kehá:ka Blood Quantum...”, as well, the suggestion to add an educational requirement was deferred for discussion when the law is next reviewed for amendments. While the proposed amendment was to have a mandatory high school level education to be eligible to run, there were many different opinions expressed and consensus could not be reached.

Parking Lot Items:

- All the laws need to be in the Kanien'kéha language.
- Finding other Kanien'kéha words for "Chiefs".
- Full 5 Year Review of the Law.
- Suggestion to raise the minimum age requirement from twenty-one (21) to twenty-five (25) for candidates – older people tend to have more life skills.
- The topic of education requirements for elected Chiefs warrants further discussion, including defining what constitutes education, – should "Life Skills", such as, having a family, home, job, be included as was in the past?
- Change Vacancy Timeline from eighteen (18) months to twelve (12) months.
- There's an opinion that individuals who are elected should fulfill their terms unless they are unable to do so due to illness or other incapacitating factors There should be a potential penalty/exclusion for leaving early, such as not being able to get a position within the MCK for a certain time after.

Approved by:

Alan John Rice, Proponent

Date

Andrea Montour, Technician

Date

LEGEND:

Q: Question

A: Answer