

DRAFT KAHNAWÀ:KE TOBACCO LAW
FIRST HEARING – Meeting #3
Karonhianonhnha Gym
5, Onerahtókha / April 2016
6:00 PM– 8:30 PM

RECORD OF DISCUSSION

RESOURCE PEOPLE:

Brian Delormier – KTA
Devery Bauersfeld – KTA
Randy Cross – KTA
Lionel Deer Jr. - KTA
Peggy Mayo Standup - KTA

Chief Gina Deer – MCK
Dennis Diabo – MCK Technician

FACILITATORS:

Joe Delaronde
Dale Dione

CHIEFS IN ATTENDANCE:

Chief Martin Leborgne
Chief Arlene Jacobs
Chief Kahsennenhawe Sky-Deer

RECORDER:

Kim Beauvais

6:00 P.M. **OPENING** – Chief Kahsennenhawe Sky-Deer

6:05 P.M. **INTRODUCTION/MEETING GUIDELINES** – Joe Delaronde

6:10 P.M. **DRAFT KAHNAWÀ:KE TOBACCO LAW** – Joe Delaronde & Dale Dione

SECTION VI – KAHNAWÀ:KE TOBACCO REGULATORY COMMISSION

8:25 P.M. **NEXT STEPS** – Joe Delaronde

8:30 P.M. **CLOSING** – Chief Kahsennenhawe Sky-Deer

SECTION VI – KAHNAWÀ:KE TOBACCO REGULATORY COMMISSION

6.1 There is established a body to be known as the Kahnawà:ke Tobacco Regulatory Commission.

DISCUSSION:

- There were no objections to Section 6.1.

Consensus was reached on the existing wording of Section 6.1.

6.2 The Commission will have the powers and duties provided in this Law and will administer this Law in the best interests of the Kanien'kehá:ka of Kahnawà:ke and in accordance with the highest principles of honesty, integrity and professionalism.

DISCUSSION:

- There were no objections to Section 6.2.

Consensus was reached on the existing wording of Section 6.2.

6.3 The Commission will function independently and autonomously from any person, group, organization or governmental body.

DISCUSSION:

- This would exclude the MCK as having a seat on the Commission.
- The KTA members did not want to be answerable to the MCK or any other person, group or body. They are not answerable to anyone but to the people of Kahnawà:ke.
- If someone gets arrested, is the KTA going to help them?
- This law is only applicable within the territory of Kahnawà:ke. Once the law is passed, it will be up to the MCK or the Longhouse to fight with the outside governments.
- The wording is exclusionary. Perhaps we can strike Section 6.3 and use only Section 6.4.
- It was felt that it was important to leave in the independent autonomous position.
- What happens if industry people are not happy with the commission, do they have recourse?
- Yes, it is further in the law.
- It was felt that 6.3 and 6.4 are repetitive, one is exclusive and one is inclusive.
- Section 6.2 should end after Kahnawà:ke. The rest of the section should fall under guiding principles: "The commission will carry out its responsibility in accordance with the highest principles of honesty, integrity and professionalism."
- Section 6.3 can easily be combined with 6.4 to read: "The Commission will function independently and autonomously and be answerable and accountable only to the Kanien'kehá:ka of Kahnawà:ke."
- KTA does not want to see the wording changed, but it's up to everyone here.
- Section 6.3 is contradicted when you say in structure that everyone can be a part of it.
- To simply say that the commission will function independently is enough.
- Section 6.4 answers 6.3, so it shouldn't be a big deal.

Consensus was reached to leave the wording of Section 6.3 as is.

OUTCOME:

Consensus was reached on Sections 6.1, 6.2 and 6.3 with no changes to existing wording.

GUIDING PRINCIPLES

6.4 The Commission is accountable to the Kanien'kehá:ka of Kahnawà:ke in relation to all matters enumerated in this Law.

DISCUSSION:

- Add the word "only" after accountable.

The vast majority of people agreed to add the word "only". There were a few objections.

Consensus reached that Section 6.4 read: “The Commission is accountable only to the Kanien’kehá:ka of Kahnawà:ke in relation to all matters enumerated in this Law.”

6.5 The Commission will:

- (a) preserve and promote the self-sufficiency of the Kanien’kehá:ka of Kahnawà:ke through economic development, bearing in mind the economic advantages that the tobacco industry provides to the Kanien’kehá:ka of Kahnawà:ke;

DISCUSSION:

Consensus was reached on the existing wording of Section 6.5 (a).

- (b) preserve and promote the specific right of the Kanien’kehá:ka of Kahnawà:ke to grow, manufacture, trade, sell, barter, purchase and transport any tobacco product that is available within the international community; and

DISCUSSION:

- Is there a definition for “the international community”?
- The definition is in the regulations. We were not allowed to put that in the Law.
- This is in preparation for being able to sell overseas in the future.
- Suggestion to change to read: “available domestically and internationally”

Consensus was reached that Section 6.5 (b) read: “preserve and promote the rights of the Kanien’kehá:ka of Kahnawà:ke to grow, manufacture, trade, sell, barter, purchase and transport any tobacco products that are available domestically and internationally; and”

- (c) fulfill its mandate in a manner that is fair, realistic and unbiased to all involved.

