



Journal of Public Record for Legislative Matters

First Draft - Kahnawà:ke Justice Act

It has been in the works, officially, since February of 2010 – when a community mandate was given to a working group to come up with a first draft for a proposed Kahnawà:ke Justice Act at a community meeting utilizing the Community Decision Making Process (CDMP). But the movement towards the creation of a Kahnawà:ke justice system has been in the hearts and minds of many for a great many years. It is a fact of life that the current Court of Kahnawà:ke is presided over by two Justices of the Peace who, by Canadian law, cannot be replaced. That means that the local court would have to close at some point in the not-too-distant future – for lack of persons to make decisions that the court is qualified to hear.

Just what the Court can preside over is another issue, as the current system allows only certain types of laws to be heard.

Combined, these two issues have created a sense of concern about the future. What happens when we can no longer ‘hold court’ in Kahnawà:ke? This is not a scare tactic being dreamed up to make a political point. It is straight up reality.

It is with that in mind that hearings on a proposed Justice Act began in the fall of 2009. Ideas were brought forth, discussed, agreed to, tossed out, and debated again. The Community Decision Making Process, though new, was effective in revealing the common threads that bind the community together. Over several meetings, the essence of the community’s wishes were distilled down to a mandate to move forward with the creation of a first draft while it has taken a long time, that first draft is now at its final stages and, at the time of this writing, is expected to be presented to the community shortly.

The work has been carried out through a working group (the ‘Technical Team’) consisting of

Director of Justice Ron Skye, Justice Portfolio Chief Mike Bush (along with members of the Justice Commission), Community representatives Chris Bush-Diabo, Richard Nolan, Jeremiah Johnson (and alternate Kenneth Diabo), Alternative Justice representative Jo-Ann Stacey, the MCK Chiefs Advisory Committee (Martin Leborgne, Kahsennenhave Sky-Deer, Clinton Phillips and Peggy Mayo-Standup) and members of the KLCC. Other resource people have been called upon to assist from time to time.

Once the draft is presented to the community, a second round of hearings/meetings will be announced to refine the document. If this doesn’t happen before the end of the year, it is almost certain to be announced in the earliest weeks in 2012.

The way laws are made in Kahnawà:ke

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ONKWARIWA'SHON:'A

Through this publication, The Kahnawake Legislative Coordinating Commission seeks to promote awareness and dialogue by informing the community on its activities and by analyzing legislative issues affecting Kahnawà:ke.

A digital version of this publication and others are available online at www.kahnawakemakingdecisions.com.

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Produced by MCK
Communications.

MESSAGE FROM THE FORMER COORDINATOR

Shé:kon,



Much has happened in the year since the publication of the 2010 edition of *Onkwariva'shon:'a* newsletter. The first edition of the revised and revived newsletter was used to formally introduce the Community Decision-Making Process (CDMP) to many Kahnawà:kehró:non, while also reviewing the work that had been done since the launch of the proposed Kahnawà:ke Justice Act in the fall of 2009.

In this edition of *Onkwariva'shon:'a*, we will update you on the status of the Justice Act. As well, we will update you on the progress of the proposed amendments to the Kahnawà:ke Sanitary Conditions Law, which is the first piece of legislation to use the “Type II” Community Decision-Making Process.

We will also inform you on the status of other legislation that has been brought to the Kahnawà:ke Legislative Coordinating Commission (KLCC).

Finally, I must inform everyone that this will be the last *Onkwariva'shon:'a* in which I will be listed as a formal contributor. I have been part of the CDMP since its beginnings. However, as the process grows, it demands a full-time coordinator. Most people don't know that I had been serving in this capacity on a part-time basis. As the Kahnawà:ke Legislative Coordinating Commission has taken the necessary steps to hire a full-time coordinator, my duties will now take me to the Seigneurie of Sault St. Louis file, as well as my passion: my work with the MCK's Language and Culture Training Center.

I'd like to thank the many people who have made these past couple of years interesting, challenging and stimulating. Kahnawà:ke is moving closer towards a form of governance that fully respects

who we are as Kanien'kehá:ka people. We need to continue to work towards maintaining and building on any momentum we have created. Most importantly, we must never lose the will to work together. I have learned much in these past few years and hope I have helped build some bridges, no matter how small.

With that, I take great pleasure in introducing my replacement, Kahente Horn-Miller. Kahente is well-known throughout the community. She has been involved in Kahnawà:ke's political life since her youth. With her educational background, experience and great pride in being Kanien'kehá:ka, I expect she will make a very positive contribution to the continuing development of governance in our community.

Niá:wen,

Linda Karonbiénhawe Delormier

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MESSAGE FROM THE COORDINATOR

She:kon,



As the new Coordinator of the Community Decision Making Process (CDMP), I am a passionate advocate for consensus-based decision-making. I have been fortunate enough to take part in consensual decision-making in the Longhouse as well as teach it to academics as the basis for their community-based research projects they carry out world-wide. I understand the power of this process. As I take on this important responsibility for coordinating the Community Decision-Making Process for Kahnawà:ke, I can't help but reflect on what this process means for my community and what it meant for our ancestors.

Consensus is the means by which our ancestors made decisions with the best interests of the community in mind. I have the responsibility to develop this process further and make it stronger. I am positively challenged by this task. As I work at encouraging our community to participate, I often imagine a group of our ancestors gathered around the fire in discussion and coming to consensus on something important. Outside, the wind is blowing but inside everyone is warm and well-fed. The children sit on their mother's laps while everyone listens to the speakers. They are all of one mind. As a decision is deliberated on, faces are serious, broken with periodic smiles as aspects are understood or agreement is reached. What does this mean for me? For my children? - I ask myself.

The world we live in is dominated and governed by rules. Rules come in the form of contracts, laws, and even verbal agreements. Every family has rules. Our ancestors had rules. We also have personal rules or morals that we live by. Rules ensure survival. Some, like the Kaianere'kó:wa were made a long time ago. Other less formal rules were passed down in the family. Some were made by Canada and imposed on us to follow.

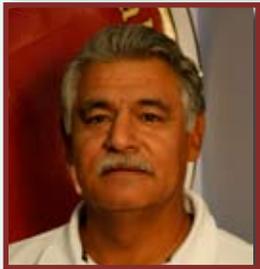
Well, as I see it, we finally have the opportunity to make the laws ourselves using as a basis the process that our ancestors developed.

