

MCT CONSTITUTION REFORM CONVENTION

March 18, 2022 9 a.m. to 4 p.m. CST

Hosted By Grand Portage Delegates via Zoom

Edited Minutes (as of April 1, 2022)

Attendees: Michele Hakala-Beeksma GP (host), Sandra Borden GP, Jason Burnett GP, Marcie McIntire GP, Ellen Olson GP, Donovan Dahmen GP, Marilyn Turvery GP, Wayne Dupuis FDL, Janis Fairbanks FDL, Carol Janick FDL, John Roterman FDL, Sybil Gund WE, Birdie Roberts MLB, Maureen Jones WE Urban, Jason Decker LL, Annette Budrow WE, Michaa Aubid SL, Michael Smith Jr. LL, Rose Robinson LL, Lorna LaGue, Joy Annette WE, Angel WE D1, Patty Straub WE, Wally Storbakken LL, Danielle Smith MLB, Raymond Bellcourt WE, Jean Skinaway SL, Tammey Skinaway MLB, Perry Skinaway MLB, Tom Benjamin, Niib, Carrie Day Aspinwall LL, Angie Olson

9:00 am **Welcome and Invocation:** Michele welcomed everyone. Sandy Lake provided the Invocation.

9:30 **Delegation Roll Call, Housekeeping/Reminders:**

Delegations in attendance –Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, White Earth, Sandy Lake

Delegation Absent- Boise Forte

9:40 am **Approval of Motion regarding subcommittee work – WE and ML** (awaiting their vote)

Motion: Non-delegates can serve on our Constitutional Convention Committee. Non-delegates can be community members and/or descendants, enrolled members of other MCT reservations, not to include non-natives. Sub-committee work must be presented by a delegate.

Birdie MLB: **Yes**, we do reach out to others to help us. We do not invite descendants to our meetings.

Note: There were 22 villages that were combined into 6 reservations.

Patty Straub, White Earth: votes **no**.

Discussion of Motion:

Jason- In Grand Portage we voted yes because we need help doing research, and we would like to give recognition to those who help.

Wally: We are inclusive people. In most treaties, the mixed breeds/bloods are taken care of; we are all related. Prior to 1972 we used to have rights on any reservation. I welcome descendants. Members of our clan can live on other reservations. Note, it will be the delegates that will vote.

Maureen Jones: We need to be more solid in direction.

John Roterman, FDL: Our youths are being lost to us. There are issues that we need to address to bring us together. We have a new draft (Alliance) that has been circulated for a month. Descendants are in our current constitution.

Jason Burnett: Grand Portage has had a large turnover because of the large workload and we need help of descendants.

Patty Straub, WE: Our Constitution was created by non-tribal people. We are not amenable to have descendants be participants until we change the Constitution.

Birdie: We have a member on each subcommittee. We still have all original members on our delegation.

Michele: For me the issue is blood quantum; it seems contrary not to allow descendants to participate. Yes, only members can vote.

Birdie: I recommend changing the wording of the motion to state that only members can speak for the subcommittee(s).

Wayne: Agrees with Birdie's suggested edits to the motion; it is a good compromise.

Revised Motion: Delegation Committees may utilize any outside resource to complete our work. The Delegations will only include enrolled members under the MCT. The official delegation will present their work, not to exclude invited presenters. No other individual not enrolled within the MCT may speak on behalf of the respective delegation.

Discussion: Can non natives speak? For example, President Biden. Or technical speakers or Bureau of Indian Affairs employees?

Birdie: We could put the vote off to next month.

Jason Decker: Will this language allow guest speakers?

Jean Skinaway SL: We have a lot of people who are not members of MCT. So, it will be an issue. MLB will not enroll us.

John Roterman: Fond du Lac will have a problem with the revised wording regarding descendants.

Michele: This brings out the topic of super majority voting.

Birdie: Sandy Lake is not recognized. Sandy Lake and Red Lake are not recognized under the MCT. MLB has always disagreed that Sandy Lake be part of the delegation. They can be on subcommittees. In chat "TEC doesn't have that authority to recognize Sandy Lake. Only the Fed Govt has that authority."

