COMMUNITY DECISION-MAKING PROCESS
PHASE 1 – COMMUNITY HEARING (5)

REQUEST FOR LEGISLATION: KAHNAWÀ:KE JUSTICE ACT
MOOSE LODGE 958
Ahensénhaton/Wednesday, 16 Tsothóhrha/December 2009
1:00 – 4:00PM

RECORD OF DISCUSSION

FACILITATORS:
Karonhiénhawe Linda Delormier (Lead)
Kelly Ann Meloche (Group 1)
Louise Mayo (Group 2)
Tekahnetóntie Joe Delaronde (Group 3)

RESOURCE PEOPLE:
Shakoshennakéhte Ron Skye (Lead)
Tekara'tén:sere Davis Montour (Group 1)
Karonhí:io Mike Bush (Group 2)
Shakoshennakéhte Ron Skye (Group 3)
Carla Skye (Resource Support)

CHIEFS OVERSIGHT:
Clinton Phillips (Group 1)
John Dee Ohnawentehkha Delormier (Group 2)
Kahsennenhawe Sky-Deer (Group 3)

RECORDERS:
Kawén:nes Melissa Curotte (Lead/Logistics)
Leah Phillips (Group 1)
Carla Skye (Group 2)
Leslie Skye (Group 3)

1:00PM Opening:
Chief Kahsennenhawe Sky-Deer opened with the Ohén:ton Karihwatéhkwen.

1:10PM Welcome/Opening Remarks:
Linda welcomed everyone to the 5th session of the Justice Hearings. We are not filming this session yet. In the future this is something that we will be doing. The participants will stay as much as possible in the same group they were in as last time.

Questions were asked to the Community and yes, the Community wants a unique form of Justice.

The completed to date draft statement encompassing questions one and two was read to the group.

All the questions that were answered here as well as the discussion, concerns and parking lot issues will be taken into account when/if a mandate is granted.

1:15PM Introduction to Topic/Question.

The Group will continue with the following two statements (where the discussion left at the last session):

(Statement 1)
"Yes, we want a Kahnawà:ke justice system and our judgments be recognized by Kahnawa'kehro:non, outside governments and Indigenous People with negotiated agreements to cooperate with other jurisdictions."

(Statement 2)
"Yes, we want our judgments, orders and decisions to be recognized by every other jurisdictional authority."

Group 1 will discuss and provide a position first.

1:20PM Group Facilitators Review Guidelines/begin discussions.

PROCESS BEGINS:

Topic/Question: Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?

Group 1 – First Round

Facilitator: Kelly Ann Meloche
Resource Person: Tekara'tén:sere Davis Montour
Chiefs Oversight: Chief Clinton Phillips
Recorder: Leah Phillips
Group Speaker: Jeremiah Johnson

DISCUSSION /CONCERNS:

- We do not need to reinvent the wheel; it may be necessary to look at other justice systems around us.
- We are all in agreement that they should respect orders but we are worried they won't work and our work at these hearings will be for nothing.
- It was discussed that we don't want criminals walking around with us, where will they go or be transported to do their jail time?
- We want to have the outside judicial system do what we say and of course they will be required to enforce.
- If our laws are not recognized, then offenders can come into Mohawk Territory and/or go out of Kahnawà:ke for their offenses and if they do not like the outcome, in the end they will say that "you can't touch me now, I'm outside of the jurisdiction".
- Do we go as far as enforcing it on the outside as well as on the inside? Criminals will say "I'm going to the outside", should they feel they were not treated right by our justice system.
- Kahnawakero:non should have the right to go to court within their own community to settle minor offences such as small claims.
- We are always going to say (community members) will want to go outside but the majority of community members do want to have their cases heard right in the community.
- Keep the wording simple of the justice system; don't need extra words to make things complicated.
- We all have different ideas of what punishment should be and for how long it should be.
- Some community members in Group 1 would like to see restorative justice come into play.

QUESTIONS:

Q: Should outside authorities choose to not accept or recognize our laws, will the Canadian government accept us?
A: We want the Quebec authority to accept our laws but will they in the end.

Q: If we say that these are our laws and they should accept them, will they?

Q: If we build a justice system, who will judge these laws?
A: If we don't ask other government to recognize us, then we can't assume that they will. It's up to the players; chiefs would need to agree in the end.

Q: Will we have to negotiate and then fall under the Quebec government anyway?

Q: Will the Canadian government find a way to charge us for housing our prisoners?
A: They will find a way to either charge us or bill us or even in the end tax us.

Q: U.S. sentencing is very, very tough. Should we be following their laws?

Q: Technically there are no laws in Kahnawà:ke set in stone. Is there a law of zero tolerance on drugs? The answer is "no", there are none. Do we need one? Do we need banishment for crimes such as this?

Q: Should we go back to our traditional way of learning? Ways to repair the offender and/or the victim as well. In the olden days, we didn't have offending as we do today.

Q: We haven't had modern justice in Kahnawà:ke for a long, long time. Do we need it back?

RESPONSE/POSITION:
Group 1 is in consensus with Group 3's statement below.

