

MCT CONSTITUTIONAL REFORM DRAFTING COMMITTEE

Date: 5/23/23 Time: 6 PM

Facilitator: Carol J.

Present: Marcie M., Julie H-C., Rita E., Wally S., Raymond B.

NEW BUSINESS

Because there is a suggestion that we have a Secretarial Election in the fall on the removal of the Secretary of the Interior, the Committee looked at the Grand Council in terms of a safeguard and replacement of the Secretary in the interim between the removal of the Secretary and the election on the Alliance document and the new governing structure.

1. General comments:

- Grand Council representatives work for the people, not themselves.
- We need a Code of Ethics and how to be a good citizen.
- Representatives will be accountable to the whole Grand Council.
- Everyone is responsible to someone.
- The Constitution is outdated. The Grand Council has to oversee with blinders on. We need to know what is going on now to be responsible to the people in the future. The problem is that the TEC and RBC have not been transparent.

The following Article in the MCT Revised Constitution is amended to replace the Secretary of the Interior's oversight with the Grand Council after the Secretary of the Interior's removal determines the Grand Council's duties.

Constitution

Article V- Authority of The Tribal Executive Committee

Section 1.

(a) to employ legal counsel for the protection and advancement of the rights of the Minnesota Chippewa Tribe; the choice of counsel and fixing of fees to be subject to the approval of the ~~Secretary of the Interior or his authorized representative~~ **Grand Council**.

Comments:

- What does "the protection or advancement mean?"
- How does TEC go about selecting a legal Counsel?
- What is the standard Fee for this type of work?
- Is there any vetting to determine if there are any conflicts of Interest?
- Add that citizens appearing before the court shall be provided a Public Defender. Select Public Defenders from a vetted list of Attorneys and

select them in a fair process. Look at using the Indian Legal Assistance Program.

(c) To advise with the ~~Secretary of the Interior~~ **Grand Council** with regard to all appropriation estimates or Federal projects for the benefit of the Minnesota Chippewa Tribe, except where such appropriation estimates or projects are for the benefit of individual Reservations.

Comments

- Find out what appropriation estimates there are.
- Find out if there is a particular time or deadline for completion.
- Find the current Federal project. Look at the State of The Band reports.

(d) To administer any funds within the control of the Tribe; to make expenditures from tribal funds for salaries, expenses of tribal officials, employment, or other tribal purposes. The Tribal Executive Committee shall apportion all funds within its control to the various Reservations excepting funds necessary to support the authorized costs of the Tribal Executive Committee. All expenditures of tribal funds, under the control of the Tribal Executive Committee, shall be in accordance with a budget duly approved by resolution in legal session, and the amounts so expended shall be a matter of public record at all reasonable times. The Tribal Executive Committee shall prepare annual budgets, requesting advancements to the control of the Tribe of any money deposited to the credit of the Tribe in the United States Treasury, subject to the approval of the ~~Secretary of the Interior or his authorized representative~~ **Grand Council**.

Comments:

- Which funds are under the control of TEC?
- What does being duly approved in a legal session mean?
- When are the public records available for review?
- What is the funding for "salaries" and "authorized costs."
- Look at funding: Federal, State, Foundations, 638 contracts, and other sources.
- 638 Funds should go to the Tribe, not the BIA.
- Audits and Budget shall go to the General Council.
- Find out what the fiscal years are.
- The TEC passed a Resolution that they do not have to disclose how they spend the money.

(f) Except for the powers hereinafter granted to the Reservation Business Committee shall be authorized to manage, lease, permit, or otherwise deal with tribal lands, interests in lands or other tribal assets; to engage in any business that will further the economic well-being of members of the Tribe; to borrow money from the Federal Government or other sources and to direct the use of such funds for productive purposes, or to loan the money thus borrowed to the Business Committees of the reservations and to pledge or assign chattel or income, due or to become due, subject only to the approval of the ~~Secretary of~~

~~Interior or his authorized representative~~ **Grand Council** when required by Federal Law.

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

Comment:

1. Wally S. stated that they have the authority to tax because it is a regulatory thing. "Taxation within the boundaries of the reservation." They agreed with the State and not tax. That's why they get a payment every year from the State in lieu of their taxes, and a lot of people think that it is outdated and we are getting overpaid. When they get to regulate like that, they deny other MCT members who are not band members on that particular Reservation unless they get a license.
2. Raymond stated that this is a Constitutional violation. But they do it anyway. It is where the Secretary of the Interior turns his head. The Secretary is supposed to make sure that doesn't happen.

In addition to Article V.- Authorities of the TEC, the Grand Council will also handle all the other oversight that the Secretary of the Interior had responsibilities for in the following Articles of the MCT Constitution and Byways:

1. Article II- Enrollment
Section 4 Appeals
2. Article VI-Authorities of the RBC
Section 1 (a) & (d), which are the same as the TEC
3. Article IX- Bonding of Tribal Officials
4. Article XV- Manner of Review (Resolutions and Ordinances enacted by both TEC & RBC)
5. Bylaws Article I- Duties of the Officers of the TEC
Section 4 (b)
6. Bylaws Article IV-Amendments (of Bylaws)
7. Bylaws Article V-Miscellaneous

Discussion on articles in the Constitution not related to the removal of the Secretary of the Interior and replacement with the Grand Council

Article V. Authority of The Tribal Executive Committee

Section 1.

(b) To prevent any sale, disposition, lease, or encumbrance of tribal lands, interest in land, or assets, including minerals, gas, and oil.

