

COMMUNITY DECISION-MAKING PROCESS
KAHNAWÀ:KE ELECTION LAW
FIRST HEARING (MTG. #3)
Karonhianonhnha School
30, Onerahtókha/April 2014
6:00 PM – 8:30 PM

RECORD OF DISCUSSION

FACILITATORS:

Kahente Horn-Miller (Lead -CDMP)
Suzanne Lahache

RESOURCE PEOPLE:

Trina C. Diabo (Lead – Resource Person)
Lori Jacobs

RECORDERS:

Kennikaronia:a Leslie Skye (Lead/Logistics)
Sophia Dupont

6:00 P.M. **OPENING** – Leslie Skye

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

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

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

8:30 P.M. **CLOSING** – Leslie Sky

Facilitator:	Suzanne Lahache
Resource Person:	Trina C. Diabo
Recorder:	Sophia Dupont

Question 1: Do you think there should be additional criteria for who can hold office?

PRE-DISCUSSION:

- It was brought up by a community members, that it was suggested in a previous meeting to add to the eligibility criteria to have a Mohawk mother. The community member asked to have this comment appear in the minutes of discussion for the record.
- Trina answered that to have a Mohawk mother was raised by a group but not accepted by consensus.
- Last meeting ended in Group 1 agreeing to reduce to 9 chiefs. Group 2 did not reach consensus. It was then decided to agree on the criteria to hold office before reaching consensus on how many chiefs there should be.
- Must declare all their private business holdings and cease to hold any decision-making authority with respect to said business holding during the term of their office.
- Must have left office in good standing not after having been removed.
- “Ordinarily live in Kahnawà:ke”.

DISCUSSION:

Trina read from a family’s letter that she received, as they could not be in attendance: The current list of who can hold office is good (a-h) with exception to the 6 year ban(f) in that the three “cardinal sins” of murder, rape and theft be highlighted and if this is the case, a person will never be able to hold office. Minimum high school leaving diploma or equivalent; post-secondary education is preferred; past work or work experience in Kahnawà:ke community organization; if the candidate has a past history of addictions, must demonstrate being clean for 10 years or more (medical certificate, addictions counselor attestation, plus personal attestation); demonstrate volunteerism; is a positive role model to others; can demonstrate effective communication skills; agree to participate in the MCK Language and Culture Program to a minimum of 50% participation throughout their term of office, unless a declaration is made by the individual that the he/she has cultural knowledge and some language proficiency or better; all of us agree to the proposed amendment to add to declare business and must be Kanien’kehá:ka from Kahnawà:ke as well as the addition to g) in related to the term immediately before election not being removed.

- Regarding ordinarily resident, we agree to use the term resident. The suggested amendment “means must live primarily in Kahnawà:ke” is the most important part of this definition. Regarding outside employment, well if you work away and have another permanent address, one is not a resident then; the timeframe of 6 months is too short. We need to consider at least one year living in Kahnawà:ke, even as long as five years would be better.
- From a separate letter: There should be criteria for mental health; we don’t need Chiefs with a lot of baggage.
- Concern was raised by a community member that was present that the letters that were read should not count because the authors are not present to debate with the rest of the group that is present. It was explained that this is common practice and has been done in the past with the Kahnawà:ke Justice System.
- “Residents that” does that apply to ironworkers meaning they would not be eligible?
Trina explained by giving an example of the difference of when “ordinarily lives in Kahnawà:ke” would apply to ironworkers who return regularly so they would be eligible.
- The original intent of “ordinary resident” was not meant to exclude people because of work or school because they return to Kahnawà:ke regularly. It was meant for people who just get on the band list and who have never lived in Kahnawà:ke would not be eligible.
- Suggestion of adding “ordinary resident of at least 2 years” would be a fair compromise.
- I disagree because an ordinary resident, everyone has the understanding that they are away for work, have all the rights and are on the registrar. It should stay the same way it is. To add all these other criteria to volunteer, etc. is discouraging, we’re not running for the United States presidency, it is for our community. Don’t crucify everyone else because there was a mistake made with a certain individual.
- Even if an individual votes by mail, they are still considered a resident.
- To run for Council Chief you need the knowledge of your community that comes from the heart and have knowledge of your rights. You need to defend your rights and be more Indian-thinking rather than white-thinking. I have been with Council since 2000. I have accomplished a lot and it doesn’t matter how many degrees you have.
- When I was younger (in the 60’s), there were sections and mostly men on council. One man would run council meeting alone. I am for education though.
- History told to me by Chief Tessie Goodleaf, elections were put on July 4th week-end for people working away in Brooklyn. This was to safe-guard for the community because popular people would run, but be in Brooklyn for five months before they came back for a week-end. So people were running the town that was not staying in town. Some people stayed in Valleyfield and would drive home daily but your home is your home.
- “Ordinary resident” is not our word; it comes from the Indian Act. Why not create our own word/definition? You can’t measure language, culture and what’s in your heart. Do we want to change it to “resident”?

