

MCT CONSTITUTION REFORM CONVENTION

OFFICIAL MEETING MINUTES

GRAND PORTAGE, MN

JANUARY 25, 2020 (DAY 2)

10:00 A.M. TO 4:30 P.M.

Bev Drost gave a welcome speech – learn from each other in a good way today.

Teresa Haas, Grand Portage, welcomed the Tribal Executive Committee (TEC) members present – FDL – Kevin Dupuis and Ferdinand Martineau; LL - Archie LaRose; and GP - April McCormick and Bev Drost.

Marcie McIntire began the panel questions –

Q. Explain the roles and responsibilities of the Tribal Executive Committee (TEC) and Individual Bands.

GP – Bev Drost – responded with the feather in hand, being new to the TEC, she has attended gatherings and meetings. Generally, the items discussed were Enrollment, Land, Health & Human Services, Natural Resources, and subcommittee meetings. Her work to oversee services in relation to the individual Bands has been recently, the Election Ordinance and Blood Quantum.

Q. What is the TEC responsibility to the individual Bands?

FDL – Ferdinand Martineau – statement “good to see so many people working to redraft a new constitution. With history some things occurred and changed enrollment in 60s, with enrollment from lineal descent to ½ blood, 70s with governing over the years in subcommittees of national reserve issue. TEC supports issues that are important to the MCT as a whole (health, human services, economic development, natural resources, helps the individual Bands to bring back to the subcommittees.

LL – Archie LaRose – Works with subcommittees and at TEC level meets with subcommittees. Band members are entitled to programs like Education, Health and Human Services. Met as a whole body to pass resolutions for enrollments, from the quarterly meetings of the Individual Bands to the TEC quarterly meeting where we finalize those individual Band decisions with the TEC.

GP – April McCormick – Work on priorities to hold state and federal accountable and what are the priorities with lobbying. Learn from each other of ideas and not afraid to have tough conversations and have good conflict resolutions. Good model to work together. The responsibilities are not taken lightly. People entrust the TEC to work with the Constitution Reform Delegation. Reform is the beginning conversation. The TEC wants knowledge of what the citizens say – there is need for the people to come together to help at this time with reform.

Q. How do roles and responsibilities of the TEC provide value to our members?

LL – Archie LaRose – Programs, committees, revenue often come into play to support all MCT Band members with education scholarships. With meetings every three months and with input from subcommittees the TEC makes the best decisions on a quarterly basis.

Q. LL – Carrie Day Aspinwall – explained how the questions were framed up, training, education, and the importance of communication. Balance is created.

Q. How to foster a communication relationship with the Constitution Reform Delegation?

Q. LL – Wally Storbakken – When you sit at the TEC table how do you view your own responsibility toward a different Reservation? You look out for your own but meeting responsibilities to all of us?

FDL – Kevin Dupuis – TEC is a body of twelve people and 40k people and it's based on a document that has to be uniform across the Bands, and over time to now it has not happened. It's different based on reservation size, Leech Lake and White Earth have much more population than the other four. Taking it from day 1 only twelve representatives for 40k people is where the fault lies. As we have grown we have not changed the document. Changes have been minimal. We are stuck in a vacuum. It is written uniformly across the board and structure is faulty.

FDL – Ferdinand Martineau – 1934 Constitution by federal and BIA boiler plate throughout the United States. 40k people equally distributed across and it is inadequate. There is a lot of people working on the changes and it's in this Delegations' hands now.

FDL – Kevin Dupuis – FDL was provided a budget and a note taker (note taker was declined). It's a lot of work. Giving citizens the autonomy to make those changes. FDL will support those changes; the Band will support through the MCT. Many attempts to see change. Support of the Constitution Reform Delegation is here.

GP – April McCormick – Good question. Listened at the TEC about the 40k citizens. Understand and asked questions. Health and Human Services, Natural Resources, Housing, Finance, issues that surround grants; how does it need to be addressed supporting an initiative. What does she need to ask and who has knowledge where she may learn. Collaboration and heart make good decisions together.

Q. GP – Jason Burnette – to TEC talk about the roles and responsibilities the MCT, the Constitution Reform Delegation has not yet made changes for the structure of the government with the redrafting of the Constitution, Question to TEC opportunity to suggest "what are your thoughts to improve your capacity to do a better job. If we decide to keep the same basic structure."