Comment: Includes trust land, heirship land, and land interests.

(e) the Minnesota Chippewa Tribe and federal, State, and local governments or private persons or organizations on all matters within the power of the Tribal Executive Committee, except as provided in the powers of the Reservation Business Committee.

Comments:

1. The 1854 Treaty Authority should not levy fees on members, but they do.

Discussion about articles in the Grand Council Bylaws not related to the removal of the Secretary of the Interior and replacement with the Grand Council

Grand Council Bylaws

Section 7. Quorum

(a) Quorum of the Grand Council shall require a quorum **of ten (10)**. The Quorum shall be necessary to transact official business of the Grand Council.

(b) The Quorum **consists of the** Grand Council Representatives

Comment: Calculate quorum with ten Reps (10), [1/ 2 +1, or 6 bands x 3 reps=18], not including alternatives.

Section 8. Voting **Language stays the same.**

(a) Grand Council -A majority vote of the quorum shall be necessary to exercise the powers of the Grand Council, except as otherwise provided by this Constitution. The Secretary shall record all votes of the Grand Council in the minutes.

(b) Grand Council Representatives--A majority vote of the quorum shall be necessary to exercise the powers of the Grand Council, except as otherwise provided by this Constitution. The Secretary shall record all votes of the Grand Council in the minutes.

Comments:

- For some things, a simple majority is fine. Other issues may take a supermajority.
- Under our current system of consensus, not everyone gets a vote. The delegates do not hear the voice of the people. Instead, the delegates assert their vote.

- Wally S. stated that this is the tyranny of the minority. The minority can hold the majority hostage and terrorize them.
- The consensus was good for our ancestors, but power, money, authority, resources, and decision-making get in the way in the modern world.

Section 9. The term of the position.

(a) Spokesperson, Co-spokesperson, and Secretary of the Grand Council shall serve two (2) year terms.

(b) Grand Council Representatives shall serve two (2) year terms. **They have staggered terms, and 1/2 of the reps have two (2) year terms, and the other 1/2 have one-year terms.**

Comments:

- We need guidelines to prevent corruption and ways to remove them.
- Add that all elected officials will swear an oath of Office. There is a draft of a new Oath.

General Comments;

1. Marcie M. noted that the petition process is our only available due process. The Secretary of the Interior doesn't take care of us.
2. In our Constitution, Article XV Manner of Review, the Secretary is supposed to review resolutions and ordinances.
3. Public Law 280 [granted extensive criminal and civil jurisdiction in 5 States, one of which is Minnesota, over Indian Country within its borders.
 - a. Wally S. stated that the civil regulations fall to the RBC. The 1855 Treaty is in ceded territories. It is the same on all reservations. We have not reached the point where the federal government recognizes and funds our Treaty Authority to regulate off-reservation activities. But what happens on reservations is a cookie-cutter thing. After the case in 1972, they had the authority to regulate hunting and fishing on reservations. So, they have entered into compact agreements related to hunting, fishing, rice, resources, etc.

[Side note: Dep't of Game v. Puyallup Tribe 80 Wn.2d 561 (1972), 497 P.2d 171 ruling and related cases and decisions note that States must not restrict tribal rights to hunt and fish unless they can show that a conservation measure is reasonable and necessary and that its application to Native Americans is necessary in the interest of conservation. Any regulations must not discriminate against Native Americans. States may impose neutral, purely regulatory

restrictions necessary for conservation, such as those that affect the time and manner of fishing off reservations.]

- b. Hunting and fishing should not mean taxing. If we hunt fish outside our Reservation, we have to buy a state license. However, non-natives are not required to get a license to hunt fish on our land when they come to the reservations. We should charge them. The State returns a portion of that tax money to the reservations. The RBC takes the money and spends it. Because the states regulate hunting and fishing on the Reservation, their employees get 10% of their salaries, not taxed, because that is what we should see as Treaty money. It is something that the new government system will have to deal with. In our reform, we have to consider these things. It is a big part of how to change the injustices.
4. Raymond spoke about the taxation issue. He noted:
 - a. The U.S. Constitution excludes Indians, not taxed. In 1924, the Citizenship Act gave Indians U.S. citizenship. They pulled the wool over the people's eyes. You can't make citizens by an act of Congress. If they could have, they should have done it for the blacks. They had to pass two amendments to make black people citizens. Black people were slaves and considered property. They passed the 13th and 14th Amendments to bring blacks in as citizens. With the Indians, they passed a legislative act. You are not a citizens. You can't make a person a. Citizen by an act of Congress.
 - b. Even the preamble of the U.S. Constitution excludes us. We are still excluded. That's what we have to use against them. That takes away their power over us. Parts in the Constitution point this out. Article 2. Clause three: Who is taxed? What members are going to be represented in the U.S. Constitution? It excludes Indians, not taxed. We are not represented in the U.S. government.
5. We need to look at the Interpretations of our Constitution. We need to look at the Resolutions. You can see a pattern. They started with Resolutions 1-80. Look at the history. A Resolution can not change the Constitution. For example, to authorize police and courts, an election is required. A waiver can not change the Constitution to obtain votes to meet the 30% requirement for a valid election. The TEC requested waivers to include polling sites because they said it would be for the good of the people to increase participation to obtain the 30% threshold. TEC never used that waiver on that issue, so there was no data on member participation.

Next meeting: 5/30/2023 at 6 PM