

COMMUNITY DECISION MAKING PROCESS PHASE 1 – COMMUNITY HEARING (3)

REQUEST FOR LEGISLATION: KAHNAWAKE JUSTICE ACT

MOOSE LODGE 958

Ahsénhaton/Wednesday, 04 Kentenhko:wa/November 2009

6:30 pm – 9:00 pm

RECORD OF DISCUSSION

FACILITATORS:

Karonhiénhawe Linda Delormier (Lead)
Teiokaraiehson Melanie Mayo (Group 1)
Louise Mayo (Group 2)
Karonhiénhawe Linda Delormier (Group 3)

RESOURCE PEOPLE:

Shakoshennakéhte Ron Skye (Lead)
Shakoshennakéhte Ron Skye (Group 1)
Karonhí:io Mike Bush (Group 2)
Shakoshennakéhte Ron Skye (Group 3)

RECORDERS:

Kawenna:kwas Brittany Diabo (Lead)
Karonhiahá:wi Coreen Delormier (Group 1)
Courtney Montour (Group 2)
Leah Phillips (Group 3)

Kawennákwas Brittany Diabo (Program Assistant/Logistics)

6:40 PM Opening:

Kahsennénhawe Sky-Deer

Kahsennénhawe opened the hearing with the Ohén:ton Kariahwatéhkwen.

6:45 PM Welcome/Opening Remarks:

Karonhiénhawe Linda Delormier

Linda welcomed and thanked everyone for his or her attendance. She then reviewed some of the documentation handouts including the Community Hearing General Meeting Guidelines.

Linda then introduced each of the support team members assigned to each of the three groups. She provided a short explanation as to their role in the Community Hearing.

Introduction to Evening’s Topic: Karonhiénhawe Linda Delormier and Shakoshennakéhte Ron Skye

Request Community Mandate Karonhiénhawe Linda Delormier

In attaining a community mandate, four questions were developed. The second of these four questions was posed to the all in attendance.

The following are the discussion points, questions and concerns, posed from within each group.

The last statement from the previous Community Hearing was used to begin the discussion:

“The justice system should be built, sanctioned and respected by Kahnawake that must address issues of individual and collective rights and responsibilities including/concerning offenses against family, lands and community to be discussed/decided in different forums appropriate to the offense.”

Group 1
Question 2: What issues or concerns should the justice system address? Continued

Facilitator: Teiokaraíehson Melanie Mayo
Resource Person: Shakoshennakéhte Ron Skye
Recorder: Karonhiahá:wi Coreen Delormier
Group Speaker: Kenneth Diabo

Discussion Points:

- Issue of KTA requested to be omitted. This was put into the parking lot as it is currently being addressed/negotiated between MCK and KTA.
- Things are changing in our community such as parking signs being put up without community being informed. There is a concern that this process that we are meeting on will not be communicated to the community. Ron assured the group that this process will be communicated to the community.

- Community member voiced his concern that the community decision-making system is failing due to decreased attendance. He also voiced that the website was not updated to inform the community of the time change. He felt that the community who are not here are at a disadvantage because things may pass without their input.
- It was suggested that the community have an allotted timeframe such as 60-90 day period to address the/a law once it is passed so that they have a chance to voice their concern or oppose.
- With regard to laws that are passed, community needs to be made aware of how they will be enforced.
- It is not clear to some members of the group of what laws the PK's are responsible for enforcing (i.e.: business law)
- Suggested that community is aware of how laws are enforced.
- Ron re-iterated that the shopping list was accepted and discussed at the last meeting and group 3 put a statement forth and we are here to continue the discussions of the proposed statement.
- Major Crimes such as Sexual Abuse, Murder, etc. were discussed at the last meeting and was proposed to be taken off the "shopping list". Christine believes that group 3 did not say they did not want to include in this list.
- It was suggested to make available to the community or participants at this meeting, current laws that are accepted and recognized by Kahnawà:ke and laws we are not currently able to handle here, but on the outside.
- Want the system to be inclusive and not restrictive with regard to business law.
- Community member talked about the issue of businesses that have signed with Federal.