GP – Bev Drost – Guidance? Suggestion. Example: How can you be more transparent and no adversary, look at it two organizations trying to reach a common goal. We need the government relationship.

LL – Archie LaRose – By laws, Ordinances – 164 and Ordinance 1. We have responsibilities, the Chair and the Secretary/Treasurer sign all meeting minutes, resolutions, grants, and contracts. Financial issues to Council, then Council takes action. Has a copy of Ordinance 1 will share with this group.

FDL – Kevin Dupuis – If left solely up to him he'd be here at every meeting. I'd make the preamble define us as a people, determine culture, and language. 164 job duties within. Chairman and five equal parts; no one has authority over the other. Responsibilities lies within the body. We need to write it. A living document needs to grow and move and change over time. Transparency isn't there – it needs to be executed. If the membership decides – who's to say there's going to be an RBC/TEC. Define who you are as a people. Then define it in each article after. If membership determines articles the ordinances are to enforce the articles. Ideas things that can be done now. New or same structure; build it stronger.

If you apply who you are as a people you may build it stronger. Never want a government to write its own Constitution.

Q. WE – Ray Bellecourt, RTC/TEC have a conflict of interest. Recommends a committee of tribal members to settle conflict of interest when they come up. To TEC – How do you feel about this?

FDL – Ferdinand Martineau – Does this group want to take this issue. There's a lot more thought and experience, a group from each Band. Two people from each Band. President elected for 12 members; RBC or citizen; act like TEC and make those decision by the people of the Bands – not elected - to serve at the will of the people every four years. This group answers to the people each time they have to make a decision. More reactive again. Constitution Delegates have an opportunity now to change the Constitution to suit the people.

FDL – Kevin Dupuis – Most definitely open to a group to decide about conflicts. The system now is in a vacuum. Make decisions at Band level what's going to change your mind when you get to TEC level. Takes away the principle of this vacuum. We figure different way out. Will support an automatic separation of powers, ML has federalized their government. There is no true appellate. TEC should not deal with Constitution principles. Back to first question. What TEC does no different than RBC, so becomes a vacuum. Don't want same people making decisions at the TEC who are RBC level when the membership decides to change this document. Secretarial Elections and Constitutions should look at removing them; this effort cannot be a band aid. Political influence should not drive the build of a new constitution.

Q. LL – Carrie Day Aspinwall – No evolution, this constitution needs to include equal distribution of access and geography. Speaking from the urban area. These meetings are important to the urbans as well. You TEC should feel comfortable with this group. Is a modification of any sort going to impact and it will change those items. Need expertise of lawyers.

Q. ML – Bernadine Roberts – Back to values, clarify, potential changes. MCT what are pros and cons of MCT organization bringing to its members. What does that organization bring to its members that tribes already do themselves? Justify MCT what is the value?

GP – Bev Drost – History of small bands disorganized in the eyes of the federal government. Stronger voice, unified voice over the area that we are and once we bind together with protection of land; we add value with numbers.

GP – Geraldine Tzlowiski – Process – when we agree on changes the first step to give them to your body – endorse or throw out – do we have to go through the department of interior?

LL – Archie LaRose – Challenge is to agree to all changes to the Constitution. Challenge because of our population differences; develop; meeting happened. We were all one before the 1970s. We could hold office where we resided. Article XIII. 1971 born. 2009 mother spoke on behalf of our people. We should be there for each other. 1972 Secretarial Election we can only hold office where we are enrolled. Divided once and conquered. Example: WE people cannot be helped by LL if they live there. After gaming came the gaming revenue also added to the division. Look at the secretarial election did to us. Example: jobs on each reservation for own members first. Possibly fix this so we all one as Anishinaabe.

Q. WE – Louis Johansen – Delegate Chair also represents everyone here. Delegates meetings are open to everyone. TEC members should be welcome to attend these meetings?

FDL – Kevin Dupuis – Process in constitution, November 15, 2015, final ruling of BIA encouraging tribes to remove the Secretary of Interior from our Constitution. Should exclude Secretary of Interior and remove from secretarial elections. Its' in front of us to do this. TEC agreed to have the Delegation go forward. Whatever we agree that should be it. What you have done should be accepted by TEC. You already have the authority.

