

## **KAHNAWÀ:KE MEMBERSHIP LAW**

### **FIRST HEARING - Meeting #17**

**Golden Age Club**

**4, Kenténha /October 2016**

**6:00 PM- 8:30 PM**

### **RECORD OF DISCUSSION**

#### **FACILITATORS:**

Ron Skye  
Linda Delormier  
Leslie Skye - KLCC

#### **RECORDER:**

Caroline McComber

#### **RESOURCE PEOPLE:**

Chief Arlene Jacobs (Lead)  
Rose-Ann Morris  
Alexis Shackleton  
Shari Lahache  
Arlene Beauvais  
Kevin Fleischer

#### **CHIEFS IN ATTENDANCE:**

Clinton Phillips  
Bobby Patton

### **AGENDA**

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

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

**6:10 P.M. KAHNAWÀ:KE MEMBERSHIP LAW AMENDMENTS:**

- SEC. 21: SUSPENSION (related to Kanien'kehá:ka of Kahnawà:ke) continued
- SEC. 22: RENUNCIATION (related to Kanien'kehá:ka of Kahnawà:ke)
- SEC. 23: REGULATIONS (list of regulations)
- ANY RELEVANT/RELATED DEFINITIONS

**8:25 P.M. NEXT STEPS - Arlene Jacobs**

**8:30 P.M. CLOSING - Leslie Skye**

Rose-Ann provided overview on the draft revisions to **21.1. Suspension and Revocation** from the September 27<sup>th</sup>, 2016 meeting reiterating that consensus was reached to accept the additional clauses of (c & d) along with the added language of '**within the Mohawk territory of Kahnawà:ke**' to Section 2.1.1(d). Rose-Ann made further mention as reminder that all sections related to Non-Member Resident have been deferred pending the conclusion of the October 12, 2016 community meeting on Membership and Residency.

## SUSPENSION AND REVOCATION

- 21.4 Any person whose recognition as a Kanien'kehá:ka of Kahnawà:ke or permission to be an Approved Kahnawà:ke Resident was approved based on information, documents or circumstances that are fraudulent, false or misleading may have their recognition as a Kanien'kehá:ka of Kahnawà:ke or permission to be an Approved Kahnawà:ke Resident revoked.**

### **DISCUSSION:**

Ron Skye (facilitator) began by reiterating to the evening's participants that revisions for discussion are reflected as underlined.

### **CONSENSUS REACHED:**

Consensus was unanimous without objection or further commentary.

- 21.5 A Kanien'kehá:ka of Kahnawà:ke who commits a material breach of:**
- a) any of the criteria on which his or her recognition is based,**
  - b) any of his or her responsibilities as a Kanien'kehá:ka of Kahnawà:ke, as set out in this Law,**
  - c) the conditions, limitations or restrictions that are attached to his or her recognition , if any, or,**
  - d) their Kanien'kehá:ka of Kahnawà:ke Pledge and Oath of Respect,**
- may have their recognition suspended or revoked by the Registrar.**

### **DISCUSSION:**

The facilitator illustrated the draft revisions to section 21.5 (a, b, c & d) as follows: 'member' replaced the term **Kanien'kehá:ka of Kahnawà:ke; recognition** replaced the term 'membership', and; **Pledge and Oath of Respect** was added to the end of **Kanien'kehá:ka of Kahnawà:ke**, along with the inclusion of **by the Registrar** to the end of (d).

- a) any of the criteria on which his or her recognition is based,**  
**(consensus was reached on the proposed revision)**
- b) any of his or her responsibilities as a Kanien'kehá:ka of Kahnawà:ke, as set out in this Law,**  
**(consensus was reached on the proposed revision)**

Inquiry was raised in section 21.5 (c) concerning section 21.1 (c) **cohabits, within the Mohawk Territory of Kahnawà:ke, after May 22, 1981, with a non-Indigenous person for more than 30 days in a calendar**

year, or in reference to the terminology of 'limitations' mentioned in Section 21.5 (c) in how it correlates to the '30 days' reference in 21.1(c)?

