

**COMMUNITY DECISION-MAKING PROCESS
KAHNAWÀ:KE ELECTION LAW
FIRST HEARING (MTG. #6)**

Golden Age
18, Ohiaríha/June 2014
6:00 PM – 8:30 PM

RECORD OF DISCUSSION

FACILITATORS:

Kahente Horn-Miller (Lead -CDMP)
Joe Delaronde
Paul Nicholas

RESOURCE PEOPLE:

Trina C. Diabo (Lead – Resource Person)

RECORDERS:

Leslie Skye (Lead/Logistics)
Sophia Dupont

6:00 P.M. **OPENING** – Leslie Skye

6:05 P.M. **INTRODUCTION/MEETING GUIDELINES** – Kahente Horn-Miller

6:10 P.M. **REVIEW AMENDMENTS TO KAHNAWÀ:KE ELECTION LAW**
 – Trina C. Diabo

8:15 P.M. **NEXT STEPS** – Kahente Horn-Miller

8:30 P.M. **CLOSING** – Leslie Skye

GROUP 1

Facilitator: Paul Nicholas
Resource Person: Trina C. Diabo
Recorder: Sophia Dupont

Question 1

Do you agree that a candidate must declare all of his/her private business holdings and cease to hold any decision-making authority with respect to this said business holding during his/her term of office?

PRE-DISCUSSION:

- I would like it on record that I don't feel there are enough people considering the importance of the topic. It feels like we're rushing this. How can you make a just decision in a rush and that is why I don't agree. I'm speaking on behalf of other people who could not make it here tonight.
- For this Law to apply for the 2015 Election, we need to proceed tonight.
- For clarity, we do not have to finish this tonight. We can continue in September.
- If we get strong consensus and everyone in the room agrees, does that make a difference?
- To me it does not make a difference. If I can't live with it, I will say.
- We will find out as the meeting goes on.

DISCUSSION:

- I think to declare one's business holding is a good thing.
- To ask the individual to give up their business-holdings for the term that they're elected for is a little harsh. I am more concerned with and disagree with when the councilor is finishing up their term and leaving to start a business.
- This clause was added because people asked how they would have time to serve the community if they own many businesses.
- People know the people who are running.
- No, that is not true; we have one night to meet the candidates. They should fess up to what they are doing if they are going to run our town for 3 years. If they are willing to be a Council Chief for 3 years, they should not have a problem to declare and it is not to give it up, but to remove themselves from making Council decisions with that kind of business.
- I support this addition to the criteria.
- A lot of these businesses are land-based, are we going to ask them to give this up?
- Are they drawing earnings from these businesses?
- I personally agree with this statement because we have had chiefs that owned businesses and were absent from the office 3 days a week and drawing finances and putting up big houses.
- What if they put it in their wife's name, is that still a conflict?
- Everyone doesn't know everyone's business.
- It is about honesty, to declare what businesses they are involved in.
- If they declare, it gives opportunity to decide if you should vote for that person because maybe working for the community is not his/her priority.
- It's about the people having the information.
- If not declared, the Chief could be removed.
- We cannot rush to make decisions.
- I have a business with a leasing arrangement on my property, but it is an open book. The environment has carte blanche to my property. When they are talking about landfill, I would recuse myself from the discussion.
- To run for leadership in your community, first priority is towards the community. There should be some kind of mechanism that assures that a person's time is not being taken up by their personal business affairs.
- For the most part, I agree with what has been said. The first half is ok but the second half seems unrealistic to monitor and they have a future and no guarantee to be elected again. What has not been brought up is the financial aspect, transparency is very important to know what kind of businesses they have, a lot of reasoning for wanting to reduce the number of Chiefs is that it is unfair to run because of the salary but if you're making a lot of money from your other businesses, it is unfair.
- We have to include some kind of mechanism, for the accountability. Will we put it out to the community, to make it public to answer to that? The public has to know the truth. It is about honesty.