In my opinion, the CDMP is a starting point. It is a way for all Kahnawakehró:non to work together to make decisions. Here, for the first time in almost a hundred years, we have the opportunity to decide on what we want laws to look like for our community. In this process everyone has the responsibility to participate and bring every bit of information relevant to answering the question at hand. They also have the responsibility to put their own personal wants aside and think about the needs of the community. This ensures that the best decision is made.

I see the CDMP as a transitional measure as we head towards a form of traditional government. As it is impossible to go back to the exact process our ancestors used, we have at least the opportunity to decide on what works for us in the 21st century. We are at a starting point for a future where the next seven generations have the opportunity to participate in making decisions for their community, and so on. In establishing the CDMP and participating in it, we are creating a strong foundation for our children and grandchildren. A foundation upon which we can only become stronger and continue to celebrate our community and Kanien'kehá:ka culture for a long time to come. I look forward to working with our community in this process.

Kahente Horn-Miller, PhD

Coordinator, Kahnawà:ke Legislative Coordinating Commission



Kahnawà:ke Legislative Coordinating Commission (KLCC)

Kahente Horn Miller
KLCC Coordinator

Leslie Kennikaronhia:a Skye
KLCC Assistant

Joe Tekanetontie Delaronde
Communications Representative

Jean Pomainville
Legal Services Representative

Ron Shakoshennakéhte Skye
Justice Representative

Dwaine Kaniehtaké:ren White
OCC Secretariat Representative

Community Representative

Chiefs Advisory Committee Kahnawakehró:non Ratitsénhaiens

Chief Mike Karonhi:io Bush

Chief Martin Thawén:rate LeBorgne

Chief Peggy Kawinéhtha Mayo-Standup

Chief Clinton Tionawate Phillips

Chief Kahsennéhawe Sky-Deer

1. MISSION STATEMENT

The mission of the Kahnawà:ke Legislative Coordinating Commission (hereinafter KLCC) is to:

1.1 Effectively manage all legislative initiatives from inception to ratification;

1.2 Facilitate the establishment of the Legislative Agenda and/or Calendar in accordance with this mandate; and

1.3 Constantly evaluate and facilitate the evolution of the legislative process within the community.

2. COMPOSITION OF THE KLCC

The composition of the KLCC is as follows:

2.1 The KLCC consists of six (6) representatives who serve as “Commissioners” and up to five (5) Kahnawa’kehró:non Ratitsénhaienhs who serve as the “Chiefs Advisory Committee” for the KLCC. All of these representatives are appointed by a Mohawk Council Executive Directive (hereinafter MCED). They are:

- a) Commissioners
 - an Office of the Council of Chiefs Secretariat Representative;
 - a Legal Services Representative;
 - a Communication/PR Representative;
 - a Justice Representative;
 - a Community Representative;
 - the KLCC Coordinator.
- b) The Chiefs Advisory Committee
 - up to five Kahnawa’kehró:non Ratitsénhaienhs
- c) The KLCC Coordinator and the Chiefs Advisory Committee are non-voting positions.

2.2 The KLCC may increase its size as needed to fulfill this mandate, depending on the legislative agenda, scope of a legislative initiative, or any matter decided by the commission. Commissioners shall be appointed as identified in 2.1.

2.3 The KLCC may increase its size on an ad hoc basis. In this instance, a written request to the Kahnawa’kehró:non Ratitsénhaienhs is made, identifying the purpose and the duration for said increase.

3. QUORUM

The KLCC may increase its size based on its needs. As such, Quorum shall be determined in the following manner:

3.1 Quorum is achieved with two thirds (2/3) Commissioner representation and one (1) Chiefs

Advisory Committee Member.

3.2 The KLCC meets on a regular and/or as needed basis. More specifically, the KLCC meets a minimum of twelve (12) times per annum in order to fulfill this mandate.

4. RESPONSIBILITIES

The KLCC is responsible for the legislative function requirements contained within the Community Decision-Making Process (hereinafter CDMP). The Commissioners, both individually and collectively, are relied upon for their expertise. Their responsibilities include, but are not limited to the following:

4.1 Assists in the responsibilities of the legislative process by coordinating all Requests for Legislation through the CDMP in accordance with applicable policies and procedures;

4.2 Establishes Kahnawà:ke’s Legislative Agenda and/or Calendar;

4.3 Briefs the Kahnawa’kehró:non Ratitsénhaienhs regarding any pending, current or proposed legislation;

4.4 Notifies the Kahnawa’kehró:non Ratitsénhaienhs and the community of the Legislative Agenda and/or Calendar for each Legislative Period or each Term of Office;

4.5 Ensures all legal reviews are conducted for proposed and established legislation;

4.6 Develops and approves all working KLCC policies, guidelines, procedures and protocols necessary to fulfill this mandate;

4.7 Ensures research and analyses are conducted by technical team(s), and submitted for all proposed legislation and/or amendments to establish legislation. This includes, but is not limited to:

a) Reviews for consistency, legal liability, and rights violations;

b) Reviews for administrative and financial planning and;

c) Reviews for potential revision of existing operations, financial and administrative policies and capacities;

4.8 Provides the Portfolio Chief(s), the originator/proponent; and/or the technical team with the appropriate information, advice and guidance throughout the CDMP;

4.9 Ensures proper and timely translation of all legislation into the official language in accordance with existing legislation;

4.10 Provides information/results of any/all public hearings, consultations and assessments

all public hearings, consultations and assessments to the community and to the Kahnawa'kehró:non Ratitsénhaienhs in a timely manner.

4.11 Ensures that each Request for Legislation will:

- a) Follow the established law making processes in Kahnawà:ke;
- b) Flow through the CDMP efficiently;
- c) Conform and integrate within Kahnawà:ke's legal framework; and,
- d) Ensure the formation of a specific Technical Team for each Request for Legislation that obtains a mandate in accordance with the CDMP.

5. CHIEFS ADVISORY COMMITTEE RESPONSIBILITIES

Shall monitor the KLCC's activities and actions and provide guidance on behalf of the Council Table to ensure adherence to this mandate.

6. BUDGETARY ADMINISTRATION

The KLCC is responsible for the following activities:

6.1 Submits a budget to the Kahnawa'kehró:non Ratitsénhaienhs that reflects the required human and financial resources to fulfill this mandate.

6.2 Ensures proper management and accountability of its annual budget in accordance with applicable financial policies and procedures.