- It was said at the community consultations that it is not to penalize individuals who are furthering their education or working away.
- People who live away listen to the Kanien'kéha program on the radio.
- One individual added that he is bringing other peoples' voices because they could not make it to the meeting.
- We have people from Kahnawà:ke that live in Chateauguay or Lachine; are they considered residents of Kahnawà:ke?
Yes, if it is due to housing shortage. There are provisions for these situations.
- Definition would stay the same but the period of time would be tightened up.
- I agree with maintaining the 6-month period to make it clear and not open to interpretation.
- What about internships that are part of the educational studies?
- In the past, it wasn't as important for the 6-months because of internet and staying in touch with what's going on in the community.
- You cannot rely on what you hear on the internet, you have to live it.
- How serious is the person running that he/she can't live in town for 6 months before election?
- It is unrealistic for someone who finishes their degree in June to come back and run for council after living in town for 2½ weeks?
- Another examples given was if someone who was born in Kahnawà:ke, went away for years and years and came back to the community and ran for council. I do not think that 6 months is enough to run for Council.
- Question of someone who has grown up here and is away for education, came home for Christmas, Easter, holidays, they should be eligible to run.
- The definition has to be very clear. To say "born & raised" can be another criteria.
- Last election there was someone who ran that no one knew.
- This clause was intended to assure that people that never lived here for years and years or never lived here were not eligible.
- Born and raised, maybe not because a lot of people not born in Kahnawà:ke but very up to date on what is going on in Kahnawà:ke. Some people were born in Brooklyn when there was work and their family lived there.
- What is an adequate amount of time for someone to be back in the community and to get exposure to be able to run in the election?
That is the peoples' discretion at the poll.
- The law should not be made for people who are coming back to town.
- Was it proposed to be "resident of Kahnawà:ke" instead of "ordinary resident", to include housing shortages, away for work and mention that individual should live in Kahnawà:ke for no less than 6 months?
- I don't like the 6 months stipulation but I can agree with it because if you put your name forward the people support and vote for you.
- "Ordinary" is confusing and too open to interpretation.
- I do not agree with what was written in the family's letter that was submitted.

**To add “Kanien’kehá:ka of Kahnawà:ke resident” to the definition.
Add that you have to be a primary resident of Kahnawà:ke and exceptions made for education and work, but has to be decided by the Electoral Officer.**

CONSENSUS REACHED

Question 2: Criminal offenses

DISCUSSION:

