

KAHNAWÀ:KE MEMBERSHIP LAW
FIRST HEARING – Meeting #4
Knights of Columbus Hall
12, Kentenhkó:wa/November 2015
6:00 PM– 8:30 PM

RECORD OF DISCUSSION

FACILITATORS:

Leslie Beauvais-Skye (KLCC)
Joe Delaronde (CDMP)
Ron Skye (CDMP)

RESOURCE PEOPLE:

Rose-Ann Morris
Shari Lahache
Arlene Beauvais
Jenny McComber

RECORDER:

Kellyann Meloche

6:10 P.M. **OPENING** – Kahsennenhawe Sky-Deer

6:14 P.M. **INTRODUCTION/MEETING GUIDELINES** – Leslie Beauvais-Skye

6:16 P.M. **KAHNAWÀ:KE MEMBERSHIP LAW AMENDMENTS:**

- **SECTION 7 ON APPROVED KAHNAWÀ:KE RESIDENT LIST (ESTABLISHES LIST, PROPOSED TO BE RENAMED),**
- **SECTION 8 ON COUNCIL OF ELDERS (PROPOSED TO DELETE SECTION),**
- **ANY RELATED DEFINITIONS** - Rose-Ann Morris, Membership Registrar

8:25 P.M. **NEXT STEPS** – Leslie Beauvais-Skye

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

Facilitators:	Joe Delaronde & Ron Skye
Resource Person:	Rose-Ann Morris, Arlene Beauvais & Shari Lahache
Recorder:	Kellyann Meloche

APPROVED KAHNAWÀ:KE RESIDENT LIST ~~NON-MEMBER RESIDENT LIST~~

7.1 The Registrar will also keep a list of the names, addresses and telephone numbers of those persons who have been given permission to be an Approved Kahnawà:ke resident ~~non-member residents~~ and will record any conditions that are attached to that permission. This list will not be considered to be part of the Kahnawà:ke Kanien'kehá:ka Registry and will be updated by the Registrar on a regular basis, as required by this Law and the Regulations.

7.2 A person who has no Kanien'kehá:ka or Indigenous lineage, but whose name appears on the Mohawk Registry, immediately before coming into force of this section of the Law, as a result of having married a Kanien'kehá:ka of Kahnawà:ke prior to May 22, 1981, will automatically be placed on the Approved Kahnawà:ke Resident ~~non-member residency~~ list by the Registrar provided that:

- a) they are still married and living with that spouse in the Mohawk Territory of Kahnawà:ke;
- b) they are widowed and they are still residing in the Mohawk Territory of Kahnawà:ke.

DISCUSSION:

Joe opened with a summary of what happened in the previous meetings. He explains that this one should be completed in fairly good time. Ron reiterated Joe's comments. Joe brought the attention of the community members present to section 7.1. He then asked Rose-Ann to explain it further. Rose-Ann then provided information regarding the 18 mandate sessions that were held to come to this amendment. This particular section is regarding the approved Kahnawà:ke Resident list and what this section means.

Section 6 establishes that there should be an approved Kahnawà:ke Resident list. This list has been in the law previously; we're just changing the name. We are taking out NON MEMBER and putting in APPROVED KAHNAWAKE RESIDENT.

- Rose Ann pointed out that we did notice a typo, from Residents (plural) to Resident (singular).
- A note from the audience was to also capitalize the "r" in Resident.
- Joe then asked if there were any further comments.
- Rose Ann read out a note that was provided by a community member. The letter basically asks to streamline the section and to take out "to give permission".
- Participants here requested to keep the section the way it is.
- Participant asked "how will someone get on this list?"
- Participant asked "what kind of condition would there be to get on the list, and does there have to be a list?" Further stating, "It seems this section opens the door to let anyone on list".
- Rose-Ann answered that in the past they may have to learn the language, or report back to COE.

