

DRAFT KAHNAWÀ:KE TOBACCO LAW

FIRST HEARING – Meeting #4

GOLDEN AGE CLUB

31 Onerahtohkó:wa / May 2016

6:00 PM– 8:30 PM

RECORD OF DISCUSSION

RESOURCE PEOPLE:

Brian Delormier – KTA
Devery Bauersfeld – KTA
Randy Cross – KTA
Peggy Mayo Standup – KTA

Chief Gina Deer – MCK
Chief Robert Patton – MCK
Dennis Diabo – MCK Technician

FACILITATORS:

Leslie Beauvais-Skye – KLCC Lead
Joe Delaronde
Dale Dione

CHIEFS IN ATTENDANCE:

Chief Martin Leborgne
Chief Kahsennenhawe Sky-Deer

RECORDER:

Kim Beauvais

6:00 P.M. **OPENING** – Leslie Beauvais-Skye

6:05 P.M. **INTRODUCTION/MEETING GUIDELINES** – Leslie Beauvais-Skye

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

**SECTION VI – KAHNAWÀ:KE TOBACCO REGULATORY COMMISSION
CONTINUED AT SECTION 6.14**

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

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

ELECTIONS

6.14 The election of General Commission Members and of Industry Commission Members will be held on the same date, and will be conducted in accordance with the following procedures.

DISCUSSION:

- Does the change to section 6.6 apply here? The observers will be appointed by their respective organizations.

Consensus reached on the existing wording of Section 6.14.

6.15 The first election of three (3) General Commission Members and six (6) Industry Commission Members will be held within ninety (90) days of the date that this Law comes into force and every two (2) years thereafter.

Consensus reached on the existing wording of Section 6.15.

6.16 Not less than sixty (60) days prior to the date on which an election is to be conducted, the Commission, or Interim Commission in the case of the first election, will appoint an Electoral Officer who will be responsible for conducting an election of General Commission Members and Industry Commission Members in accordance with the provisions of this Law.

Consensus reached on the existing wording of Section 6.16.

6.17 The Electoral Officer will, not less than forty-five (45) days prior to the date on which an election is to be conducted, provide public notice to the Kanien'kehá:ka of Kahnawà:ke:

- informing the Kanien'kehá:ka of Kahnawà:ke of the place, date and time of the election;
- inviting nominations from Kanien'kehá:ka of Kahnawà:ke for the names of persons willing and eligible to be elected to as General Commission Members; and,
- informing the Kanien'kehá:ka of Kahnawà:ke the names of the persons nominated for the position of Industry Commission Members and the category for which each candidate has been nominated.

Consensus reached on the existing wording of Section 6.17.

6.18 Elections will be monitored and controlled by the Electoral Officer.

Consensus reached on the existing wording of Section 6.18.

6.19 Within seven (7) days after the election, the Electoral Officer will publicly inform the Kanien'kehá:ka of Kahnawà:ke of the election results for General Commission Members and Industry Commission Members.

DISCUSSION:

- There was a suggestion that 7 days was too long a time period.
- There was a comment that “within 7 days” could mean 1 day, 2 days, etc. so leave it the way it is.

Consensus reached on the existing wording of Section 6.19.

ELECTION OF GENERAL COMMISSION MEMBERS

6.20 An unlimited number of willing and eligible persons may be nominated to be candidates for the position of General Commission Member.

Consensus reached on the existing wording of Section 6.20.

6.21 Any Kanien'kehá:ka of Kahnawà:ke is eligible to vote in the election of General Commission Members.

DISCUSSION:

- There was question about eligibility. Section 6.21 outlines who is eligible.

Consensus reached on the existing wording of Section 6.21.

6.22 The three (3) eligible candidates who receive the most votes will be declared to be General Commission Members.

DISCUSSION:

- Question as to what happens when there is a tie?
- The process for how to deal with a tie should be outlined in the law.
- Suggestion that the electoral officer should cast the deciding vote or should perform a coin toss to determine the successful candidate.
- Another suggestion was that the electoral officer should cast the deciding vote or will determine a process to determine the successful candidate.
- Proposed wording to be added: "in the event of a tie the Electoral Officer will either cast the deciding vote or determine the process to break the tie."

Consensus reached to add the proposed wording to Section 6.22, which will now read: "The three (3) eligible candidates who receive the most votes will be declared to be General Commission Members. In the event of a tie the Electoral Officer will either cast the deciding vote or determine the process to break the tie."

6.23 The two (2) eligible candidates that placed fourth and fifth in the election will be considered as alternate General Commission Members and, if agreeable, will replace a General Commission Member in the event of a General Commission Member resigns or is removed from office before the expiry of his or her term.