- If a candidate has 3 summary convictions within a 3-year period, he/she should not be eligible to run.
- It should be stated “criminal offense” and only eligible after a pardon has been received.
- All candidates’ names must be submitted to the PK’s and the Court of Kahnawà:ke for a criminal background check. It could be a DUI from 10 years ago. It should be up to the Electoral Officer to disqualify or not.
- There are people who have killed people, injured people, but got off on a summary conviction because they had a good lawyer.
- If there was a drug possession conviction when the man was 18 and now he is 40 years old and has not reoffended, then yes he should be eligible.
- Yes, this same person can easily apply for a pardon 3 years after the conviction.
- There is a disclosure on the forms.
- The only offense that was waived was for tobacco fines.
- Common sense is that you won’t vote for someone who had a major criminal conviction.
- To keep the 6-year ban is to show that the person has been back on the right track.
- A lot of the charges listed are “hybrid” charges (dual).
- For example, for mischief, you only get the basic charge but you don’t get the idea of what the real crime was.
- Impaired driving has many different charges with many levels in the Criminal Code and could have taken place in another place other than Kahnawà:ke.
- You should not have been convicted of any offense whether it is criminal or summary conviction for 3 years. Lead by example.
- I agree with keeping it at 6 years prior to running.
- It can take a very long time before the conviction shows up on the telex so how would the Electoral Officer know?
- My recommendation is zero convictions. No criminal record and only eligible if pardoned.
- It could be a child molester from New York State, how would we know?

- I do not agree with allowing three summary convictions because a conviction is a conviction.
- Once you pay the fine and do the time, it should not be forever, there should be a time limit.
- Put a clause that pending charges have to be disclosed.
- When you sign a privacy waiver for a background check to be done, CRPQ will bring up all offenses in Quebec and Canada and Interpol for the States side. A check is also made with the Court of Kahnawà:ke.
- There is a section on the form for "Disclosures".
- Should the definition include indictable offenses, summary convictions and criminal convictions?
- Suggestion of wording "crimes against a person".
- Simple assault can be spitting at a person and charged under criminal offense but hitting someone with a baseball bat can also be charged with a summary conviction.
- Criminal offenses can be plea-bargained down to a summary conviction, but it should be, even if you're convicted of an offense.
- Why change it and get into opening a can of worms? Keep it so that you have to be clean for six (6) years.
- Cardinal sins of murder, rape and theft should not be able to ever hold office.
- I disagree with having the offenses listed or having obtained a pardon.
- What if someone at age 16 committed a rape and their records are sealed because they were a minor.
- If someone had a major offense at the age of 19 for DUI and bumped someone and killed them, they will never have the opportunity to serve the community. People change to help the community grow. This person turned out to be a good man, but this person would not have the opportunity to run anytime in their life.
- If the person who was killed was your son, would you feel the same?
- I think it should stay the same, stay clean for at least six years before even considering running. The Electoral Officer will have the information and can disqualify. You are punishing people for things that happened a very long time ago.
- I agree that the ban can't go back forever, but criminal offenses must be defined. They could have been charged for a criminal offense but instead got a summary conviction.
- Define what criminal offenses are.
- Keep definition with addition of "summary convictions". For further clarity, criminal offenses including indictable and summary convictions.
- The legal terminology will be taken care of by MCK Legal Services.
- What if someone goes to protest on Parliament Hill against the Education Act and gets arrested and convicted of a criminal charge for disturbing the peace?
- Charges for political activism, eligibility to run would be at the discretion of the Electoral Officer.
- You have the right to protest.
- The government considers Mohawks as terrorists.
- It has to be consistent (number of convictions and number of years).

- It should be clear so as not to put too much pressure on the Electoral Officer.
- It comes down to common sense and looking at the whole picture.
- With the new law, tobacco will not be charged as a customs & excise offense but instead as “fraud” against the government and it will not be disclosed on criminal background check what type of fraud.
- I feel that once the Election law is all revised, because of the low number of participants, it should go to a referendum and that appeals should be heard by the Court of Kahnawà:ke.
- Discussion took place her about the CDMP being the Process for amending laws and disagreement with holding a referendum.
- These are only amendments to an existing law.

OUTCOME:

Keep the criteria the same (6 years) and excluding tobacco offenses.

CONSENSUS REACHED

**Question 3: “Left office in good standing” or
“Not having been removed from office”?**

OUTCOME:

“Must not have been removed from office” rather than “must have left in good standing”?

It was decided to hold off discussing this topic until the next meeting with discussion on having a Community Review Board.