"Yes, we want our judgments, orders and decisions to be recognized by every other jurisdictional authority."

Topic/Question:	**Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?**
	Group 2 – First Round

Facilitator: Louise Mayo
Resource Person: Chief Karonhí:io Mike Bush
Chiefs Oversight: Chief John Dee Ohnawentehkha Delormier
Recorder: Carla Skye
Group Speaker: Chief John Dee Ohnawentehkha Delormier

DISCUSSION/CONCERNS:

- It does not mention RECOGNIZE. This must be mentioned in the development of the preamble. The words recognize must be mentioned for the people.
- The Justice Commission consists of: Dale Dione, Derrick Montour, Davis Rice, Christine Zachary-Deom, Jean Pommainville, Ronald Skye, Dwaine Zacharie, Kahsennenhawe Sky-Deer, Vicky Jocks, Stephanie Cross, Josie Curotte and Mike Bush.

QUESTIONS:

Q: If we give the mandate, will it be accepted? Is it brought back here for discussion? Will there still be time for any changes? In this mandate we might want to include forum shopping.

Q: Do we give the mandate? Outside view? They think Legal people are working on system. Why will it be developed when were not going to look at all of justice?

A: Careful on how we develop this system. When developing we must be inclusive and have all people involved and not just legal people. If this is done the proper way it will be recognized.

RESPONSE/POSITION:

Yes to develop a draft for the community to review and modify or accept. More than 30 people must participate. Develop a constitution and bring it to a meeting in the spring.

Agree with Group 3's statement as well.

"Yes, we want our judgments, orders and decisions to be recognized by every other jurisdictional authority."

Topic/Question: Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?

Group 3 – First Round

Facilitator: Shakoshennakéhte Ron Skye
Resource Person: Tekahnetóntie Joe Delaronde
Chiefs Oversight: Chief Kahsennenhawe Sky-Deer
Recorder: Leslie Skye
Group Speaker: Don Patrick Martin

DISCUSSION/QUESTIONS/CONCERNS:

- Based on everything that was stated by the other two groups, there was a need to shorten the response/position to the 3rd question.
- The word 'recognize' was to encompass everything. It doesn't mean that it was accepted. It's merely recognized by the outside.
- Negotiate services (child services) Federal Court system may not accept our laws even though 1000 of our people have already accepted.
- Change recognize to accept.
- If it's going to be recognized it needs to be accepted.

- Nations make decisions not communities. Judicial processes in other judicial districts are called homologation**.**
- Yes, we want our laws to be recognized by every level of government that maintains judicial authority.
- It was felt that we didn't need to repeat everything all over again because it was already written in the question.
- Institutions have to enforce whatever judgments arise.
- One member felt it was too vague.
- Don't see the word institutions or reinforcement.
- We've built institutions, now we need to put things into place. This process is to combine all of those things. We need to lift the house in order to build the foundation.
- What we are trying to do with this process is to build the foundation of justices – legislative, etc.
- It's too abstract.

QUESTIONS:

Q: Does it make it more difficult for us if we change the word?
A: It's all how it's worded if you're looking at achieving recognition.

Groups 1 and 2 question Group 3:

Q: Is it all over the world? Is it legally equivalent? Does it make a difference?
A: Other judicial authorities meaning who it's related to.
A: We wanted to keep in mind all that's been written.
A: It's all encompassing. Whoever has the judicial authority?

Q: What are the other institutions going to do? Are we not already saying that?

Q: There are Kahnawakero:non laws and institution laws; who will prevail? (I.e.: Court of Kahnawà:ke or Quebec law?)
A: Kahnawà:ke's law will prevail or be recognized. We have this law you have to recognize.

Q: Whom is it going to apply to?
A: Everyone.

RESPONSE/POSITION:

Group 3 agrees with the statement below, however, they would like to take out the word **"other"**, meaning every second one.

"Yes, we want our judgments, orders and decisions to be recognized by every jurisdictional authority."

All groups are in consensus to take the word “other” from the statement.

FINAL POSITION:

“Yes, we want our judgments, orders and decisions to be recognized by every jurisdictional authority.”

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Linda mentioned that the Justice Committee will present a working document as well as a mandate.

The Justice Committee will come back with a preamble.

Group 2, Chief Johnny Montour has a concern with not having Kahnawake:ron recognize the system; then he cannot live with the document. Believes the question was not asked properly. Until we have it recognized by the people, for the people then it’s not recognized.

Group 3 would like the Committee to come up with a draft mandate and bring it back to the sessions; they find this a bit confusing.

Linda mentioned that they will compile all the data and will come back with a draft document.

Linda introduced Question 4 to the Justice Hearing.

“Given the community’s answers to the previous 3 questions, does the Justice Commission have a mandate to develop a justice system, and do you have any further concerns or qualifications.”

Topic/Question: Given the community's answers to the previous 3 questions, does the Justice Commission have a mandate to develop a justice system, and do you have any further concerns or qualifications.