Jean Skinaway SL: We have people enrolled in other Bands. We do not receive any benefits under MCT.

Wally: We are good at dividing ourselves, causing divisions and halting progress. We need to study the treaties if we are going to base our Constitution on treaties, not the IRA.

Marcie McIntire: Two years ago, we voted to recognize Sandy Lake, as a seventh delegation. I thought that Sandy Lake was going to apply for Federal recognition.

Ray Bellcourt: Why are we denying Sandy Lake? Why are we concerned with Federal recognition? We are sovereign and we have voted to accept them.

Tammy Skinaway: Working together we can accomplish a lot.

10:30 am **Break:** During the break there was a discussion between Jason and Carrie on the grant request; also, developing an email list.

10:45 Discussion of Facilitation Sub-Committee Project Plan. What topics are our priorities going forward? What do we need to consider in each area? See attached document.

First there was a review of subcommittees and Super Majority voting prior to the discussion on the Project Plan.

Michele: Summary of earlier discussions (1) If bands have created other subcommittees, they set their own rules. (2) We may have to take another vote on Super Majority.

Janis Fairbanks FDL: The original motion on descendants was made by Fond du Lac and we included descendants. The revised motion is not what we intended regarding Sandy Lake.

John Roterman: April 2019 minutes describes a super majority voting process and was approved.

Michele: If super majority voting is the rule, then the original motion of descendants participating in subcommittees has been approved. Each band needs to discuss super majority and it needs to be on next month's agenda. The revised motion was an attempt at consensus and if we do have a super majority voting the revised motion is not approved and the original has been approved.

Discussion Project Plan: Awaiting input from Bois Forte and White Earth. We went through Birdie's worksheets. The Facilitation subcommittee agreed to 5 tasks with objectives: 1. Committee Roles and Responsibilities, 2. Enrollment Work, 3. MCT Organization Work, 4. MCT Constitution Work, 5. Constitution Work by Band

Birdie: Do we want the Facilitation Committee to continue the Project Plan?

John: We have an Alliance Document that needs to be added to the Project Plan.

Action: Joy and Char of White Earth are on the Facilitation Subcommittee. Provide those names to Cheryl Edwards.

ML, FDL, WE, GP, LL are in agreement to have the Facilitation Sub Committee continue the work on the Project Plan. (Note: Bois Forte was not present at this meeting.) Delegations can discuss and provide

comments via their representative(s) to the Facilitation Subcommittee. Focus and priority are on the 5 tasks above.

Janis Fairbanks: What is the difference between the drafting and the facilitation subcommittees? The Michele Hakala-Beeksma: Facilitation is to provide continuity. (2022-03-18 Edited Minutes MCT Constitution Reform)

Communication Process with TEC and Band members:

Michele: I have been talking to April McCormick regarding the Referendum; especially how people are selected to be included in the Referendum meetings.

Joy and Patty have attended the MCT meetings and were told that the Band Chairmen were to invite a representative from the band delegations. There will be two questions on a non-binding Referendum and April McCormick is preparing it for April 2022:

- (1) Do you want to remove Blood Quantum (with an education piece to explain the issue)?
- (2) Do you want individual bands to decide membership by band ordinance?

There will also be a physical ballot box to put your ballot in. There is a meeting every Monday at 1 pm via Zoom. The Referendum Committee should have a delegate from each Band, but that has not happened. There have been 6 to 8 people attending. The referendum will cost about \$30,000. We need at least 10,000 people to respond/ vote on the Referendum.

John Roterman: Each Band may pass an Ordinance on enrollment dependent on the result of the Referendum.