- Participant commented that no non-native can apply to become a member. We have the right to know who is living here; we didn't want someone that wasn't allowed on the list.
- It was stated that either you're here as a member or approved Kahnawà:ke resident, or you should not be here.
- Participant is concerned about how we're going to enforce this. She stated there are people who may have 1% native that are here, yet consider themselves as Native first. We have one operating a business right now and he shouldn't be here.
- It was explained that this is for the people who are already here. We are discussing pre-1981.
- It was further explained that that concern comes under "suspension" section to remove someone from the list.
- This particular concern should be addressed later when we get to section 15 and on.

Q: Is that person living near the chip stand eligible to live here? What happens with this person?

A: Joe then said this is not automatic. People who could be here right now, don't mean they have a free pass for later. We know people are breaking the law. That's why we're working on this now, to make it more solid. They're not grandfathered in.

Q: Where is the Justice Act?

A: We are currently in discussions with Quebec. We must remember that the community was very clear in that any decisions from our court would need to be recognized not only in Kahnawake but also outside of the territory. There is still a need for there to be an agreement on Kahnawà:ke's jurisdiction on how it defines its membership. The enforcement part is separate the Justice Act. We need the authority, and responsibility to enforce it.

- It was mentioned that the Kahnawà:ke Court would allow us to hear our own laws and enforce those laws.
- Joe then asked if we're all comfortable with 7.1.
- One member didn't agree with having the list at all.
- It was asked what if someone from another reserve comes here. They would be eligible to be a Kahnawà:ke resident. The community member still disagreed with having the list.
- Rose Ann stated the discussion we had with the drafting team. There was no requirement previously in the membership law for someone to make an application for a non-member resident. We need something to make any non-member to apply.
- Reminder to everyone from Kevin F. if you're not on either list, you are therefore breaking the law. People have to remember that.

Q: If before 2003 a non-native is married to a native, then they get a divorce. What happens to that non-native person if they remarry again to a non-native?

A: They are taken off the list.

OUTCOME:

One member felt that we shouldn't have any list at all nor any approval for anyone to stay here as a resident.

Present participants agreed with 7.1 with one abstention.

CONSENSUS REACHED:

YES

7.2 A person who has no Kanien'kehá:ka or Indigenous lineage, but whose name appears on the Mohawk Registry, immediately before coming into force of this section of the Law, as a result of having married a Kanien'kehá:ka of Kahnawà:ke prior to May 22, 1981, will automatically be placed on the Approved Kahnawà:ke Resident ~~non-member residency~~ list by the Registrar provided that:

- c) They are still married and living with that spouse in the Mohawk Territory of Kahnawà:ke;
- d) They are widowed and they are still residing in the Mohawk Territory of Kahnawà:ke.

DISCUSSION:

- It was explained that we are just changing the name as well in this section.
- Another noted that it is just a transitional section; it already exists.

OUTCOME:

One member felt that we shouldn't have any list at all nor any approval for anyone to stay here as a resident.

Present participants agreed with 7.2

CONSENSUS REACHED:

YES

COUNCIL OF ELDERS

~~8.1 — There is hereby established a body to be known as the Council of Elders appointed by the community of Kahnawà:ke and enacted by this Law.~~

~~8.2 — The Council of Elders will consist of not less than nine (9) and not more than fifteen (15) Elders who are normally resident in Kahnawà:ke, selected in accordance with the procedures set out in the Regulations.~~

~~8.3 — The Council of Elders will:~~

- ~~a) — review decisions made by the Registrar pursuant to this Law,~~
- ~~b) — review and decide applications for instatement, reinstatement or for permission to be a non-member resident,~~
- ~~e) — review and decide applications to suspend or revoke a person's membership or to suspend or revoke a person's permission to be a non-member resident,~~
- ~~d) — enact Regulations as provided in this Law and~~

~~e) oversee the function of the Registrar~~

~~8.4 The Council of Elders will perform its duties in accordance with the provisions of this Law and the Regulations.~~

~~8.5 The Council of Elders, in performing its duties, conducting its meetings and making its decisions will respect the principles of fairness, dignity of the person, compassion and consensus that are consistent with the traditions and customs of the Kanien'kehá:ka of Kahnawá:ke.~~