7. CODE OF CONDUCT

The Commissioners will conduct themselves with the utmost care, transparency, honesty and integrity, so as not to betray the trust placed upon them. The Commissioners will be accountable to the KLCC, the CDMP and each other, as identified in the applicable policies and procedures. This includes, but is not limited to the following:

7.1 Conducts all public hearings in a fair and equitable manner, ensuring a fair and equitable process;

7.2 Ensures any/all reports accurately reflect the general views of all participants.

7.3 Avoids and/or makes known both potential and actual conflicts of interest in exercising their duties.

7.4 Prohibited from accepting, directly or indirectly, any remuneration, gifts, donations, or other gratuities, from anyone as a result of being a Commissioner.

8. AMENDMENTS

This mandate may be amended, repealed or replaced in whole or in part by a Mohawk Council Executive Directive (MCED).

AMENDMENTS:

MCED #33/2011-2012 Dated: 9/19/2011

Approved sentence structure, reformation of entire document (numbering & terminology i.e. Kahnawakehró:non Ratitsénhaiens instead of Chiefs, CDMP, Commissioners, KLCC instead of LCC, added Community Representative, Chiefs Advisory instead of Chiefs Oversight and OCC Secretariat Representative).

MCED #15/2010-2011 Dated: 6/7/2010

Approved name change from ILCC to LCC, reworded and simplified the Mandate.

MCED #50/2009-2010 Dated: 10/13/2009

Selected Linda Delormier as Chairperson. Appointed Mike Bush, Kahsennenhawe Sky-Deer, Peggy Mayo-Standup, Clinton Phillips & Martin Leborgne as the ILCC Chiefs Oversight Committee.

MCED #34/2008-2009 Dated: 9/15/2008

Approval and acceptance of the CDMP – Summary Report (final draft: Aug. 15/2008).

MCED #61/2006-2007 Dated: 2/5/2007

Appointed Alwyn Morris as Chairperson. Appointed Mike Bush, John D. Delormier & Peggy Mayo-Standup as Chiefs Oversight Committee. Identified legislative categorization & schedule to indicate first legislative session. Lastly, officially put into force the ILCC effective April 1, 2007.

MCED#47/2005-2006 Dated: 10/14/2005

In accordance with its mandate, designed the Legislative Process Procedural Documents "Kahnawà:ke Legislation Creation, Amendment and Enactment Form", that will be the administrative procedure to follow for the first official legislative session.

MCED#48/2005-2006 Dated: 10/14/2005

In accordance with its mandate, directs that Community Consultation Process will be the process used.

MCED#14/2005-2006 Dated: 5/30/2005

The establishment of the ILCC as the body to facilitate legislative needs.

What is the Community Decision-Making Process?

Thirty-two years have passed since the community mandated the Mohawk Council of Kahnawà:ke to move towards Traditional Government, the way of our ancestors. That mandate was given in 1979, a sentiment that is as strong and noble as ever in 2011.

The Community Decision-Making Process was created as a transitory measure to assist and to facilitate the legislative function of Kahnawà:ke Government.

1. Takes into account and respects the community's outcry for a more culturally relevant and inclusive process for making decisions or enacting or amending community laws in Kahnawà:ke.
2. Acknowledges, recognizes, respects and accepts the diversity of 'community factions' and the interdependency required in order to create/maintain our collective identity, while struggling to deal with today's contemporary realities.
3. Creates a common ground in which these 'community factions' could work together on making decisions for the betterment of the collective.
4. Reinforces and demonstrates the right of each community member to participate in a fair community decision-making process.

Other Laws in the CDMP

NAME	CATEGORY	TYPE
Kahnawà:ke Justice Act	New law	Type I

PROCESS AND EVOLUTION TO DATE:

November 26, 2007 – Request to ILCC for Legislation of a Judicial Act.

December 3, 2007 - MCK Council Meeting – C & C agreed Kahnawake Justice Act a Type 1 legislation through CDMP Phase I.

January to December 2008 – ILCC outlined CDMP Phases, mandate, communication standards, administration, etc., and plans for community consultation sessions.

January 2009 – Kahnawà:ke Justice Community Consultation (6 sessions).

Sept. 30/09 to Feb. 3/10 - CDMP Phase I - Community Hearings on Justice - Technical Team created to work on drafting Justice Act (4 Justice Commission, 5 KLCC, 5 Chiefs, 3 Community Reps & one alternate.)

June 2010 to date – CDMP Phase II - Justice Act Technical Team Members met to complete Draft 1 of Justice Act.

May 25, 2011 - New Community Representative: Kenneth Diabo replaced Dale Dione-Dell because of conflict since Dale is working for MCK.

October 2011 – Technical Team completed final draft of Justice Act. Now at Justice Commission to review and send feedback.

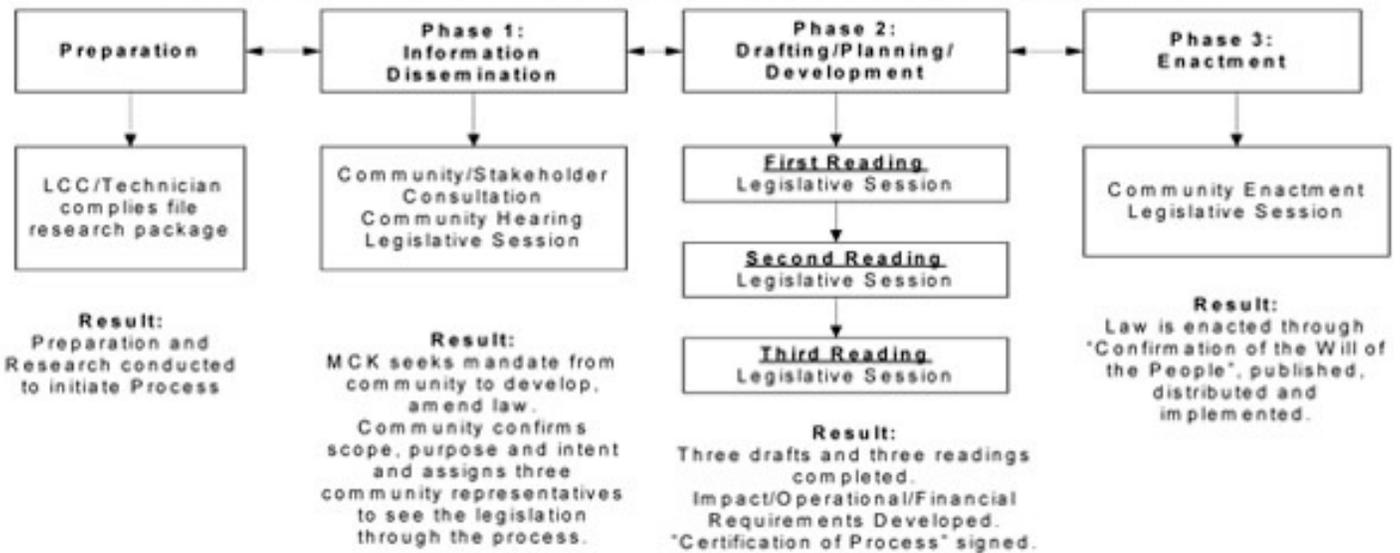
December 2011 – First Draft of proposed Justice Act expected to be completed. Hearings to resume in early 2012.