11:41 am Constitutions, Bylaws and Ordinances Training Carol Janick, Sharing from Falmouth Institute training in January 2022:

Carol Janick is an enrolled member in Fond du Lac and is a lawyer. She decided to take a class on the Constitutional process as a refresher course so she could better help in the reform process.-She shared information on the Falmouth Training for North American Indian Tribes; e.g., certifying enrollment officials and consulting services. Her typed course outline and notes are on Constitutions, Bylaws and Ordinances are posted at www.fdlconstitution.org . Some of her key points are as follows:

We must assert tribal sovereignty in a written document that should last from generation to generation. This document can be called whatever the people agree on (Constitution, Alliance, or Governing Document for example). It needs to be based on strong Principles/Values (which should reflect traditional customs, ie.; e.g., Clan Systems and Treaty Rights. Ordinances should be written along with the governing document and reflect the procedures on how the governing document will be carried out. Current areas lacking in our Constitution: sovereignty, rights of members, sovereign immunity, waivers of Sovereign immunity (waiver of immunity by the tribe, up to a dollar limit, and must determine when and who can make waivers). As a Sovereign government, we can establish courts. We do not have the power to make war, engage in foreign relations, or print and issue currency.

Federal Indian law is complex; those laws cannot be ignored. A top priority is to deal with the removal of Secretarial elections. Also, we could incorporate International Law (The United Nations Declaration on the Rights of Indigenous People).

Rights of Tribal Members: Generally Governing Documents include the Bill of Rights. The Indian Civil Rights Act of 1968 is a modification of the Bill of Rights.

Separation of Power is lacking in our current Constitution. We need a document that identifies separate branches to make Laws, to carry out those Laws, and to settle disputes. Most Documents also have a Branch of Government that oversees the other branches (i.e. Tribal Grand Council).

Secretary of Interior is required to Review and Approve different things because it is written into our constitution. However, there are no laws that require the Secretary to "REVIEW" any of our government actions. They only have that power because it is written in our document. Secretarial "APPROVAL" of certain things is written in some Laws, but we should not have that language in our document because then it requires a Secretarial Election to remove it.

The Code of Federal Regulation encourages-tribes to remove the Secretary of Interior. Two strategies to removal of Secretary of Interior: 1. Repeal and Replace it with an entirely new document. 2. Step by step change by amending the current constitution (remove Secretary language and amend Enrollment criteria).

Our current Constitutional language includes "at least 30% of those entitled to vote shall vote" For example as of 3/15/22, there were 34,000 enrolled adult members and therefore we need at least 10,200 votes in a Secretarial Election. Entitled to vote means enrolled members **who are at least 18 years old**. "Registered voters" was brought up and discussed. This needs to be looked into because of a resolution that was written by TEC. (See Jason Decker citation, below.)

Carol talked to an **Oneida Nation staff member who with her partner, were successful in the removal of the Secretary of Interior from their Constitution. They are willing to have a Q & A session with us via Zoom.**

Jason Decker wanted the following cite: United States District Court for the District of Columbia, Charles K. Hudson v. Ryan Zinke, et al.) Civil Action No. 15-cv-1988 (TSC).

There was a discussion on what happened in the past when we did not get a 30% vote. It remains an open issue.

Ordinance is a law that spell out the rules; either you have By-Laws or a Constitution (not both).

12:41 pm Lunch

1:35 pm **Discussion Transition Process- New Form of Government:**

Michaa: Some constitutions have language that says the new constitution will take effect in a year to eighteen months.

Carol Janick-Sovereign immunity means Tribes and their employees are immune from suits. All voters have to register for each new Secretarial Election. If “registered voters” are used to determine the 30% requirement, pass the formula is all casted votes, which includes any spoiled votes, divided by the number of registered voters. For example, if there were 200 registered voters and 75 casted votes plus 5 spoiled ballots, 80 divided by 200 equals 40%, enough to be a valid election. **(25 CFR 81.39) (responding to chat questions).**

John R.- One possibility is to keep current structure but put in place an oversight structure.

Birdie-We need to educate community members and communicate with TEC -they have the authority to coordinate and implement new structure. We need a transitional educational document to help communities and TEC understand new structure.

Jason Burnett- We need to keep the government running. Maybe we could phase in parts over time.