DISCUSSION:

- Suggestion to read: carry out its responsibilities in a manner...etc.
- Suggestion to remove mandate and change it to responsibilities
- Suggestion to add the word equitable after fair.

Consensus was reached to exchange the word “mandate” with “responsibilities”.

OUTCOME:

Consensus was reached on Section 6.5, with the above noted changes to subsections (b) and (c).

STRUCTURE

6.6 The Commission will consist of nine (9) members, in the following proportions and categories:

- (a) three (3) Kanien’kehá:ka of Kahnawà:ke who are not employed or have any financial interest in the Kahnawà:ke tobacco industry (“General Commission Members”); and
- (b) six (6) Kanien’kehá:ka of Kahnawà:ke who are Industry Members, (“Industry Commission Members”), divided into the following categories:
 - (i) two (2) Manufacturers;
 - (ii) two (2) Wholesalers; and
 - (iii) two (2) Retailers.

DISCUSSION:

- There was comment that it would be a biased Commission in favor of the industry with 6 industry and 3 community representatives.
- It was hoped that people with integrity would be put in place. People from the industry would be able to know who was actually in violation of the law or regulations – community members will not necessarily have knowledge of the industry and could simply apply the letter of the law.

- Proposal to have a subsection (c) adding one MCK, and one representative from each longhouse as liaisons.
- KTA met with the longhouses to see if they wanted a seat on this board. They want to wait to see the law from the Confederacy. Six Nations addressed this law and said that elected councils have no right to make a law.

OUTCOME:

- There was a suggestion to add 3 additional liaisons (non-voting observers).
- The accountability in guiding principles would be reflected by adding the 3 liaisons.

Consensus was reached to accept Section 6.6 with the addition of subsection (c) three (3) non-voting observer seats to be offered; one from MCK, one from 207, one from Mohawk Trail. The non-voting observer (liaison) will be appointed by each.

TERM OF OFFICE

6.7 Subject to section 6.8, Commission members will serve a term of office of two (2) years.

DISCUSSION:

Consensus was reached on the wording of Section 6.7 as is.

6.8 To ensure continuity, the Commission may stagger Commission members' terms of office in accordance with such rules and procedures as the Commission unanimously approves.

DISCUSSION:

Consensus was reached on the wording of Section 6.8 as is.

6.9 Upon expiry of a member's term of office, subject to the other provisions of this Law, the member is eligible to be re-elected for another term of office.

DISCUSSION:

Consensus reached on the wording of Section 6.9 as is

6.10 A Commission member is limited to two (2) consecutive terms of office.

DISCUSSION:

- There is a suggestion to set the limit to three (3) years.

Consensus was reached to have a limit of two (2) consecutive terms.

OUTCOME:

Consensus was reached on the existing wording of Sections 6.7, 6.8, 6.9, and 6.10.

ELIGIBILITY

6.11 To be elected, or to hold office, as a General Commission Member or Industry Commission Member, a person:

- (a) must be a Kanien'kehá:ka of Kahnawà:ke who is at least twenty-one (21) years old;

DISCUSSION:

- Suggestion to add: must not be a sitting member of Council.

Consensus reached on the existing wording of Section 6.11 (a).

- (b) must not have been convicted of an indictable or felony offence, except when the offence is in relation to his or her involvement in the tobacco industry or a full pardon has been granted;

DISCUSSION:

- What happens if someone is going to be charged but has not yet been charged with the offence?
- They have to be actually charged.

Consensus reached on the existing wording of Section 6.11 (b).

- (c) notwithstanding paragraph 6.11(b), must not ever have been convicted of an offence related to the trafficking of narcotics or associating with a criminal organization.

DISCUSSION:

Consensus reached on the existing wording of Section 6.11 (c).

6.12 In addition to the requirements set out in section 6.11:

- (a) to be elected, or to hold office, as an Industry Commission Member, a potential candidate must satisfy the definition of “Industry Member”, “Manufacturer”, “Wholesaler” and “Retailer” as the case may be, as provided in this Law; and

DISCUSSION:

Consensus reached on the existing wording of Section 6.12 (a).

- (b) to be elected, or to hold office, as a Community Commission Member, a potential candidate must not be employed or have any financial interest in the Kahnawà:ke tobacco industry.

DISCUSSION:

Consensus reached on the existing wording of Section 6.12 (b).

6.13 The Electoral Officer appointed to conduct an election will have discretion to decide whether a particular person satisfies the eligibility criteria set out in sections 6.11 and 6.12.

DISCUSSION:

- Will there be a set of electoral rules?
- It will be in the Regulations.

Consensus reached on the existing wording of Section 6.13.

OUTCOME:

Consensus was reached on the existing wording of Sections 6.11, 6.12, and 6.13 in their entirety.

Chief Kahsennenhawe Sky-Deer closed the meeting at 8:25 pm. The date of the next Tobacco meeting will be announced shortly.

Approved by:

Chief Gina Deer

Date

Peggy Mayo-Standup, KTA Coordinator/
Technician

Date