FDL – Ferdinand Martineau – MCT supported in 1st two years; provided funds for meetings; change will be made by the people of MCT not the TEC. A lot of expertise and knowledge with the Delegates.

FDL – Kevin Dupuis – TEC shall stay out of this reform. Secretarial elections – to not have any more secretarial elections. Some things have to come forward to recognize other Indian blood and remove the secretary of interior from our elections. When this was recommended, the people came and said what's going to protect us if SOL is gone and it was tabled. Asking this Delegation to make the changes to make that choice.

GP – April McCormick – thank you for coming. Marvin Manypenny and Roxanne LaRose voices giving us strength to go forward. No disrespect. Good old boy system is broken. Proud of our TEC. Process of accountability since 2015, take the SOL out and it is an opportunity to create an organization that may have an oversight committee. You have the capacity to do something today. Example: Elections to form a committee that will look into such especially a human rights division. Partial exist in tribal court. Any community can exist. Put in Ordinance. No organization or committee shall have that power. Advisory committee to an elected body. We don't have a true council. We have sworn to an oath.

FDL – Ferdinand Martineau – MCT Federal recognition of Tribes of the United States; six tribes in this room, 7 with MCT. Any other organization does not have this recognition, i.e., Minnesota Indian Affairs Council Bylaws don't have federal recognition yet they have the same sovereignty as Tribes. They can use it as a defense against law suits. That accountability if you have sovereignty – MCT does not have capacity to protect tribal members.

WE – April McCormick – We may discuss a subcommittee. Example: DNR is another opportunity for another committee. Talked to Chavers about how do we have adequate dialogue with a subcommittee or community members in addition to hearing audience members? We need to hear our citizen's issues on topics. TEC needs to feel empowered – meetings must be well moderated.

Q. BF – Stan Day – Doesn't understand why not have a SOL? Could we coordinate the meeting together? Our system of government should have a circle approach and feather while speaking. This will eliminates a lot of problems in lives on reservations. Safety in numbers why stay just 6 Bands. We have other reservations who may want to join us.

FDL – Kevin Dupuis – We are the thorn in the U.S. government because we are still here. At the end of the day they don't want to deal with our problems. Still have that responsibility whatever comes from this group must be based on our traditions. How is that culturally sound. When there is a problem we need to rewrite as one people. Jim Thorp, won a prize because natives got on the computer and voted. We need to unite that as it exists.

Q. LL – Frank Reese – In June at Minneapolis we decided to come up with a new constitution. If TEC has a meeting coming up the legislative committee should take up those three points. So we can remove the SOI and secretarial elections. Like to see more TEC members attend these meetings as a tribal member/citizen.

Q. GP – Marcie McIntire – MN Alliance on FB page asks how can TEC foster a cooperative relationship with MCT Constitution Delegation?

GP – Bev Drost – We are doing it now. We need consistency with communication. We need to know what the Delegates want. Participation – it's up to you to put in our words too as member citizens. Come to the quarterly, get on the agenda by asking, have us back again, have another one of these, keep it up.

FDL – Kevin Dupuis – Feathers being held goes back twenty years ago at Leech Lake. Feathers passed out to each Band. Each Band to decorate the feather and return them to East Lake. Each Band was to build a drum and maintain a pipe. Unity to understand what is said we will be united. Neeb has history of feathers. Boon Wadena gone and another one is leaving shortly. Instruction given by old men so we can always be one.

Q. How do we feel about an alliance versus current structure?

FDL – Ferdinand Martineau – MCT federal recognized Tribe – other are an alliance MIAC, GLFWC, NAIC, etc. MCT represents the six Bands. Should be an alliance of Tribes, like the Sleeping Giant on both sides of the Great Lakes. 1000s of people that we could represent through the U.S. and Canada. Do we want to allow other Bands? It's up to this group.

Q. BF – Millie Holms – There was a January meeting at BF where a discussion took place about clans. When we were going to break out they wanted all clans – 1 turtle, 2 Crane, 1 Loon, 80-90% were bear clan. A lot of other Clans that aren't even part of the Delegates. Some did not know their clans. The idea was tabled for one year to institute clans in the break out discussions and it was recommended if a person doesn't know their clan, then they should find out. About the Alliance, bringing other Tribes to join us, if we change the constitution. TEC gave mandate on enrollment was proceeded. If we are all holding off on enrollment will TEC still ask us to answer right away but feels they are feeling must Delegates will work on enrollment.

FDL – Ferdinand Martineau – Enrollment question is a misunderstanding. SOI is a priority, enrollment, alliance is work of the Constitution Reform Delegation. TEC will not work on enrollment.

GP – April McCormick – If Delegation wants enrollment changes then they will bring that forward, then the TEC should chose that route. Related are voter turn-out. People feel empowered to go to the polls. People get out to vote because they feel they are understanding.

Q. FDL – Kevin Dupuis – unclear on resolution stated. Anishinaabe & Chippewa who will make that determination? What does this mean?

Q. LL – Sally Fineday – At some point in the future when there is a drafted Constitution by this Delegation, there will be a great need to access a formal legal review, will this be made available by the TEC?

Q. GP – How is the TEC funded do we apply for 638 Contracts and State and Federal grants too? Past years talked about not competing for funding sources. MCT looks for that.

GP – Allegiance to us the six Bands – IEC LL yes. Business and all entities to seek and those programs.

Q. GP – April McCormick – Housing and home loans. MCT restructure between alliance and federally recognized Tribe. How do we do this if we are not a recognized Tribe?

Q. GP – Resolution to TEC – apply for Great Lakes region funding. Sometimes it's not funding but support of MCT.

Q. GP – Geraldine – Can we have the services of the attorneys that you TEC employ?

MCT – Michael Northbird – will get clarification for the Delegation. Listener for TEC. TEC is correct MCT is not the revenue receiver. He's a program manager. Will take concerns for consensus issues. Issues like April McCormick. When a band has funding issues MCT can go after that grants like natural resource issues. MCT has administrative services across all programs, education, enrollment, business services, home finance both on or off reservation. Overall decisions at the TEC are accurate. Attorney is at the directive of TEC.

FDL – Kevin Dupuis – Grants, MCT not revenue generating. A lot of times we can go after a grant with the #s of 42k population and may get that grant before an individual Band will. MCT will secure the grant and then distribute to the Band. Will TEC vote on this? Don't think it's going to be a problem.

MCT – Michael Northbird – Competitive and non-competitive grants are TEC deciders.

Q. SL – Owaasaasii – Clan discussion and secret elections. This group is good although there are some areas where TEC can make groups job a little easier. TEC should take up those three questions. Survey letting membership voting on counting blood. There may be some areas where MCT and Delegates can move forward before constitution is complete.

LL – Lenny Fineday – Roles of Delegates & TEC. TEC made changes and this convention was born from that. Certain TEC members have made no objection to letting the Delegates Convention play out. Removal of SOI and burden of secretarial elections whether to request TEC to remove SOI will make work easier. TEC can referendum vote without secretarial election process. Up to the Delegates to decide.

Q. LL – Wally Storbakken – Always comes down to money. Model standard approach – historically operated – look around put in grand proposal – follow rules. Land worth dollars, minerals too. Let's change that a little bit. If there are 7 tribes 6 reservations have authority to establish casinos to get them funds. MCT may also establish its own casinos to generate revenue. If we don't have land in common why hasn't that 7th tribe established gaming to generate revenue? Why have we not developed coming into it being beneficial for all? MCT doesn't have land outside reservations. Could MCT do that?

FDL – Ferdinand Martineau – some thought yes and whose reservation will casino sit on? Around at that time just like competitive funds couldn't decide on a location. Could tribe have land? So everyone decided to keep their casino revenue on each Band's land. We are only Tribes in U.S. that have those compacts where we don't pay taxes.

Q. LL – Frank Reese – Why can't we get the funds from self-governance when we do not have enough to do the programs we use our own funds to support those programs. Why can't we fight for our treaty rights?

FDL – Ferdinand Martineau – NCAI always advocating for increase in dollars for Indian people. U.S. gives us the funding that was promised.