- The intent is to make business-holdings public to the community.
- When does the candidate declare their business holdings to the Election Officer? Is it when they are nominated or accept the nomination, because this is very confidential?
- Past candidates have declared on their own without being asked, but do we want to make it criteria?
- The Law says that you have to declare and that is about honesty. It should not be about hiding.
- I think it is important what business the candidate is involved in as it can affect the way I vote.
- Business holdings tie in with transparency and they should also disclose conflicts of interest.
- I have excused myself from discussions on landfill.
- At what point should the business-holdings be declared? Should it be once the nomination is accepted?
- I agree with first section of the question but I disagree with forcing anyone.
- I agree with disclosing business holdings and ensuring that a conflict of interest clause is added.
- When we fill out the forms to run in the election, we declare if we have a business or if we've been convicted of a crime.

OUTCOME:

Do you agree that a candidate must declare all of his/her private business holdings?

- Agree with first part of the question.
- At this point, there is nothing in the law to say that the councilor must recuse him/her from the discussion.
- Suggestion to change wording:
"A candidate must declare all of his/her private business holdings."

CONSENSUS REACHED ON FIRST PART OF THE QUESTION.

And cease to hold any decision-making authority with respect to this said business holding during his/her term of office?

- I disagree with second half of question.
- The rest should be decided at the Council Table.
It is stated that there should a conflict of interest clause added.
It is stated that a Council Chief must remove themselves from decisions or discussions that comes to the Council Table during his/her term of office, if there is personal conflict.

CONSENSUS REACHED. *“A candidate must declare all of his or her private business holdings.*

FINAL RECORD OF DISCUSSION

Question 2

**Do you agree to change the wording of Section 15 g) to read:
“If he/she has previously served on Council in the term immediately before the
current election, he/she must not have been removed from office”?**

DISCUSSION:

- Current wording is “in good standing” how do you measure that?
- It would make it more yes or no by changing the wording to what is suggested.
- It is only for one (1) term.
- What mechanism is in place to remove a Chief?
- Vote of non-confidence or three (3) suspensions – the Disciplinary Measures.
- There could be another mechanism in the future that would cover this.
- What if the law says the individual cannot run and they have a lot of backing?
- The law is the law.

OUTCOME:

CONSENSUS REACHED.

Question 3

Confirm consensus reached on April 30th

The consensus reached on April 30th was to keep the criteria the same (6 years) and excluding tobacco offenses. Status quo for the Electoral Officer to have the ability to review each candidate's criminal background check and determine whether the candidate is eligible to run in the elections.

Or

The team came up with this clause to answer the community concerns in relation to summary convictions:

15.2 For greater certainty, the term "criminal offense" contained in subsection (g) includes any conviction for an indictable offense or three (3) summary conviction offenses committed within a period of five (5) years and in this case, the six- (6) year ban from hold office would commence after the last of the summary conviction sentences has been served in full. A criminal conviction for a tobacco charge (possession, manufacture or transport) will not be considered as a criminal offense for the purpose of this law.

DISCUSSION:

- If you're going to leave including summary convictions to the discretion of the Electoral Officer, there would have to be clear criteria that list the offenses because these can be negotiated down.
- Based on past experience, it comes down to common sense.
- Under the Criminal Code, tobacco offenses will be listed "fraud" not "customs and excise offences" and the Electoral Officer will not be told which one.
- For an example, if I got caught with cigarettes, the report will come back as a conviction for "fraud".
- I cannot form an opinion because I don't understand the difference between a summary conviction or a criminal code conviction.
- Candidates must also declare any pending criminal charges.
- There are summary convictions, indictable and dual (hybrid).
- I understand a little more about summary convictions, but I agree that we can come back to it.
- The Electoral Officer, whoever that will be, should be given the authority to make verifications rather than obtaining this from the PK's and the Court of Kahnawake. The Electoral Officer should be authorized to go to the courts to get a criminal background check because some charges are not stated like the cigarettes charges.