****The question was changed and reworded.**

Group 1– First Round

Facilitator: Kelly Ann Meloche
Resource Person: Tekara'tén:sere Davis Montour
Chiefs Oversight: Chief Clinton Phillips
Recorder: Leah Phillips
Group Speaker: Jeremiah Johnson

DISCUSSION/QUESTIONS/CONCERNS:

- We should develop some sort of system to develop a mandate, possibly going house to house to try a survey type of achieving every single Kahnawakero:non to come to a decision.
- One community member disagrees with this statement, if we would go house to house or have surveys completed it won't work. Also, no one wants to come out to these meetings and make their remarks known. It will only be very few community members come out and take part in this process. They will only come out and participate if it directly involves the individual.
- If no more than 30 people show up to decide for the whole community it will not work, but unfortunately that is the way it has been, and always will be unless community members get involved.
- Those people who do show up are the ones who will speak up when things don't go their way (no participation).
- There is a need to develop a constitution (one community member added to words to "house" a justice system")
- Define peace, harmony justice and respect, this needs to be expanded on or explained (defined more in depth), not just added on.
- Maybe we can start this process back in the spring, let some time pass. Maybe a "confirmation session" for the people who haven't showed up to the last few meetings, this could possibly help in the development of this constitution. Get the people back in that attended the very first hearing and do a re-assessment of where we are.
- Maybe it would be a good idea to bring forth the figures of people who have attended the visioning sessions, include with that the figures of these, justice sessions, ensuring an open-development process.
- Include the groups who have participated in the past and ensuring an open-development process that we can all agree upon to allow the start of a draft

judicial system, which should also include the development of the constitution process as well.
- Develop a constitution to house the justice system.
- Yes, to start mandate but also hold a spring meeting with a draft.

QUESTIONS:

Q: This structure needs to be plugged into something to get started, what is this exactly?

Q: If we have a constitution as a Kanien'kéha, then why don't we just adopt one from another Justice System?

Q: One community member inquires; will this process end once we get the mandate?
A: No, it will continue on until we have an agreement.

Q: More then 30 people to decide for the whole Community?
A: Those people who do not show up are the ones who want to. (Not all want to participate. The ones that want their voices heard will show up at the hearings.

RESPONSE/POSITION:
"Yes, develop a draft to the Community to review for modify or accept."

**Suggestion: Hold a meeting in the spring and present a draft.

Topic/Question:	**Given the community's answers to the previous 3 questions, does the Justice Commission have a mandate to develop a justice system, and do you have any further concerns or qualifications.**

Group 2- First Round

Facilitator:	Louise Mayo
Resource Person:	Chief Karonhí:io Mike Bush
Chiefs Oversight:	John Dee Ohnawentehkha Delormier
Recorder:	Carla Skye
Group Speaker:	Miles Deer

DISCUSSION/QUESTIONS/CONCERNS:

- Miles Deer, shared a story about is mother regarding membership and our land from about 1932.

RESPONSE/POSITION:

Yes, they need to give them the mandate to develop a document. But some sort of ratification, which needs more people, involved. Prepare position paper then give to public for 30 days and then call a meeting. We believe there is a constitution needed but it's not the mandate right now. The request will be sent to the OCC for review.

Yes, they will give the JC a mandate to develop a mandate and come back. For how ever long it will take. For the Constitution it is more of OCC's job to do that. They agree that 30 people are not enough to develop a mandate. Group 2 suggested having 30 days for the Community to view and digest and to make changes to this document.

Topic/Question:	**Given the community's answers to the previous 3 questions, does the Justice Commission have a mandate to develop a justice system, and do you have any further concerns or qualifications.**

Group 1- Second Round

Facilitator: KellyAnn Meloche
Resource Person: Tekara'tén:sere Davis Montour
Chiefs Oversight: Chief Clinton Phillips
Recorder: Leah Phillips
Group Speaker: Jeremiah Johnson

RESPONSE/POSITION:

Agreed that 30 days is fine. For the constitution they would like the Justice Commission to come up with a constitution.

Ron clarified that it's up to OCC to bring it to the ILCC.

Topic/Question:	**Given the community's answers to the previous 3 questions, does the Justice Commission have a mandate to develop a justice system, and do you have any further concerns or qualifications.**

Group 3 – First Round

Facilitator: Tekahnetóntie Joe Delaronde
Resource Person: Shakoshennakéhte Ron Skye
Chiefs Oversight: Chief Kahsennenhawe Skye Deer
Recorder: Leslie Sky
Group Speaker: Don Patrick Martin

DISCUSSION/QUESTIONS/CONCERNS:

- They also agree with 30 days.
- For the next meeting they need to identify; does a community member need to be present to be a Community Representative?

RESPONSE/POSITION:
"Yes, they would like to mandate the Committee to come up with a draft document."

FINAL POSITION: Do we have a mandate?

Yes, all groups came to a consensus to move forward.

CONCLUSION/NEXT STEPS:

Formulization will occur in January.

The date, time and location of the next Community Hearing will be confirmed and announced shortly.

A Phase I Community Hearing Report (5) will be drafted and distributed to the Community within 3 business days.

COMMUNITY FEEDBACK/COMMENTS:

Approved by:

Chiefs Oversight	Date:
Chiefs Oversight	Date:
Chiefs Oversight	Date: