

MCT CONSTITUTIONAL REFORM DRAFTING COMMITTEE

Date: 1/2/24 Time: 6 PM

Facilitator: Carol J.

Present: Raymond B., Jean S.,

Guest: Gerald W.

NEW BUSINESS:

1. The Constitution Reform TEC Committee meeting on 1/8/24 will convene to develop a statement to TEC at their meeting on 1/11/24. The discussion will be about using an Enrollment Ordinance to determine membership at the Band level.
2. The drafting committee discussed why it is not appropriate for TEC to amend the Constitution by an ordinance. We are bound by the language in the Constitution.

Constitution

- **Article II Membership**

There is nothing in this Article that provides for an amendment by ordinance.

- **Article V Authorities of the Tribal Executive Committee**

Section 1(g) The Tribal Executive Committee may, by ordinance, subject to the review of the Secretary of Interior, levy taxes or fees on non-members or non-tribal organizations doing business on two or more Reservations.

Section 1(i) To delegate to committees, officers, employees, or cooperative associations any foregoing authorities, reserving the right to review any action taken by virtue of such delegated authorities.

- **Article VI Authorities of the Reservation Business Committee**

Section 1(d) The Reservation Business Committee may, by ordinance, subject to the review of the Secretary of Interior, levy taxes or fees on non-members or non-tribal organizations doing business solely within their respective Reservations.

- **Article XII Amendment**

The Constitution may be revoked or by Act of Congress or amended or revoked by a majority vote of the qualified voters of the Tribe voting at an election called for that purpose by the Secretary of Interior if at least 30% 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 the election when requested by 2/3 of the Tribal Executive Committee.

Bylaws

- **Article I Officers of the Tribal Executive Committee.**

Section 1. The President of the Tribal Executive Committee shall.

(b) Assume responsibility for the implementation of all Resolutions and Ordinances of the Tribal Executive Committee.

Section 2. In the absence or disability of the President, The Vice President shall preside. When so presiding, he shall have all rights, privileges, and duties as set forth under the duties of the President, as well as the responsibilities of the President.

- **Article IV Amendments**

Section 1. These bylaws may be amended in the same manner as the Constitution.

- a. The following Article outlines the procedure for the Secretarial Review of Ordinances before they become effective.

Article XV Manner of Review

Section 1.

Resolution or Ordinance
Enacted by **TEC**
(is subject to the approval of **Sec. of Interior**)

↓
Superintendent or Officer
in charge of Reservation

↓
(within 10 days)
APPROVE or Refuses to Approve

↓
Effective **"BUT"** TEC may by
Super./Officer majority vote
transmits copy refer to **Sec. of Interior**
(with an endorsement) (within 90 days)
to Secretary who
(within 90 days) Approve or Reject
↓
Approve or Rescind for Effective
"any cause" "any cause."

↓
a. Effective

Section 2.

Resolution or Ordinance
Enacted by **RBC**
(is subject to the approval of **Sec. of Interior**)

↓
Superintendent or Officer
in charge of Reservation

↓
(within 10 days)
APPROVE or "Refuses to Approve" TEC Provides Reason

↓
Effective **"BUT"** TEC may by
Super./Officer majority vote
Transmit Copy to refer to **Sec. of Interior**
(with an endorsement) (within 90 days)
to Secretary who
(within 90 days) Approve or Reject
↓
Approve or Rescind for Effective

↓
Effective

Section 3.

Resolution or Ordinance
Enacted by **RBC**
(is subject to the **approval of TEC**)

↓
TEC
At the next regular or special meeting

(Then within 10 days)
↓
APPROVE or DISAPPROVE
.....

Language of Constitution stops here.
(Effective???)
Does Sec. 1 apply????
If so, Goes to the Super./Officer
then a copy to Secretary
to Approve or Rescind???
DOESN'T SAY Art. XV Sec. 1 applies.

- **Article XIV Referendum**

Section 1. The Tribal Executive Committee, upon receipt of a petition signed by 20 percent of the resident voters of the Minnesota Chippewa Tribe or by an affirmative vote of eight (8) members of the Tribal Executive Committee, shall submit any enacted or proposed Resolution or ordinance of the Tribal Executive Committee to a referendum of the eligible voters of the Minnesota Chippewa Tribe. The majority of the votes cast in such a Referendum shall be conclusive and binding on the Tribal Executive Committee. The Tribal Executive Committee shall call such Referendum and prescribe the manner of conducting the vote.

- **TEC's reliance on Resolution 1-80 language**, "...Therefore, the Minnesota Chippewa tribal executive committee does declare that it shall henceforth issue written opinions as to the meaning and interpretation of the constitution..." does work for TEC in this case. This Resolution does not give them the authority to change the wording from binding to include non-binding. Most importantly, they swore to support the Articles of the Constitution.

3. The committee agrees that we must stick to the language in the Constitution, which had no language about interpretation, not in the power clause or amendment clauses. It does not say they are the only ones to interpret the Constitution. TEC just did that for more power.
4. We will hear from Kevin D. and Faron J. about how they feel they can do this through an Ordinance. The committee is concerned about being at the mercy of whoever is in control.
5. We need to have a simple statement but also address the legalities of why our opinion is appropriate.
6. Michaa expressed his concern that the push for an Ordinance is out of frustration that the BIA is stonewalling us on changing the enrollment status. Additionally, he stated that due to per-capita payments, certain members of the TEC will block enrollment at all costs unless the Bands can do it on their own. He also stated that he thinks the efforts to use an ordinance result from the moratorium on enrollment at some Bands.
7. No Ordinance can change the Constitution.
8. TEC is pushing 32-15, which sat on the shelf for about eight years. Michaa provided a little bit of history. He noted that 32-15 went to the Secretary for an election. Because the Secretary stalled the process, TEC backed out. The question is why the process stopped and 32-15 sat on the shelf until now. Raymond brought up the 2-page Washburn letter (see Attachment #1). The Assistant Secretary of Indian Affairs, Kevin Washburn, wrote, "The MCT Constitution itself provides a method to revoke or amend the Constitution by election." citing Revised and Bylaws of the MCT, Article XII.

9. Jean S. attended that Chippewa Federation Meeting and found that St. Croix in Wisconsin had an election and removed Blood Quantum and the Secretary of the Interior.
10. Michaa noted that Land Ordinance 3 broke up the MCT Trust Land and gave it to individual Bands closest to it. That Band could give out leases to the land. He stated that we all own the land in common as trust MCT land.
11. Raymond stated that the Solicitor's office, in their opinion, gave the tribal government deference in interpreting the Constitution. Thereby effectively amending the Constitution without the people's vote.
12. Another issue is per capita payments. They should not be a deterrent to increasing enrollment. The tribe can also restructure per-capita payments in many different ways.
13. The next Convention Meeting on 1/19/24 at White Earth-Drafting Committee will refresh the delegation about the process we use to draft documents, address suggestions for change, and post the minutes and the newest draft of the Alliance Document. Since Patty S. was on a short leave, we have offered Patty if she wishes to address the items she suggested for change that the Drafting Committee and the full delegations opposed. Carol sent her a copy of the 9/26/23 Drafting Committees meeting minutes and the 10/19/23 Constitution Reform Convention.
14. Michaa wants the issue of Jurisdiction readdressed at the next Drafting Committee meeting.
15. Next week, we will go over the General Assembly Document.

Actions:

1. Send out Zoom information for the 1/8/24 and 1/11/24 meetings.
2. Send a copy of the General Assembly to Gerald W.

Next Meeting: 1/9/24 at 6 PM.