- The Electoral Officer should have the authority and the MCK should not be involved in conducting the background checks.
- When someone is charged, there is a court decision, the candidate will have to prove what they were convicted of whether it was for tobacco or not. It could be assault (criminal harassment, sexual assault, etc.). For example, brutal sexual assault, the person got a summary conviction and served only 6 months in jail.
- For the Electoral Officer, it would be important to get a copy of the decision that was rendered by the judge so that the Electoral Officer can make an informed judgment as to eligibility to run.
- Summary convictions can result in jail time just as criminal code convictions.
- For indictable charges there would not be too much question, but for summary convictions, there should be some consideration for a committee to be formed with someone having expertise (lawyer).
- There are still charges from years ago that are in limbo and have not been heard in court because of the backlog of cases so will not appear on background check.
- I agree that the MCK should back away from conducting the background checks because it could be a conflict of interest.
- It is easy to obtain a criminal background check from an outside court such as from Longueuil court.
- I agree with the suggestion of the wording in 15.2.
- I support indictable and summary convictions, six (6) years but excluding tobacco charges. Change it from 5 years to 6 years because that is two (2) terms.
- The confusion between the two (2) types of charges, my concern is that if a sexual assault is plea-bargained down to a summary conviction that is still a serious offense.
- Sexual assault is already listed as a crime that would render the individual ineligible to run.
- The Electoral Officer should have the discretion with the knowledge of what the crime was exactly.
- Is it being suggested to have the criminal background check done through the Court of Longueuil to inquire about the cost?
- The legal department can obtain the list of charges because it is public record.
- Important to look into the summary conviction in-depth so that the Electoral Officer can decide.

OUTCOME:

CONSENSUS REACHED to add 15.2 Change it from 5 years to 6 years because that is two (2) terms.

Question 4

Do you agree that the Election Officer will ensure:

- that no partisan election campaign advertising can be seen from the polling station and ensure that no person enters the polling location with such advertising displayed?
- that no fundraising is done at the polling location including the grounds that surround the premises?

DISCUSSION:

- Some felt that fundraising put some at an advantage/disadvantage at the last election.
- I agree, it was the first time I saw this.
- Incumbents, current/past Chiefs, no one should be hanging around the polling station.
- They should not be bombarded with signs, advertising, etc.
- I agree that there should not be any advertising signs, but as for people hanging around, that is half the fun of the election.
- For clarification, it was meant not to have people in the immediate area of the polling station and where the votes are being counted because I have trust in the scrutineers.
- At the last election, it was uncomfortable for me as a voter; there were lines of people to pass.
- The entrance to the polling station should be clear.
- For those voting who are on the fence, it gives them a chance to ask the candidate questions before they vote.
- The “No smoking” area by the entrance, should be no standing as well.
- It should be up to the Electoral Officer to organize the area.
- It’s nice to socialize, but not to crowd the entrance-ways.
- Selling hot dogs and fundraising was a good thing, but not there on the day of the election.

OUTCOME:

CONSENSUS REACHED

Question 5

Do you agree to reduce the Chiefs from twelve (12) to nine (9)?

DISCUSSION:

- In a previous meeting, one group easily decided to reduce to nine (9) chiefs but there was no consensus with the other group.
- I was in the group willing to reduce to nine (9) and it came down to criteria; there was a strong push for high school education.
- Education level was not an official criterion to change.
- Ordinary resident was changed.
- Declaration of business-holdings, past charges and pending charges.
- Suggestion to add to the criteria that the candidate have a minimum high school leaving certificate no matter how it is achieved (including GED).
- I agree to reduce number of chiefs from twelve (12) to nine (9).
- In the past, to have an education was not a criterion to run as a Chief; you had to have a family, a house, etc.
- Discussion on requirement of having an education versus having life experiences and common sense.
- Nowadays, to have an education is important because of the reading that is required.
- I suggest to reduce the number to ten (10) and have a quorum of six (6). People will say that MCK is mimicking the traditional system with nine (9). Maybe one day we will return to traditional government.
- I agree with ten (10).
- Nowhere in the democratic world does it state the educational requirements as it is restrictive.
- I don't agree, I believe it should stay at twelve (12), I have been there for 15 years and the workload is there. Maybe some not pulling as much as others.
- Educated in what? The white man's world? I know the community's wants and needs and I have proven it. I have gotten to the heart of the issue and resolved it. Yes I can read and write but I don't have a big education, I grew up on a farm and worked 22 years in New York and I was nominated and was elected.
- I am not comfortable to decide on a number because tonight there is a smaller group and it could be a campaigning thing for the next election to say I am for this number of Chiefs.