Q. LL – Frank Reese – IHS funded at 40% of our needs. Third party billing to add to IHS. Band supports what reason do they give for not giving us funding?

FDL – Kevin Dupuis – We are still here no way they are going to fulfill the obligation. Usufructuary rights (treaty rights) much bigger than a treaty right. We have paid with life, blood, and land. They owe us tremendously. We don't have the means to fight. Usufructuary Rights do exist.

Q. GP – Retained rights like mineral rights. Most Bands don't have them. Community logging – why? Most rich natural resource is land where we live. Gain ground every day. As long as we can still breathe and still fight.

FDL – Kevin Dupuis – War of 1812 Tecumseh said push them back to where they came. The ones who look like us. Great thinking back then. We couldn't come together. Unify is the key. We don't stop fighting we have to fight with our heads. As long as we have our elders we will protect the unborn. We need to go after usufructuary rights.

Q. BF – Joel – TEC perspective on communicating knowledge from tribe to tribe. Will there be a plan to better facilitate this Delegation on the need to change?

FDL – Kevin Dupuis – If we don't know the need then we can't help. Give us the information we need to know. What's the basis – enrollment, sovereignty, what needs to be worked on from each different Band? Unified voice starts here. You have to define the unmet need.

GP – Bev Drost – Thank you for attending. Lunch break.

After lunch

WE – Louis – Motion about facilitators – one from each Band being a permanent facilitator and a second to be available if the first cannot attend meetings.

LL – Sally Fineday second.

Discussion

GP – set up for 4 months so many subcommittees goes to TEC too.

LL – Too much for one person there will be a second person. Each Band choose their own.

FDL – yes

LL – yes

BF – no

ML – yes with opt out after more ML at the table

WE – yes

GP – yes

SL – yes

Tabled to next meeting.

Lenny Fineday presented Secretarial Election and the timing of meeting date of next meeting. Request TEC to remove the secretarial election for the Constitution only. Hold to amend our amendment process so it's an amendment to amend or revoke our Constitution. Article IV vs. Article XV.

Article IV: Tribal Elections and Article XV: Manner of Review

WE – Feds pay for it

SL – Blood too and Canadian may be a vote to help guide us.

LL – Lenny Fineday - clarify proposal to take out all references to the SOI. Only to request Article XII. Not removing all. Elections carried by TEC and yes will cost us but every 2 years it's a lot of self-determination. This is strictly procedural. This is how we want it.

Article XIII: Amendment, Section 1. This constitution may be revoked by Act of Congress or amended or revoked by a majority vote of the qualified voters of the Tribe voting in an election called for that purpose by the Secretary of the Interior if at least 30 percent of those entitled to vote shall vote. No amendment shall be effective until approved by the Secretary of the Interior. It shall be the duty of the Secretary to call an election when requested by two thirds of the Tribal Executive Committee.

LL – Lenny Fineday will write it up and distribute immediately.

ML – slightly different legislative action. They must check with their legislative statute. We are not part of the government can we get that in writing?

WE – go forward

ML – Don't have the authority

GP – We have to consider the process and all that it affects.

FDL – Article XIV. Referendum process. Waived 30 % of registered voters. 40k/30% lower that and things change. 2005 only 30% of registered voters voted.

Process 90 day grace for Department of Interior to respond. Remove the SOI from election process. Article XII eliminate the SOI.

Article XII Tabled to next meeting. LL table for now. FDL hosting next meeting.

Jason Decker's proposal for process to move along language as developed is tabled to the next meeting.

FDL – will host a community meeting and will have the agenda out by the 31st of January. The meeting will be hosted on February 21st at the Black Bear.

GP – already identified the first topic. No opposed to process. Would LL take role to make sure we process.

SL – good, next issue Section 1.

LL - Structure of government – we need to talk about structure. Questions must be answered first. Example: Stay together, each reservation to have its own then each Band has its own.

WE – frustrating when people leave early. Facilitation – Old business should be put on the agenda first, then the list of old business goes to the next meeting until resolved and/or language drafted is suitable to all six bands. Each Delegation must make sure we have people at the table throughout the full meeting to be accountable to each other.

LL – Good when there are many people still here at the end of the day. We must address items that need votes first on the agenda.