Questions/Concerns:

Q: How many people does it take to request a law be passed/implemented in this type of forum and be subjected to this process?

A: It takes one person to make a request then, subject to the guidelines of this process, if the community deems it necessary to make a law, the community decision-making process will be followed.

Group 2

Question 2: What issues or concerns should the justice system address? Continued

Facilitator: Louise Mayo
Resource Person: Karonhí:io Mike Bush
Recorder: Courtney Montour
Group Speaker: Louis Stacey

Discussion Points:

- Curious that Membership never came up in any of the groups.
- Youth protection is needed, it is different than child safety.
- Discussion about the statement reached by group 3 at the end of the last meeting: "I was in the third group, we felt that it (statement) encompassed everything that everyone was saying."
- That statement, I missed the last session, but at the first session, I made a comment about creating or building a justice system. We already have a justice system, which is the Great Law. What we have to do is revise that, that law, bring it up-to-date to today's times and how that law would be used to accommodate today's times. To keep stating that we should be building a justice system makes it sound like we don't have anything, like we are completely dependent on Canadian law, but we do have a law, we need to build on it.
- We are all Mohawks of the confederacy; well all have a right to use that law.
- We're not actually going to take Kaianere'kó:wa as it is. It's going to be the umbrella, the justice system or whatever other system is under that.

Questions/Concerns:

- Q: Can we build upon the Great Law because of the positions of the Longhouse group and Council?
- Q: What about firing guns on New Year's Eve? There's too many houses around now.
- Q: How would you enforce culture and traditions?
- A1: Our traditions and culture should be a part of the discussion when creating the justice system. Using the principles rather than saying you have to learn the Great Law. We should keep our traditions and heritage in mind.
- A2: It was to incorporate the principles. How would we address the situation of only the women can own the land? That's in the law. Do we have to enforce that? It's in the law. The discussion that we had last time was to respect the principle. We (men) can't sign a treaty, deed, etc. to sign over the land but potentially you women could do that, would you respect that?
- A3: That's where the problem lies, you can't go traditional because this is the way it goes (land to the women). (Continues with a discussion of women's and men's roles in the traditional law). You can't go traditional fully.
- A4: When it comes to personal property, it may come to be that there are no beneficiaries left. That land goes somewhere. It goes back to the people. Today we call it common land. That's where that land comes under the jurisdiction of the women. The women are then the owners of that land once again. Any native land in general, Kahnawake, the women are the owners of it. It has to be defined on paper. There are provisions going along the way about real property owners, people that bought land, etc.
- Q: Obviously there is a lack of respect of traditions, how do you make people understand why we are doing this, is that a component of this, will it be?

A: In order to give affect to a body of law, there would have to be things, (creation story, what the cultural center itself does. You would be able to tie them into the enforcement of the law) but it wouldn't be one law unless you made a cultural act or maybe a mandate. Protect and promote the language.

Q: What is acceptable to say instead of 'build a justice system'?

A1: Develop, recreate, and expand.

A2: Take the Kaianere'ko:wa model and adapt it.

Group 3

Question 2: What issues or concerns should the justice system address? Continued

Facilitator: Karonhiénhawe Linda Delormier
Resource Person: Shakoshennakéhte Ron Skye
Recorder: Leah Phillips
Group Speaker: RoseAnn Morris

Discussion Points:

- The statement or question encompasses everything that was discussed.
- We want something that empowers the entire community.
- We want a unique justice system.
- Something that will build and/or keep building upon in the future. Start small and build it up.
- We have to deal with it whether we like it or not.
- Arrangements could be made with outside courts if someone commits a crime and they could take over the "jail" part of the process.
- It doesn't make sense to build a prison here in Kahnawà:ke, it would only house one or two criminals at a time, that's not the reality, the criminal should not stay here to do their time.
- We have to find a way to keep the peace.
- The punishment would be handed out by the community (justice system) and then send the offenders back out to serve jail time.
- Aboriginal justice system, they have to go to the outside, and they should come back to the community and make right to the family/victim/community in different forums.
- There are still underlying situations that keep recurring.
- We are not making laws and is there are underlying issues here then something (a law) would need to be developed to deal with these individuals.
- Identify with the different issues that arise.
- Speaking of major crimes such as murder and rape is a matter of where we deal with them. In Kahnawà:ke? Or outside?