Rose-Ann Morris clarified section 21.1 (c) expresses cohabiting and 30 days in a calendar year, whereby, section 21.5 (c) reflects any *conditions, limitation or restrictions* that may be attached to an individual's recognition. The 30 days reference has no relationship to 21.5 (c).

Further inquiry was raised on criminality and the specific conditions applicable for 'recognition', where an individual was approved for membership but committed a **capital offense/crime**, would there be stipulation for membership suspension? Rose-Ann Morris advised that currently there are criminal background screenings as part of the application process however; suspension of membership due to criminal activity/charges is not part of the criteria for this Law. Kevin Fleischer advised that in a prior CDMP session early in the year, the issue was raised and the community expressed that criminal backgrounds screenings would factor for 'Non-Member Residents' however, not apply to those seeking membership (recognition). Currently, criteria on criminal offenses are not contained within the Law as a requirement, therefore disqualifying and/or rejecting an individual for membership is not permissible for the time being.

A motion was proposed to include a proviso on criminal activities for membership. Kevin Fleischer advised that he recollects a discussion that arose on this issue from a prior session, however whether there was actual consensus reached would need to be researched further from the minutes of the previous consultation sessions.

The topic of 'banishment' for an individual committing various nefarious acts was raised. Chief Arlene Jacobs provided a summary on a prior draft law concerning 'banishment' that was to be modeled after the "The Akwesasne Law". The draft was distributed to the community and it was determined at that time expulsion of a member was not the preferred practice. It was recommended that the issue of crime related actions may be a better fit for a community social policy.

c) the conditions, limitations or restrictions that are attached to his or her recognition , if any, or, (consensus was reached on the proposed revision)

d) their Kanien'kehá:ka of Kahnawà:ke Pledge and Oath of Respect,

may have their recognition suspended or revoked by the Registrar.

There was inquiry concerning the difference between the usages of the terms 'suspended' and 'revoked'? The Resource Team provided that 'revoked' applies specifically to Non-Member Residents whereas 'suspended' applies to an individual's membership, benefits and entitlements. Renouncement is voluntary and it is theoretically possible for one's membership to be revoked for material breach however, it is not defined what would be considered a "material breach."

## PARKING LOT

Discussion and consensus on the issue of criminal activity background screening will be researched.

## **CONSENSUS REACHED:**

After many concerns were voiced and questions clarified, full **Consensus** was reached to Section 21.5(a), (b), (c) and (d) to accept all proposed amendments.

## **RENUNCIATION**

Rose-Ann Morris offered that the 'renunciation' was originally part of the Suspension and Revocation Section however during the amendments process the Drafting Team felt that 'renunciation' would have its own section advising further 'renunciation' is exclusive to the individual coming forth to renounce their membership.

- 22.1 Any person may renounce their recognition as a Kanien'kehá:ka of Kahnawà:ke or as an Approved Kahnawà:ke Resident by providing written notice to the Registrar. Renunciation of the person's recognition as a Kanien'kehá:ka of Kahnawà:ke or as an Approved Kahnawà:ke Resident will be effective from the date on which it is received by the Registrar. The Registrar's confirmation of renunciation will be sent by registered mail to the person who renounced his or her recognition as a Kanien'kehá:ka of Kahnawà:ke or as an Approved Kahnawà:ke Resident. The Registrar will, remove the person's name from the Kahnawà:ke Kanien'kehá:ka Registry or from the list of Approved Kahnawà:ke Residents, as the case may be.

## **DISCUSSION:**

Inquiry was raised concerning the individuals involved in the current court proceeding on whether or not they would be removed from the Kahnawà:ke Kanien'kehá:ka Registry? Rose-Ann Morris clarified that this section concerns only individuals who wish to come forth to renounce their membership.

Concern was addressed with regard to individuals currently in breach of the Membership Law and whether they should not be permitted business ownership. It was cautioned that without the actual enactment of the current Kahnawà:ke Kanien'kehá:ka Law, any sanctions, limitations and/or conditions on any member are problematic and impossible to properly enforce.