Consensus reached on the existing wording of Section 6.23.

ELECTION OF INDUSTRY COMMISSION MEMBERS

6.24 An unlimited number of eligible Industry Members may be nominated for the position of Industry Commission Members.

Consensus reached on the existing wording of Section 6.24.

6.25 Only Industry Members are eligible to vote in the election of Industry Commission Members.

Consensus reached on the existing wording of Section 6.25.

6.26 In cases of Industry Members that operate as a partnership, only one (1) vote will be allowed per partnership.

Consensus reached on the existing wording of Section 6.26.

6.27 The two (2) eligible candidates who receive the most votes in each of the three (3) categories of Industry Commission Member will be declared to be Industry Commission Members for that category.

DISCUSSION:

➤ It was noted that the same wording used in Section 6.22 should be added to this Section.

Consensus reached with the addition of “In the event of a tie the Electoral Officer will either cast the deciding vote or determine the process to break the tie.” to be in line with section 6.22.

REMOVAL FROM OFFICE

6.28 A Commission member may be removed from office prior to the expiry of his or her term of office by unanimous resolution of all other Commission members.

DISCUSSION:

➤ Section 6.49 empowers the Commission to enact a code of conduct and code of ethics, outlining reasons they can remove a Commissioner.

Consensus reached on the existing wording of Section 6.28.

RESIGNATION

6.29 A Commission member may resign from office prior to the expiry of his or her term of office by giving a written notice to the Commission at least thirty (30) days prior to the date on which the resignation is effective.

Consensus reached on the existing wording of Section 6.29.

VACANCY

6.30 In the event a Commission member is removed, resigns or is unable to continue performing his or her duties for any reason the Commission member’s position will, by resolution of the Commission, be declared vacant and will be filled:

- (a) in the case of a General Commission Member, by an alternate General Commission Member;
- (b) if an alternate General Commission Member is not available to fill the vacancy, a by-election will be called for the purpose of replacing the vacating General Commission Member; and
- (c) in the case of an Industry Commission Member, a by-election will be called and will follow the same procedure as for the election of Industry Commission Members

Consensus reached on the existing wording of Section 6.30.

INTERIM COMMISSION

6.31 Until such time as a Commission is elected pursuant to the provisions of this Law, a body of three (3) persons will be appointed as an Interim Commission by the Kahnawà:ke Tobacco Association.

Consensus reached on the existing wording of Section 6.31.

6.32 In addition to the specific powers and duties assigned to the Interim Commission herein, the Interim Commission will have all of the powers and duties provided by this Law to the Commission.

Consensus reached on the existing wording of Section 6.32.

OFFICERS

6.33 The Commission, will, by majority vote, appoint one (1) of its members as Chairperson. The Chairperson will preside over meetings of the Commission and will ensure the Commission follows the principles and procedures provided in this law.

Consensus reached on the existing wording of Section 6.33.

6.34 The Commission will, by majority vote, appoint one (1) of its members as Vice-Chairperson. The Vice-Chairperson will act as Chairperson during meetings of the Commission when the Chairperson is absent or unable to act.

Consensus reached on the existing wording of Section 6.34.

6.35 The Commission will, by majority vote, appoint two (2) of its members as Secretary and Treasurer. The Secretary and Treasurer will have such powers and duties as defined by the Commission in their appointment.

Consensus reached on the existing wording of Section 6.35.

6.36 The Chairperson, Vice-Chairperson, Secretary and Treasurer will be considered members of Commission for all purposes under this law.

Consensus reached on the existing wording of Section 6.36.

QUORUM

6.37 A quorum of seven (7) Commission members must be present to constitute a valid meeting, one of whom must be either the Chairperson or the Vice-Chairperson.

Consensus reached on the existing wording of Section 6.37.

6.38 The quorum required to pass a resolution at a validly constituted meeting is a simple majority of Commission members in attendance at that meeting.

Consensus reached on the existing wording of Section 6.38.

6.39 In the case of a tie vote of the Commission, the Chairperson will have a casting vote.

Consensus reached on the existing wording of Section 6.39.

6.40 A quorum of the Interim Commission to conduct a validly constituted meeting and to pass a resolution is a simple majority of its members.

Consensus reached on the existing wording of Section 6.40.

MEETINGS

6.41 The Commission will meet at the call of the Chairperson or a majority of its members.

Consensus reached on the existing wording of Section 6.41.

6.42 For the purpose of conducting ordinary business, the Commission will meet once a week or as required.

Consensus reached on the existing wording of Section 6.42.