- Right now there is no law that is regulating the tobacco industry, people want to see a law regarding this and regulated as soon as possible and maybe it can be revised somewhere in the near future.
- Suggestions of a traveling tribunal, other people from other communities could possibly intervene and make these major decisions of what or how to deal with offenders because of the fact that they will be neutral ground or forum. Community members do not see MCK in a good manner. If they see that MCK is making decisions for the community they do not participate because it's under the MCK Entity.
- Remove the tobacco law and let it sit for the time being and see what evolves. Take it out (the tobacco law) and look at it at a later date.
- Keeping the peace specifically in the Kaianere'ko:wa, we need to find a way to keep it in the Kaianere'ko:wa itself.
- We should be looking at existing laws and what was should be dealing with specifically.
- We should set up the justice system of the law and then make it into the law. We need to have a structure before we can even think of devising a justice system.

Questions/Concerns:

- Q: There are concerns of the tobacco industry: is it a type 1 or type 2 law?
- Q: Do we want to identify crimes at a major level?
- Q: If someone murders someone in Kahnawà:ke, then should they be sent outside of the community?
- Q: Should separate laws be made for the tobacco industry? Should there be a law developed on the tobacco industry?
- Q: How do we identify what system could be applicable to what crimes?
- Q: Why is meeting not being taped? People need to see the hearing.

RESPONSES

GROUP 2

Facilitator: Louise Mayo
Resource Person: Karonhí:io Mike Bush
Recorder: Courtney Montour
Group Speaker: Louis Stacey

Discussion/Clarification:

- Replace should with will.
- Add all before Kahnawake.
- Input Kahnawa'kehro:non instead of Kahnawake.
- Input and/or where needed.
- Add divorce and there are things that are going to be added over time. Any system evolves. This is a starting point of what needs to be addressed.

- They (group 1) thought we were trying to add youth protection to the statement but we were trying to add that to the list. That was not our intention to put it into that paragraph.
- It's also supposed to be 'issues concerning offences'.

Response:

"The justice system **will** be built **upon**, sanctioned and respected by **all Kahnawa'kehro:non** and must address issues of individual and collective rights and responsibilities including and/or concerning offences against family, lands and community to be discussed and/or decided in different forums appropriate to the offense."

GROUP 1

Facilitator: Teiokaraiehson Melanie Mayo
Resource Person: Shakoshennakéhte Ron Skye
Recorder: Karonhiahá:wi Coreen Delormier
Group Speaker: Kenneth Diabo

Discussion/Clarification:

- Agreed that youth protection and young offenders should be added to the list along with membership.
- Proposed to add divorce to the "shopping list".
- Proposed to add the following comment: Including and concerning Criminal Offences and Civil Law (family, land and community, etc.)
- Add respected by the people of Kahnawà:ke to the statement. Kahnawa'kehr:non was added.

Response:

"The justice system will be built upon, sanctioned and respected by all Kahnawa'kehro:non and must address issues of individual and collective rights and responsibilities including and/or concerning **Criminal** offenses and **Civil Law** (family, lands and community, etc.) to be discussed and/or decided in different forums appropriate to the offense."

GROUP 2

Facilitator: Louise Mayo
Resource Person: Karonhí:io Mike Bush
Recorder: Courtney Montour
Group Speaker: Louis Stacey

Discussion/Clarification:

- Group 2 is in agreement with Group 1's statement. They pass it on to Group 3 for discussion.