TYPES OF LEGISLATION

Types of Legislation - Type I

Type I laws are laws that affect the community as a whole and/or deal with collective or individual rights.

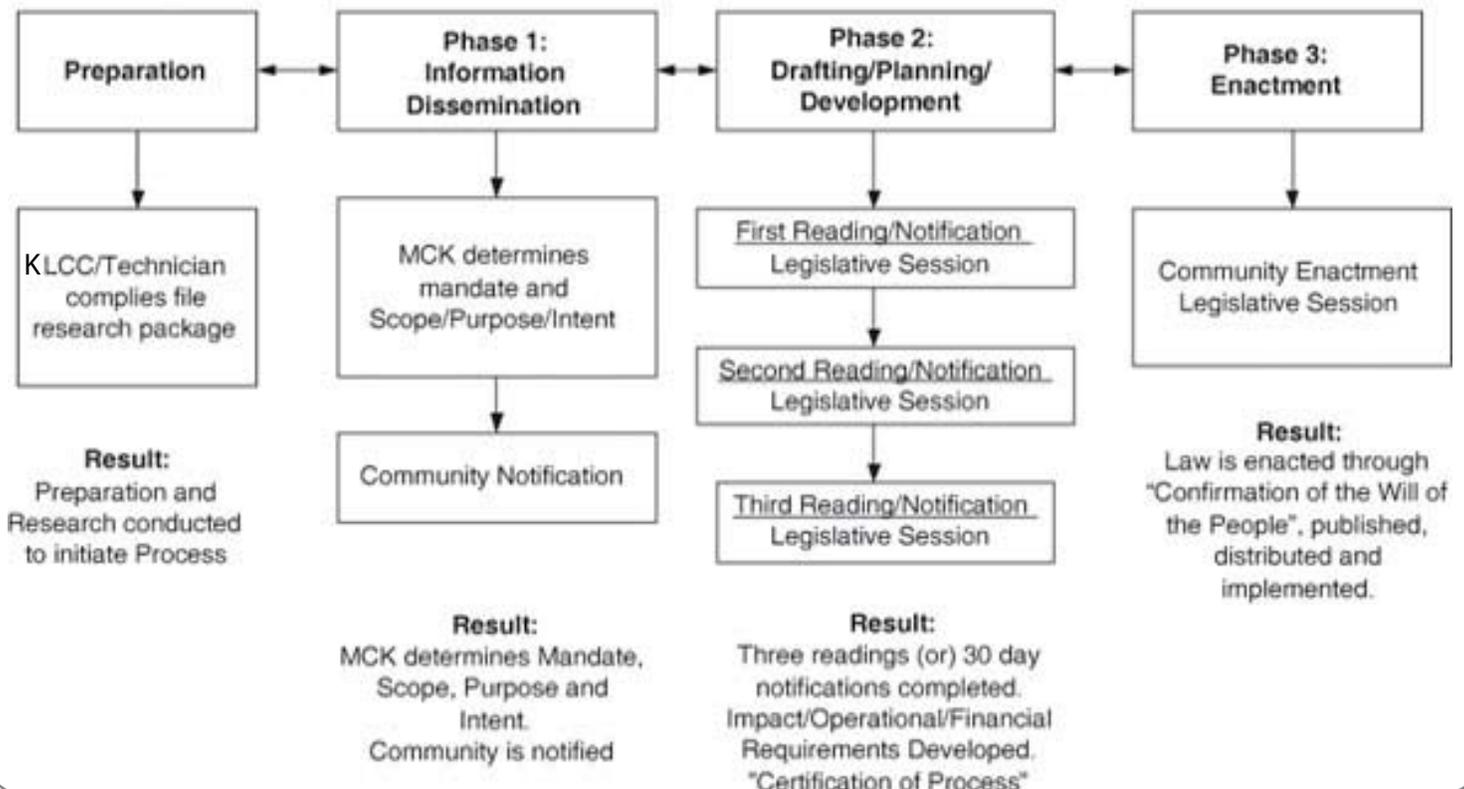
COMMUNITY DECISION - MAKING PROCESS FLOWCHART - TYPE I



Types of Legislation - Type II

Type II laws are laws that affect a segment or specific interest within the community. They usually deal with permits, licenses, fees, and the establishment of boards, commissions, and committees and/or deal with organizational administrative processes, fiscal reporting requirements, spending, budgeting and management of community funds derived from all sources.

COMMUNITY DECISION - MAKING PROCESS FLOWCHART - TYPE II



Proposed Amendments to the *Kahnawà:ke Sanitary Conditions Law*

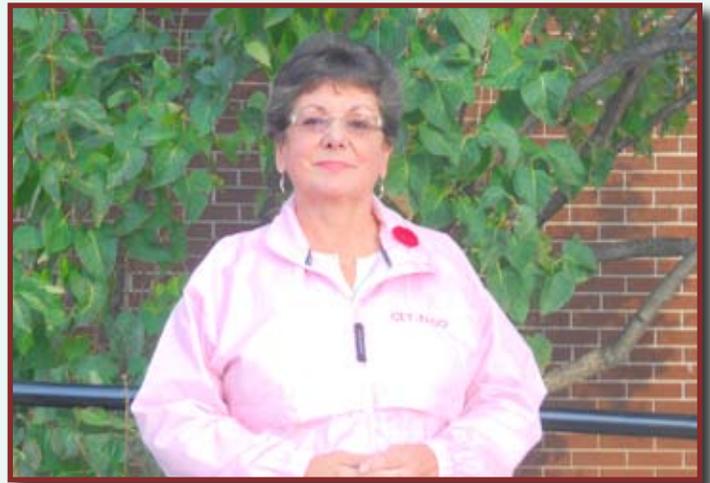
The *Kahnawà:ke Sanitary Conditions Law* was originally known as the *By-Law Respecting the Promotion of Sanitary Conditions, the Prevention of Nuisances and the Use of Premises on the Caughnawaga Indian Reserve*. In recent years, the Mohawk Council of Kahnawà:ke (MCK) Lands Unit has been faced with the possibility of businesses bringing contaminated material (demolition waste recycling) into Kahnawà:ke. With this in mind, in 2010, the Lands Unit submitted a request to the Kahnawà:ke Legislative Coordinating Commission (KLCC) to amend the *Kahnawà:ke Sanitary Conditions Law*. Classified as Type II legislation, one that doesn't affect the community at large, the mandate to move forward was the responsibility of the Council Chiefs. "The purpose for the amendment of the *Kahnawà:ke Sanitary Conditions Law* is to enable the authorities of the MCK to write and adopt regulations and eliminate as much as possible the potential for environmental contamination and any risk to public health and safety," said Heather Jacobs-Whyte, Research & Policy Analyst/Developer Lands Unit. "This, along with the scope, intent and the giving of the mandate to go ahead to the Lands Unit was accepted by Council Chiefs in the winter of 2011. A team from the Lands Unit and MCK Legal Services began to draft up amendments to the *Kahnawà:ke Sanitary Conditions Law*."