6.43 The Commission will conduct monthly meetings with the Kanien'kehá:ka of Kahnawà:ke to provide information on the Commission's contributions to the Kanien'kehá:ka of Kahnawà:ke and such other matters as the Commission deems appropriate.

Consensus reached on the existing wording of Section 6.43.

6.44 Notice of any meeting of the Commission, with particulars of the agenda, will be provided to all Commission members, not less than two (2) days prior to date of the meeting.

Consensus reached on the existing wording of Section 6.44.

6.45 Meetings or portions of meetings of the Commission, may, at the sole discretion of the Commission, be open to the public or conducted *in camera*.

Consensus reached on the existing wording of Section 6.45.

REMUNERATION

6.46 Commission Members will receive such remuneration for attending meetings as the Commission may decide.

Consensus reached on the existing wording of Section 6.46.

CONFLICT OF INTEREST

6.47 Industry Commission members must abstain from participating in any portion of a meeting or voting in any decision that affects the member or the member's business.

DISCUSSION:

- Section 7.1 (b) (x) gives the Commission the power to create a process to provide due process (to defend themselves) to a Commissioner who is in a conflict.

Consensus reached on the existing wording of Section 6.47.

6.48 All Commission members must abstain from participating in any portion of a meeting or voting in any decision that affects an immediate family member.

DISCUSSION:

- Clarification on immediate family member: spouse, significant other, a parent, children, or siblings.

Consensus reached on Section 6.48 with the addition of the following wording: "or significant other".

6.49 The Commission will enact a mandatory Code of Ethics and Code of Conduct to be signed by, and binding upon, all Commission members.

Consensus reached on the existing wording of Section 6.49 with the provision that the definition of “Immediate family member” be changed to include “significant other” within Section V: DEFINITIONS.

Consensus was also reached to move on to Section VII even though it was advertised that the agenda would only go to the end of Section VI.

SECTION VII

7. POWERS AND DUTIES OF THE COMMISSION

7.1 In addition to any other powers that may be provided to it in this Law, the Commission will have the power to:

- (a) grant, suspend, renew or revoke certificates or other forms of authorization in the following categories:
 - (i) Broker;
 - (ii) Grower;
 - (iii) Processor;
 - (iv) Supplier;
 - (v) Manufacturer;
 - (vi) Wholesaler;
 - (vii) Retailer;
 - (viii) Transporter;
 - (ix) and such other categories as the Commission deems necessary;

Consensus reached on the existing wording of Section 7.1(a).

- (b) enact and administer such regulations as are authorized by this Law, including regulations that:
 - (i) prescribe the form and content of applications for certificates or other forms of authorization;
 - (ii) prescribe the documents to be produced and the information to be provided by an applicant for a certificates or other forms of authorization or the renewal thereof;
 - (iii) prescribe the procedures for the processing or hearing of applications;
 - (iv) prescribe the form and content of certificates or other forms of authorization;
 - (v) prescribe the fees for granting and renewing certificates or other forms of authorization;
 - (vi) establish appropriate terms and conditions for, and monitor the use of, certificates or other forms of authorization;
 - (vii) prescribe the form and content of reports to be produced by an inspector;
 - (viii) prescribe the manner in which shipments of tobacco products are to be sealed at the point of origin and verified at the point of delivery;
 - (ix) declare a product to be tobacco or a tobacco product for the purposes of this Law;
 - (x) prescribe the procedures for hearings, reviews and appeals conducted pursuant to this Law;
 - (xi) prescribe quality standards and controls for tobacco and tobacco products;

- (xii) prescribe employment standards for workers in the Kahnawà:ke tobacco industry;
- (xiii) prescribe standards for health, safety, security and environmental protection in relation to the Kahnawà:ke tobacco industry and persons employed in the Kahnawà:ke tobacco industry; and
- (xiv) any other regulation necessarily related to the Commission's mandate.

Consensus reached on the existing wording of Section 7.1(b).

- (c) amend regulations as the Commission deems necessary;

Consensus reached on the existing wording of Section 7.1(c).

- (d) act as liaison with comparable authorities in other jurisdictions;

Consensus reached on the existing wording of Section 7.1(d).

- (e) hear and decide any matter concerning the use of a certificate or other form of authorization granted by the Commission.

Consensus reached on the existing wording of Section 7.1(e).

Chief Kahsennenhawe Sky-Deer closed the meeting at 8:25 pm. The next scheduled Tobacco meeting will be held on Tuesday June 28th from 6 – 8:30 pm at the Golden Age Club, with the possibility of an additional meeting before the summer break.

Approved by:

Peggy Mayo-Standup, KTA Coordinator/
Technician

Date

Chief Gina Deer

Date

Chief Robert Patton

Date