Birdie: Secretary of Interior will be #6 on the Project Plan

Sandra: I recommend that the (removal of) Secretary of Interior be a top, if not #1 priority. John Roterman in chat also recommended that the Secretary of Interior be the #1 priority.

Janis: I recommend it should be a #2.

Mille Lacs agrees with #2.

2:00 pm **Alliance Document discussion**

Jason: The Alliance Document, is it complete? Michele and Wally: it is a working draft, short and concise.

Jason: If the document is kept short, it may cause confusion about roles and responsibilities.

Janis: We on the drafting subcommittee have been looking at the Alliance Document; not all bands have been sending representatives to the drafting subcommittee.

Birdie: MLB wants to see a framework for the document before we address the wording.

Wally: The intent was to model our Alliance after the United Nations.

Carol Janick: I understood that the Alliance was an umbrella document to replace the Constitution with each band developing its own Constitution. We need a document that states our values, not details which could be in the band Ordinances.

Janis: The Drafting subcommittee needs clarification on the document. Mostly FDL, GP, and LL have been coming to the meetings. Meetings are Tuesday at 6 pm CST.

Marcie: Grand Portage wrote a band Constitution except it lacks a Judicial system. Also, White Earth and Mille Lacs wrote their Constitutions.

Joy in chat: We have been chartered to write the umbrella document.

Marcie: We are going to form an indigenous government. I prefer to form an Alliance that would make us more powerful. For example, GP needs water and sewage service from the Indian Health Service.

John: We are currently looking at the Alliance document and tasked to share with our band delegations. This is the umbrella document that allows each band to develop its own constitution. Note: all Ojibwe reservations/people are part of the Ojibwe Anishinaabe Nation. We six bands will be the founding members of this Alliance.

Michele: Grand Portage in its review of the Project Plan selected some Ojibwe words to use; e.g., "Mazina'igan" (paper) to replace the word Constitution. Other comment on the Rights of Nature document is that the distribution of power for the General Assembly was not clear. The Rights of Nature gives absolute power to nature and does not make clear that we have the ability to adjudicate our rights. Perhaps a wording tweak is needed, to correct contradictions.

Birdie: We have made two title recommendations.

John Roterman described the parts of the Alliance Document, and he advocated for the inclusion of the Rights of Nature in this document.

Michele- Described our 1854 Treaty rights.

Wally- This is an evolving document.

Wayne- We need to be in a relationship with nature, not concerned with a monetary return, and certainly not a scorched earth mentality.

Michael Smith Jr. LL- Our ceremonies and stories are about how our people have forgotten their ways. Our document is documenting our relationship with the natural world.

2:35 pm **Sub Committee Reports**

- TEC – Per Michele, we have not had a meeting.
- Finance – Per Jason, we are finalizing the grant to the Bush organization. Next Wednesday we have a speaker who will give us some pointers. The Bush organization is receptive to our request.
- Education – There has not been an Education meeting.
- Survey- Per Wayne, the Referendum will handle our main enrollment issues. Nicole Martin Rogers WE of the Wilder Foundation has agreed to help with the survey.
- Drafting- Per Carol we meet every week. We have gone through the Alliance document. Last week we discussed how to get the Clan system in the document. We are going to give out assignments to review the treaties; e.g., broken promises. There are over 300 treaties. Marcie has asked for the **list of treaties to be sent out by email**. We are going to start with the Treaties with the Ojibwe. Janis Fairbanks recommends a book titled Documents of United States Indian Policy, edited by Francis Paul Prucha and published by University of Nebraska Press. (2022-03-18 Edited Minutes MCT Constitution Reform)

Here is a useful link: <https://www.archives.gov/research/native-americans/treaties/catalog-links>

Sandra recommends the new book: Origin: a genetic history of the Americas by Jennifer Raff. It tells the latest theory of how the Indigenous people arrived in this hemisphere.

Facilitation will meet next Friday, March 25.

Next Zoom meeting date, host, and meeting minutes

April 15, 2022, Leech Lake

2:50 pm Adjourn