It is clear that the focus of the amendments were



Heather Jacobs-Whyte
Research & Policy Analyst/Developer Lands Unit

written to protect Kahnawà:ke's environment. "Once people have a clear understanding that these amendments are being proposed to allow the community to properly regulate demolition and recyclable materials that come into the territory, they offer their support immediately," said Eva Johnson of the Kahnawà:ke Environment Protection Office. "In the two separate 30-day reviews, the vast majority of people participating agree with the amendments."



Eva Johnson
Kahnawà:ke Environment
Protection Office Coordinator

There were minor changes (mostly for clarification purposes) to the draft amendments to the *Kahnawà:ke Sanitary Conditions Law*, which will be incorporated into a new draft to be published at a later date. What has been changed so far? Jacobs-Whyte explained. "Areas of the law amended at this time are on definitions (some removed, some revised and some new), restructuring of parts of the law (areas that were repetitive, sequencing of content), developing of a section on operating permits, a section where MCK can adopt regulations, regulation reference for inspectors, operating permits and an overall increase in penalties."

What are the next steps? "We are now entering the final process to finalize the draft amendments and proceed with the enactment of the newly amended *Kahnawà:ke Sanitary Conditions Law*." The amendments are expected to be formally accepted in early 2012.

KAHNAWÀ:KE SANITARY CONDITIONS LAW

Kahnawà:ke Sanitary Conditions Law

NAME	CATEGORY	TYPE
Kahnawà:ke Sanitary Conditions Law	Amendment	Type II

PROCESS AND EVOLUTION TO DATE:

June 9, 2010 – Letter of Request for Amendment to Sanitary Conditions Law (SCL) to KLCC from the Lands Unit

June 22, 2010 – MCK Council Meeting – RFD (Request for Decision) for Categorization as Type II legislation

June 22, 2010 – Record of Decision from MCK agreement as Type II – Chief & Council subject to 3-day review process

Feb. 7, 2011 – MCK Council Meeting – RFD to place SCL on Legislative Calendar

Feb. 8, 2011 - Record of Decision Council agrees to place SCL on Legislative Calendar

Feb. 21, 2011 – Council confirms Mandate

March 29, 2011 to April 29, 2011 – Posted Draft Sanitary Conditions Law for 30-Day Community Review

May 9, 2011 – Press Release to Community, “MCK to take action for purposes of safety and health”. A response to complaints from community members that the MCK taking immediate action against person(s) neglecting to remove their garbage.

May 9, 2011 – Held First Reading for Amendments to Sanitary Conditions Law

June 21, 2011 – MCK Council Meeting – RFD to approve changes/amendments to SCL. All amendments approved with additional changes (Sec. II – 16.2 omit DUMP, type 16.3 of contaminants not or contaminant, 16.5 omit apparatus & rewording of 21.1)

September 6, 2011 – MCK Council Meeting/Legislative Session - To approve Amendment Draft version 11 of Sanitary Conditions Law

September 19 – October 18, 2011 – Second 30-Day Community Review of Draft 12 of Sanitary Conditions Law (September 6, 2011)

November 2, 2011 – Second Reading of Proposed Draft Sanitary Conditions Law

NEXT STEPS:

The amendments are expected to be formally be accepted in early 2012.

Other Laws in CDMP

NAME	CATEGORY	TYPE
Kahnawà:ke Land Code	New Law	Type I

PROCESS AND EVOLUTION TO DATE:

June 25, 2008 – Letter of Request received from Rodney Thomas, Lands Unit - legislation of Land Code through CDMP

September 10, 2008 – Memo to Kahnawakehró:non Ratitsénhaiens categorizing as Type I

Kahnawà:ke Membership Law

NAME	CATEGORY	TYPE
Kahnawà:ke Membership Law	Amendment	Type I

PROCESS AND EVOLUTION TO DATE:

September 26, 2005 – Letter of Request for Amendments to Kahnawà:ke Membership Law, received from Rhonda Kirby to Kahnawakehró:non Ratitsénhaiens

May 5, 2006 – Membership Meeting – Phase Two Amendments

November 7, 2007 – Press Release, “Group hired for Independent review of Kahnawà:ke Membership Law”

April 17, 2008 – Letter from Alexis Shackleton Attachment: Funding Proposal by Roy Wright, Genealogical Researcher

August 2008 – Request for Amendment to Membership Law through CDMP

September 8 & 15, 2010 – Membership Information Sessions

October 21, 2010 – Press Release “Random Telephone Survey: Membership – Beginning Oct. 25 to Nov. 12, 2010

June 9, 2011 – Membership Survey Results

October 27, 2011 – KLCC met with Alexis & Rose-Ann to discuss Membership Law

November 16, 2011 - Membership will be going to Council Strategic Discussions

END OF PROCESS

Kahnawà:ke Membership Law Update

The Mohawk Council of Kahnawà:ke has a new Membership Registrar, Rose-Ann Morris. Rose-Ann has been working for the Mohawk Council Kahnawà:ke since 1997 in various positions, working on such files as the Seigneurie of Sault St. Louis negotiations, the development of other land claims in Kahnawà:ke, and the Canada/Kahnawake Relations initiative.