WE – General information – make sure our Delegates come up with a policy that they leave the power to vote with the remaining Delegates. Let's make that a commitment.

ML – Never able to be prepared for each meeting, we need the agenda early.

FDL – Fond du Lac agenda items known today are 1) Jason Decker's proposal to adopt a process to help guide our reform efforts; 2) Facilitators' subcommittee to ensure agenda items are carried forth to the next meeting; and 3) Eliminate the Secretary of State from our election and constitution.

Individual rights presentation by Lenny Fineday

LL proposal on Article XII. Lenny will email to Jane Bruce at MCT. Lenny Fineday presented on Individual Rights instead of Due Process.

Society is ordered by western civilization concepts. A product of the creator. Fits with our worldview – respect each other as individuals. Dignity and respect to Individuals. How do we organize to respect the integrity of the individual? Article XIII Rights of Members. "All members of the MCT shall be accorded by the governing body equal rights, equal protection, and equal opportunities to participate in the economic resources and activities of the Tribe, and no other member shall be denied any of the constitutional rights or guarantees enjoyed by other citizens of the United States, including but not limited to freedom of religion and conscience, freedom of speech, the right to orderly association or assembly, the right petition for action or the redress of grievances, and due process of law." Each individual shall not be denied resources of the Tribe. 1964. Indian Civil Rights Act, due process, freedom of religion. Speed doctrine of law called sovereign immunity. Historically back to monarchs of Europe. Legitimacy of Monarch meant that person was chosen by God and can do no wrong. Immunity from suit. Tricked down to US maintained sovereign immunity to some extent and there are some legislative reasons to keep it.

As tribal sovereign immunity

1906 US Fidelity vs. U.S. Tribes have inherent sovereignty. U.S., then states, then Tribal Governments had sovereign immunity.

1900 – 1950s Supreme Court decision shaped perimeters and are solid today. Bay Mills case – doctrine of sovereign immunity stands today. A byproduct as we have in our way of thinking. It has impacted our internal relations. Article XIII and Indian Civil Rights but did not abrogate or set aside. Then the Individual Indian cannot bring tribe to court. Tribal courts rely on this too. A case of Article XIII with the Leech Lake Band of Ojibwe and its tribal court – General administration (GAAP) sets out how individual one employed with progressive discipline, right to appeal, then to independent Board. If RBC fires then there are no rights to appeal. After 2014 election – Article XIII policy violates treating people differently than its RTC immunity – 2 classes 1) progressive discipline and 2) RBC. A brief was filed, we

were going to pursue, then three RBC outside the scope of their authority. Tribal Court upheld immunity and their rights were violated. Nothing to be done about it.

A new constitution that protects individual rights of citizens; state in our section of rights of tribal citation one upheld above the RTC ensures government not violating rights of the individual citizen. Impact – we have governing authority some interplay, how do we blame that? Regulate effectively. U.S. regulates with separation of powers. Court house is set out among three authorities. The decision making processes are not all based with one individual. Individual rights then may be enforced. Traditionally, making models had the responsibility of integrity of the individual. It's inherent in us as Aanishinaabe.

SL – Agree with in some areas a little further sovereign immunity one aspect without using a shield of sovereign immunity. Article XIII a lot in there but no enforcement mechanism. Having at least three or four – TEC maintains all powerful, all separation of powers. May be a legislative body, judicial body. All of our rights could be imbedded in structure. Article XIII defines government body, has own authority. 164 new Article XIII united as one – each band having authority.

FDL – Kevin Dupuis – Article XIII has no teeth. Individual Civil Rights has no teeth. All Constitutions revised to traditional form of government it takes it away. This is how we think. If we call RBC still applying it. Even if we have a judiciary. Cultural way of life, how do you deal with structures, court systems used the Constitution. Constitution and interpretations only body to interpret are the TEC. We allow it in court. We don't have the authority to give our authority away. Tribal Court interprets. We have to find a way to go back to a cultural way. Separations are different. Sovereign immunity only goes to Court.

FDL – Referenced United Natives Declaration of Indigenous People. Structure our way of decision making to respect the integrity of individual citizens.

Convention adjourned at 3:50 p.m.