~~8.6 The members of the Council of Elders will be remunerated for their services in an amount to be established by the Mohawk Council of Kahnawá:ke.~~

~~8.7 The Mohawk Council of Kahnawá:ke will provide funds to the Council of Elders for the purpose of establishing and maintaining its office and support staff as may be required for the Council of Elders to perform its duties under this Law and the Regulations. The Council of Elders will submit to the Mohawk Council of Kahnawá:ke an annual budget for its approval.~~

~~8.8 The Council of Elders will create and maintain a record of its proceedings, any decisions it makes and the reasons for its decisions.~~

~~8.9 Any person who is a member of the Membership Review Council is not eligible to be a member of the Council of Elders.~~

DISCUSSION:

- With all the issues of the COE, it was decided to hand over all that responsibility to the Registrar.
- The decision was to strike the section concerning the COE.
- The whole Section 8 has been struck, and that's all the way to 8.9.

Q: Would the decisions still stand that were put in place by the COE?

A: Yes, however if anyone further breaks the law, the Registrar must follow the law.

- In the past law, you needed 10 people to make a complaint and this law now only requires 1 person to make that complaint.

OUTCOME:

Present community members agreed with the striking of Section 8.

CONSENSUS REACHED:

Everyone agreed to strike Section 8

DEFINITION:

"Approved Kahnawà:ke Resident" means a person who has been confirmed to have permission to reside within the Territory and to receive those privileges as provided in this Law, provided the person's permission to be an Approved Kahnawà:ke Resident has not been suspended or revoked.

DISCUSSION:

A letter written from Dale Dione, a regular CDMP Membership Hearing participant, was read. Discussion around the word "permission", "authorized" and "confirmed"

- Although it seems like a minor change, we have to check the whole law and where that word is. He stated that either word is good, permission or authorized.

OUTCOME:

CONSENSUS REACHED:

The consensus was to change it to authorized (instead of permission).

When that section is reviewed the Drafting Team must review the whole law and anywhere it says permission to change the word to authorize.

DISCUSSION:

An overview was given on the new Section 8 - Kahnawà:ke Kanien'kehá:ka Registry Advisory Board. To provide an oversight to the Registrar we took some of the wording of the community mandate "to rubber stamp the decision of the Registrar". The Drafting Team proposed an advisory board as opposed to a community decision making body. This body would consist of five members, three to be elected and two to be appointed. This group would provide non-bonding advice to the Registrar.

The issue we wanted to raise in Section 9 - Review of the Registrar's Decision was to answer the question about the Registrar making a decision that people don't like. We would have three levels of appeal. The Administrative, Tribunal of the Justice System, the Court of Kahnawà:ke, and thirdly the Court of Appeal of Kahnawà:ke.

In previous Membership Law, we just had a Membership Review Council to review COE decisions, but could not change that decision. However, in this amendment we can have the Advisory body to advise the Registrar.

In addition, just in case the Justice System is not implemented, we left in that the Membership Review Council can continue to review decisions. That is only if the Court and Tribunal were

not up and running. We just wanted to explain the community advisory body and three levels of appeal.

One member expressed they were totally against having any Administrative Tribunal body able to overturn the Registrar's decision. The final decision should be left to the people.

If anyone had any questions please come and see us and we can answer those questions one on one which may be easier.

We could have been aggressive in tackling the agenda and placed more sections on. We have a group here and we could have addressed more items. Suggestion was that we put more on the agenda in future press releases.

PARKING LOT ITEMS:

1. There is still a lot of frustration on where the Justice Act is and how we're going to enforce the laws.
2. Currently people are in the community that should not be here and yet they're allowed to continue to live here. Some measures should be taken in the interim.

Excerpt from page 3: *"Participant is concerned about how we're going to enforce this. She stated there are people who may have 1% native that are here, yet consider themselves as Native first. We have one operating a business right now and he shouldn't be here."*

This particular concern should be addressed later when we get to section 15 and on.