Rose-Ann started her new job on October 11, 2011. “For the first few weeks on the job, I had to read the many documented steps on the development of the *Kahnawà:ke Membership Law* and the various reviews that were undertaken on Membership,” Morris shared. “There were many issues of concern that were reviewed and proposed amendments identified to clarify sections and to improve the implementation of the *Kahnawà:ke Membership Law*.”



Rose-Ann Morris - Membership Registrar

After the Council of Elders and the Council of Chiefs collaboratively decided to suspend the Council of Elders in 2007, the *Kahnawà:ke Membership Law* was submitted in 2009 to the Community Decision-Making Process for review. One of the steps taken by the Membership Department in preparation for the community review of the Law was to contract in 2010 a community-wide survey to gather views of the various sections of the *Kahnawà:ke Membership Law*. The survey was completed and analyzed to get a sense of the community’s support to amend the *Kahnawà:ke Membership Law*. Another step that

KAHNAWÀ:WAKE MEMBERSHIP LAW

the Membership Department took was to hold eight information sessions for the community in 2010 on the development of Kahnawà:ke Membership.

“At this time the Membership Department has many applications for Membership and non-Member residents that are on hold until the review of the *Kahnawà:ke Membership Law* is completed,” said Morris. “Under the Community Decision - Making Process, it will be up to the community participants to decide if proposed amendments of the *Kahnawà:ke Membership Law* should be discussed section by section or

whether the community wants a wholesale review of who should be recognized as a member of Kahnawà:ke and how these individuals will be formally recognized.”

The Membership Department will soon provide more background information to the community on the *Kahnawà:ke Membership Law* development and will encourage community members to take part in the Community Decision-Making Process community hearings to be organized in 2012.

Other Laws in the CDMP

NAME	CATEGORY	TYPE
Anti-Tobacco Law	New Law	Type I

PROCESS AND EVOLUTION TO DATE:

July 29, 2010 – Letter of request for legislation of Anti-tobacco Law received from Akenhnhahse White

August 18, 2010 – Press Release – “Community member submits proposal for Anti-Tobacco Law”

January 11, 2011 – Categorization as Type I legislation

January 27, 2011 – LCC confirms categorization

February 7, 2011 – MCK Council Meeting – RFD for legislation & categorization

February 8, 2011 – MCK agree to Anti-Tobacco agreement as Type I – C & C has 3 days to object to categorization.

February 8, 2011 – Letter sent to Akenhnhahse informing of categorization. Technicians are Jeffrey Diabo and Trina C. Diabo

February 15, 2011 – News Release – “Community notice regarding proposal for Anti-Tobacco law.” Sponsoring unit is OCC – technicians are Jeffrey Diabo & Trina C. Diabo.

February 15 to date – Technicians in Preparation Stage

Other Laws in the CDMP

NAME	CATEGORY	TYPE
Kahnawà:ke Workers Compensation Law	New Law	Type I

PROCESS AND EVOLUTION TO DATE:

Not Categorized - Pending

No Movement to-date

Possible Changes to the *Mohawk Council of Kahnawà:ke Election Law*

Kahnawà:ke has been holding elections for Chief and Council under the Indian Act since 1952. In May 1990, the *Regulations Governing the Mohawk Council of Kahnawà:ke Elections* was enacted. In 1992, a Ministerial Order recognized Kahnawà:ke's right to hold its own local electoral system under custom, formally removing Kahnawà:ke from the effects of the Indian Act and its regulations concerning band council elections. In 2009, the *Regulations* became the *Mohawk Council of Kahnawà:ke Election Law*.

Throughout the 21st century, not one election was held without incident, mostly due to the interpretation of the *Mohawk Council of Kahnawà:ke Election Law*. Since the year 2000, Electoral Officers submitted recommendations for changes based on their experiences with the Law and process.

In 2007, community member Lori Jacobs made a formal request for amendments to the *Mohawk Council of Kahnawà:ke Election Law* to the Kahnawà:ke Legislative Coordinating Committee (KLCC). Unfortunately, at that time, the Community Decision Making Process (CDMP) was not yet formally implemented, so the request was put on a list along with other requests.

As elections are a political process, the Office of the Council of Chiefs (OCC) was identified as the sponsoring organization, responsible for bringing the law through the Community Decision Making Process (CDMP). Jeffrey Diabo, one of the two technicians assigned to the project, explained what has been accomplished to date. "In preparation for the CDMP, the OCC researched the history of elections in Kahnawà:ke and compiled documents pertaining to the proposed amendments," said Diabo. "As part of the process, a community information strategy was developed in order to provide as much information as possible to the community so that a well-informed discussion can be had when the law is brought to the CDMP for community discussion, decision and direction."



Trina C. Diabo - CDMP Technician
Jeffrey Diabo - CDMP Technician

Jeffrey, along with technician Trina C. Diabo formed a working group consisting of past electoral officers Lori Jacobs, Darlene Alfred and Angus L. Montour. "The goal is for the workgroup to get through the information dissemination phase between now and December," said Trina, "and then compile a report to be given to the Kahnawà:ke Legislative Coordinating Commission (KLCC)."

"This report will include any new recommendations and comments from community members gathered during the information phase," added Jeffrey. "The KLCC will then schedule the first formal hearing for community members [in the new year] to discuss the proposed amendments. During this first session, the community could give a mandate to a Technical Working Group to begin drafting, based on the direction from the community."

KAHNAWÀ:KE ELECTION LAW

The Information packages consist of the *Mohawk Council of Kahnawà:ke Election Law* and Recommendations and will be available at:

Three Information Kiosks held at the Services Complex lobby on **Friday, November 4th, Thursday, November 17th and Thursday, December 15th.**

Two Community Information Sessions held on the evenings of **November 17th, and**

December 15th at the Golden Age Club.

One Information session will be scheduled on a Sunday, date to be determined.

Additional information sessions will be added as needed depending on the participation and interest of community members.

For more information contact Jeffrey Diabo or Trina C. Diabo at 450-632-7500.

Kahnawà:ke Election Law

NAME	CATEGORY	TYPE
Kahnawà:ke Election Law	Amendment	Type I

PROCESS AND EVOLUTION TO DATE:

February 1, 2006 - Request for Decision for Amendments to Kahnawà:ke Election Regulations for conformity with Kahnawà:ke Membership Law & extension of Term of Office.

February 6, 2006 – MCK Council Meeting – Council agreed to the following as per OCC Memo 6, Feb, 2006:

- o Decided against amending the Election Regulation to be consistent w/Membership Law.
- o Decided against changing the Election Regulation to a Law.
- o Decided to extend the Term of Office to three (3) years for the upcoming 2006 Election.