Response:

"The justice system will be built upon, sanctioned and respected by all Kahnawa'kehro:non and must address issues of individual and collective rights and responsibilities including and/or concerning Criminal offenses and Civil Law (family, lands and community, etc.) to be discussed and/or decided in different forums appropriate to the offense."

GROUP 3

Facilitator: Karonhiénhawe Linda Delormier
Resource Person: Shakoshennakéhte Ron Skye
Recorder: Leah Phillips
Group Speaker: RoseAnn Morris

Discussion/Clarification:

- Added text and re-wording was done to the previous statement. Bolded text is the revisions.

Response:

"**In order to maintain peace in our community**, the justice system shall be built upon, sanctioned and respected by all Kahnawa'kehro:non.

It must address issues of individual and collective rights and responsibilities including and/or concerning **all existing and future laws** to be discussed and/or decided in different forums appropriate to the offense.

The development of the justice system should take into consideration all of the feedback, issues, concerns and questions at the community hearings on justice."

Statement was passed back to Group 1 and 2 for discussion.

GROUP 2

Facilitator: Louise Mayo
Resource Person: Karonhi:io Mike Bush
Recorder: Courtney Montour
Group Speaker: Louis Stacey

Discussion/Clarification:

- Re-wording was done to the statement. Bolded text is the revisions.

Response:

"In order to maintain peace **and harmony** in our community, the justice system shall be built upon, sanctioned and respected by all Kahnawa'kehro:non.

It must address issues of individual and collective rights and responsibilities including and/or concerning all existing and future laws to be discussed and/or decided in different forums appropriate to the offense.

The development of the justice system **shall take into account the spirit and intent of** the community hearings on justice."

This statement was passed to Group 1 for discussion.

GROUP 1

Facilitator: Teiokaraíehson Melanie Mayo
Resource Person: Shakoshennakéhte Ron Skye
Recorder: Karonhiahá:wi Coreen Delormier
Group Speaker: Kenneth Diabo

Discussion/Clarification:

- Re-wording was done to the statement. Bold text is the revisions.
- Keep the remaining first two paragraphs from group 3's position.
- Explained that "shall" is the correct legal term to use. All agreed to use "shall".
- Took out "spirit and intent" and replaced it with "all of the feedback, issues, concerns and questions".

Response:

"In order to maintain peace and harmony in our community, the justice system **shall** be built upon, sanctioned and respected by all Kahnawa'kehro:non.

It must address issues of individual and collective rights and responsibilities including and/or concerning all existing and future laws to be discussed and/or decided in different forums appropriate to the offense.

The development of the justice system **shall** take into account **all of the feedback, issues, concerns and questions** at the community hearings on justice."

Statement was passed to Group 3 for discussion.

GROUP 3

Facilitator: Karonhiénhawe Linda Delormier
Resource Person: Shakoshennakéhte Ron Skye
Recorder: Leah Phillips
Group Speaker: RoseAnn Morris

Discussion/Clarification:

- Group 3 is in agreement with the statement.

POSITION:

"We want a unique system of justice that better responds to our community's needs and continues to respect our traditions that are built upon the values and principles such as peace, power and righteousness, harmony, good-mind and respect.

In order to maintain peace and harmony in our community, the justice system shall be built upon, sanctioned and respected by all Kahnawa'kehro:non.

It must address issues of individual and collective rights and responsibilities including and/or concerning all existing and future laws to be discussed and/or decided in different forums appropriate to the offense.

The development of the justice system shall take into account all of the feedback, issues, concerns and questions at the community hearings on justice."

CONCLUSION/NEXT STEPS:

Next Justice Community Hearing will be on November 25th, 2009, location and date to be determined. The following question will be asked to the community:

"Should judgments, orders, decisions from a Kahnawà:ke justice system be recognized outside the territory?"

Oversight Chief

Oversight Chief

Oversight Chief

DRAFT