Further inquiry was raised concerning previous deferral of Approved Kahnawà:ke Residents areas the reasoning why this is contained within this section for this evening's discussion? Rose-Ann Morris advised Section 22.1 Renunciation concerns only individuals wishing to come forth as the case may be (recognition as a Kanien'kehá:ka of Kahnawà:ke or as an Approved Kahnawà:ke Resident) having no relationship to the sections concerning suspension/revocation. In essence, renunciation is a voluntary action, and not a consequence.

This issue was raised on notification to the community on and individuals confirmation of renunciation should be publicized like land allotment notifications.

Various questions were raised in relation to renunciation and impacts on underage children and land ownership matters. Recommended was a stipulation requiring relinquishing land ownership rights to

either return ownership to the community, or that they be offered to family members (children) on the Kahnawà:ke Kanien'kehá:ka Registry. One comment was made noting that the issue of land ownership may be problematic so long that the Indian Act is still in force.

### **CONSENSUS REACHED:**

After many concerns were voiced and questions clarified, full **Consensus** was reached to Section 22.1 to accept all proposed amendments.

## **REGULATIONS**

Rose-Ann Morris provided overview on Section 23.1 *Regulations* detailing that the Regulations must follow what is contained in the Law as it gives more detail on how the process is going to work. Section 23.1 (a through h) contains the various types of regulations that will be required. In 2003 the Law was enacted, it was passed with one (1) Regulation and six (6) developed by the Council of Elders approved by the MCK Chief and Council. The Drafting Team developed an additional proposed regulation of (a):

- 23.1 The Mohawk Council of Kahnawà:ke will, by Mohawk Council Executive Directive enact the Regulations necessary for the implementation of this Law, including:
- a) the procedure for considering and deciding an application to suspend or revoke a person's recognition as a Kanien'kehá:ka of Kahnawà:ke or permission to be an Approved Kahnawà:ke Resident,
  - b) the form and content of Confidentiality Agreements,
  - c) the form and content of the Kanien'kehá:ka of Kahnawà:ke Pledge and the Oath of Respect,
  - d) the form and content of applications for reinstatement or reinstatement of recognition,
  - e) the form and content of applications for permission to be an Approved Kahnawà:ke Resident,
  - f) the form and content of applications to suspend or revoke a person's recognition or permission to be an Approved Kahnawà:ke Resident,
  - g) the rules and procedures to be followed by the Registrar in conducting a review or hearing,
  - h) such other Regulations that may be necessary to implement the provisions of this Law.

### **DISCUSSION:**

It was suggested that Mohawk Council of Kahnawà:ke should include '*with approval of the community through the CDMP*'. Although the Regulations Process has not yet received approval by Chief and Council, the Process has received approval from the community through consultation (posted online for feedback, kiosks & focus groups). Stakeholders are consulted for their input when drafting/amending Regulations and there is also a Community Input Process held in Phase II.

In light of the concern raised by the community member, Kevin Fleischer put forth a proposed option of including reference in section 23.1 to the regulations being enacted “in accordance with the CDMP for the adoption of Regulations’.

**CONSENSUS REACHED:**

Consensus was reached for the Drafting Team to draft a sentence to add to section 23.1 of the law “to reflect the regulatory process.” the additional language to Section 23.1 by the Drafting Team upon re-drafting the current amendments reflect the above CDMP Regulations Process. Consensus was reached to accept all proposed amendments to *(a, c, d, e, f and g)*. (Note: there were no amendments to *(b and h)*).

- 23.2 The Mohawk Council of Kahnawà:ke will consult with the Registrar before enacting Regulations establishing the forms required for the purposes of the Registrar’s office.

**CONSENSUS REACHED:**

Full consensus was reached to accept the proposed amendments.

- 23.3 Copies of all Regulations enacted by the Mohawk Council of Kahnawà:ke will be provided to the Registrar and will be made available to the Kanien'kehá:ka of Kahnawà:ke and to Approved Kahnawà:ke Residents.

**CONSENSUS REACHED:**

Full consensus was reached to accept the proposed amendments.

Approved by:

Rose-Ann Morris, Registrar

\_\_\_\_\_  
Date

Chief Arlene Jacobs

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Date