March 6, 2006 – MCK Council Meeting – Council agreed to the following as per OCC Memo 7, Mar., 2006:

- o The Term of Office has been changed to three (3) years for the upcoming 2006 Election.
- o The spelling of ‘Kahnawà:ke’ has been changed to ‘Kahnawá:ke’. (MCR #11 /2005-06).

March 23, 2007 – The Regulations Governing the Mohawk Council of Kahnawà:ke Elections was repealed and replaced by the Mohawk Council of Kahnawà:ke Election Law. (MCR # 1 /2006-2007).

November 30, 2007 – Letter of request received from community member Lori Jacobs to review and revise the Mohawk Council of Kahnawà:ke Election Law.

February 7, 2009 – Letter of request received from Melanie Gilbert, Interim Coordinator, Office of the Council of Chiefs, to the Interim Legislative Coordinating Committee (ILCC) to amend the Mohawk Council of Kahnawà:ke Election Law as per numerous recommendations received by past electoral officers.

August 2011 – Electoral Reform Working Group was formed, consisting of past electoral officers Lori Jacobs, Angus L. Montour, Darlene Alfred and OCC Technicians Trina C. Diabo and Jeffrey Diabo.

October 2011 – Preparation Phase, heading into Phase 1 – Development of Electoral Reform Communication Workplan, accepted by the KLCC on October 13, 2011.

Oct – Dec. 2011 – Phase 1 – Community distribution of Mohawk Council of Kahnawá:ke Election Law and Recommendations - Election Final Reports from 2000 – 2009 through tv, radio, newsprint, MCK website, e-newspapers, posters, ads, community meetings and kiosks.

RECOMMENDATIONS FOR AMENDMENTS

RECOMMENDATIONS FOR AMENDMENTS TO THE KAHNAWAKE ELECTION LAW

Recommendation	Year(s)
Committee of community members should be formed to revise Regulations.	2000, 2004, 2006
All business/establishments who sell alcohol should refrain from selling during Election Voting Hours 9:00 a.m. – 6:00 p.m.	2000
Mohawk Registry should be revised to be more reader friendly.	2000
Election date should be moved to June.	2000
All reference to Indian Act working should be removed from regulations and replaced with layman terms that reflect the norms and values of Kahnawakehrónon.	2000
Terms of office should be changed from 2 years to 3 years.	2000
Terms of Office that a Grand Chief or Council Chief may serve should be limited to not more than 3 consecutive terms.	2000
Verification and timeframe to produce office candidates list should be changed from 7 to 10 working days.	2000
A clause that addressed an untimely death of a candidate (Chief or Grand Chief) should be considered.	2000
Recounting of votes should be considered only in the event that there is a difference of 5 or less votes between a successful and unsuccessful candidate.	2000
Review, revise and further clarify entire Regulations.	2002
To have an office for the Electoral Officer within the MCK building. To avoid confusion of who is responsible for which task.	2002
Include experience and expertise of past Electoral Office MCK Election Report Recommendations 2000rs and Electoral Officer Assistants in the revision of the Regulations.	2002
Take into consideration the recommendation of the Justice of the Peace Josie Curotte in her judgment of the Election appeal.	2002
MCK in conjunction with Membership needs to define Candidacy Eligibility.	2004
Restrict candidates from access to ballot counting areas.	2004
Make "appointment of candidate scrutineer/ representative" a condition of their candidacy. Candidates must name their scrutineer/ representative no later than "Meet the Candidates Night".	2004
Revise deadline for candidates to cancel their nomination. In order to have the ballots printed a minimum 14 days prior to the election. This will allow ballot recipients sent by courier, express mail or similar, better scheduling options to return their ballots by 6 pm Election Day.	2004
Request the use of the Membership Dept. to hold Nomination Day, on permanent basis.	2004
A candidate who is nominated for 2 positions, make it official that should they fail to declare their candidacy within 48 hours, they will have to declare same – but only at the specially appointed 72 hour session at the Membership Dept. This will present having to go from place to place to complete paperwork.	2004

TO THE KAHNAWAKE ELECTION LAW

Recommendation	Year(s)
Hold advance and special polls to the Saturday before the Election Day.	2004
Create and advanced poll application form, which would be available the MCK main Building Reception.	2004
There should be a minimum of 6 counting room with a minimum of 6 people in each.	2004
Good lighting and PA system at the exterior venue on Election Day. Set up a "ballot-counting-conformity" situation, whereby each ballot box filled, from start to finish, would contain exactly 50 ballots. With total 15 ballots, the 6 teams would each process 250 ballots in 5 time efficient rounds. 2 official breaks would enable all teams to finish nearly at the same time.	2004
Have another ballot box built in order to store the ballots after the ballot counting process and prior to ballot destruction. The box should be large enough to house legal-sized paper, large enough for 1500 ballots.	2004
Develop a mandate to establish an independent board for elections.	2004
The board should develop a manual for Electoral Officer.	2006
Election Appeals needs to be clarified and ratified. Appealers (needs to have a criteria)	2006
Can wording sections of the law be consistent with the present Membership Law.	2006
Clarify if cigarette smuggling is considered a crime. Clear definition of nominator and assistant elector officer.	2006
Change working "when the person nominated does not meet the eligibility criteria" to say "as verified by the registrar and membership dept." Define non-native person and ordinary resident.	2006
Section 22.6 Reword to "The Election scrutineer will record that an elector has been approved or rejected to receive a ballot to vote.	2006
Section 23.1 Change end of sentence from "within 10 days from the election day" to "a day prior to the election day".	2006
Can wording "verified with the registrar" be incorporated with these sections 24.7 and 24.8.	2006
Should be another witness other than the Electoral Officer for the voting process.	2006
Is a section required to verify that the elector meets the eligibility requirements? The Electoral Offer through the registrar or membership department must verify Electors as eligible.	2006
Should there be an age requirement for section 31.2?	2006
Incumbent Council's term of office does not automatically terminate on a particular date. Two ways to overcome problem 1) a specific and pre-established date can be declared for elections. 2) establish and "Elections Period".	2006
Change all reference to the Mohawk Law to read the Kahnawà:ke Election Law.	2006
Change all references to the Mohawk Registry to read Kahnawà:ke Kanien'kehá:ka Registry.	2006
Change all reference to "50% or more Mohawk blood quantum" to read Four or more great-grandparents who are Mohawk, Oneida, Onondaga, Cayuga, Seneca or Tuscarora as determined by the Kahnawà:ke Membership Law.	2006