- Democracy in its purest form is that people have the option to say yes or no. So as not to be restrictive, it should remain the voters' choice.
- I agree with reducing the number to ten (10), but I also agree that there were people that were very passionate about this at a prior meeting so I don't want to decide this tonight. Regarding the education aspect, it is restrictive but also other parts of the law such as blood quantum are restrictive. Perhaps, to put an age stipulation that over a certain age, the candidate does not require a high school diploma.
- I agree with the ten (10) but I also agree with the age stipulation. I am very comfortable to make this decision tonight. It is not needed to have a council member on all sorts of committees.
- I am in favour of twelve (12) chiefs, maybe at election time, to have a poll for the next election that will follow. I can't see it being reduced because our community is only growing in population and developing. I don't agree with just having a high school leaving diploma because that was that era but today, you can have a PhD and not be able to work with the community. They may not be educated in who we are as Onkwehonwe.
- I agree with staying at twelve (12), it is too premature and there are not enough people here tonight. It could wait until election time.
- I think the reduction is important and it should be now, it has been tossed around for years. To give the people a chance, this is their chance. This law will be amended and it is coming out again, this is not the final say. If it is changed to nine (9) or ten (10), there is the ability to change it back to twelve (12), let's put it on the table and for those who disagree to give their reasons.
- I had brought concerns about workload, issues are growing, put in a recommendation to examine what is really going on in the Office of the Council of Chiefs with all the technicians and maybe a reorganization of the workload is needed. Between now and September, to look at committees and come back with the information because I need that to be able to decide.
- I like the idea of reducing the numbers on council and I support ten (10).
- It was brought up because of money problems and finances. We signed a 10-year agreement and the money is there but we will not get any smaller. Did we sign for 10 years of poverty? No. It is not a money problem. An issue like this and I respect what those present are saying, I agree that Chiefs do not need to be on committees, but rather more involved in politics. We should stick to twelve (12).
- I agree to reduce to ten (10) and those who are not pulling their weight, should be removed.
- Funds for Chiefs' salaries are not received in the budget.
- There have been three (3) surveys conducted to reduce the number of Chiefs.
- This survey was also to extend term from two (2) to three (3) years.
- The people voting have a direct impact and should be making the decision although I am not against the idea of ten (10)
- I think we should keep it a twelve (12) but to examine the efficiency of the chiefs.
- Suggestion to keep it at twelve (12) and include it as a question in the next election.

- I disagree, this is the CDMP and decision should be made here.
- For clarification, I need more information because it could negatively affect the chiefs' workload.
- I like the idea of putting it to a vote at the next election.
- If left to a vote in 2015, we are not changing the law right now and that is not consensus.
- I believe a decision like this should go to a referendum and could be held before the elections for just this subject.
- New proposal, bring it to a referendum this summer.
- Not comfortable because of the numbers tonight but to bring it to a referendum will take away all doubt.
- Suggestion of having referendum at same time as elections would save on costs.
- I still need some background information, a snapshot of what is going on right now to be able to decide.
- I would agree to a referendum if it was done quickly.
- I would like it to go to a referendum, but at the next election so that we can have all the pros and cons.
- Chiefs are working on community priorities right now, a report card of what is going on.
- Leave wording open so as not to lead. Give a definite number, 10 or 12.

OUTCOME:

CONSENSUS WAS TO BRING QUESTION TO A REFERENDUM IN SEPTEMBER 2014 AND TO PUT NUMBER OF CHIEFS AT 10 OR 12 ON THE BALLOT.