RECOMMENDATIONS FOR AMENDMENTS

Recommendation	Year(s)
Amend section 6.1 © to read must be ordinarily resident of Kahnawà:ke so as to conform the language used in the definition "Ordinarily Resident".	2006
The definition of "Ordinarily Resident" should be changed because of the Court of Kahnawà:ke's decision interpreting that meaning.	2007
Correct section 9.1 © because the "failing which the nomination becomes null and void" does not form part of 9.1 © but rather 9.1. There is a formatting problem.	2007
The rules on how these forms should be filled-in and submitted to the EO have to be further developed.	2007
Amend 15.1 to read must be a member listed on the Kahnawà:ke Kanien'kehá:ka Registry.	2009
Clarify the issue of Mohawk Blood Quantum in Section 15.1 (b)	2009
Correct section 15.1 to read "The six (6) year ban commences only after the sentence has been served in full.	2009
Remove the word "impeachment" in section 16.1 and replace with word "removal from office". There is not impeachment process in either the Law or Disciplinary Measures Regulations. Also more clarity must be provided with respect to the procedures and powers for holding a by-election.	2009
Remove the words "Mohawk of Kahnawà:ke" from section 21.8 and replace it with the word "Elector".	2009
Amend section 26.1 (a) to read: must meet the requirements of the Kahnawà:ke Membership Law and be a member listed on the Kahnawà:ke Kanien'kehá:ka Registry	2009
Delete from section 30.1 the words: or, at the request of an affected candidate, where there are ten (10) or less votes separating a candidate who is elected and a candidate who is not so entitles,"	2009
Amend section 30.4 to read: The Electoral Officer, candidates and the candidate's representatives will have the right to recount any candidate's votes. A candidate or representative cannot refuse a recount. This section should also be clarified. Can the recount be asked for even if there are more than ten votes separating the candidates?	2009
Section 32.3 should be amended by removing the words "two years" and replacing them with the words "three years", in order to reflect the three year term.	2009
Correction of the spelling of Kahnawà:ke throughout the law.	2009
Create a review body to review the Electoral Officer's decisions with respect to eligibility to run for office and allow a final appeal to the Court of Kahnawà:ke.	2009
Review of the forms attached to the Law.	2009
Create authority with the Law to ratify the Disciplinary Measures Regulations.	2009

HOW LAWS ENTER THE CDMP

Request for Legislation Submission

(Procedures manual under development)

5.1.1 Request for Legislation Submission

The Originator/Proponent submits a Request for Legislation (RFL) to the Kahnawà:ke Legislative Coordinating Commission (KLCC). This RFL can take three (3) forms:

- Submission of a Letter of Request for Legislation, clearly identifying what the request is and identifying the need for enactment or amendment.
- Letter of Request for Legislation, identifying mandate, scope, purpose, intent and/or recommended revisions to proposed or existing legislation for consideration.
- Letter of Request for Legislation, with attached, Mandate, Scope, Purpose, Intent and/or recommended revisions to current law, and an attached draft sample law for consideration

KLCC sends Originator/Proponent letter of acknowledgement of receipt for said Request.

5.1.2 Legislative Categorization

KLCC submits a “Request for Legislative Categorization” to MCK Legal Services and awaits response. Note: If Request for Legislation” is unclear, KLCC will conduct additional research

and/or ask for clarification with Originator/Proponent.

MCK Legal Services sends KLCC recommendation for Legislative Categorization. KLCC reviews Technician’s Information package and MCK Legal Services Process Categorization Recommendation, and confirms that the Request fits within the defined criteria for law (or legislative development) as opposed to the development of policy, regulation, etc., (see Definitions). Possible scenarios with actions are as follows:

- Request requires additional research/ clarification: Additional research/ meetings are conducted.
- Request does not meet Legislative development criteria:
 - a) Contact/Notify the Originator/Proponent and discuss next steps; and/or
 - b) Send a request to MCK Executive Director’s Office or to the Community Third Party Entity Executive Director for further development of appropriate policy, regulation, etc.
 - c) send written notification to Kahnawà:kehró:non Ratitsenhaiénhs via briefing at monthly update discussion

Other Laws in the CDMP

NAME	CATEGORY	TYPE
Kahnawà:ke Alcoholic Beverage Law	Amendment	Type II

PROCESS AND EVOLUTION TO DATE:

November 27, 1995 – Kahnawà:ke Communal Law enacted November 27, 1995

July 15, 2009 – Letter of request for regulations & revisions to 1995 Law received from Courtney Bourgeois (Secretary ABC Board) - submission of package through CDMP

Aug. 18, 2009 – MCK Council Meeting – RFD for categorization as Type II legislation & regulations & amendments to 1995 Law

Aug. 20, 2009 – Record of Decision from MCK agreement as Type II – C & C subject to 3-day review process

August 16, 2011 – Preparation of Legislative Session with Council

HOW LAWS ENTER THE CDMP

and to the community
via Onkwarihwashón:'a Newsletter

KLCC officially confirms Type I or II Process Categorization at KLCC Meeting.

5.1.3 Technician Assignment

Originator/Proponent assigns a Technician(s) (See Section 5.0: Technician Responsibilities).

Technician compiles and submits a comprehensive information package to KLCC with any/all research, history and/or background information and/or documentation, including but not limited to MCR's, MCED's, Council and/or Community Meeting Minutes, MCK and/or other policy statistics, oral, recorder and/or written history, etc. on the issue.

5.1.4 Legislative Tracker

KLCC completes the Kahnawà:ke Legislative Tracker (attaches complete Information package) and an MCK Request for Decision (Council

Agenda Submission Package), entitled: Name of Legislation CDMP Process Categorization. NOTE: The purpose of the Legislative Tracker is to accurately track/record progress of the legislation as it moves through the process, and will follow the legislation to its completion, as identified herein.

KLCC notifies Kahnawa'kehró:non Ratitsénhaienhs of Legislative Categorization. The Kahnawa'kehró:non Ratitsénhaienhs have three (3) business days to file a written objection to the categorization.

- If a written objection is filed, KLCC and Kahnawa'kehró:non Ratitsénhaienhs meet and discuss positions in order to resolve the situation. If no solution can be found, the matter is sent to the Court of Kahnawà:ke to settle. The Court of Kahnawà:ke has the last word in this matter.

- If no objection is filed then it goes to Phase I of the CDMP.

Be sure to catch.....



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