

MCT CONSTITUTIONAL REFORM DRAFTING COMMITTEE

Date: 4/30/24 Time: 6 PM

Facilitator: Carol J.

Present: Raymond B., Julie H-C., Gerard W.

NEW BUSINESS

4/23/24 TEC MEETING

Carol discussed the following summary she wrote about the 4/23/24 TEC meeting.

1. Sally and Patty presented because Cheryl was unavailable, and Wayne, her backup, was absent. Sally and Patty read the report's first page to the TEC, and after stating that there was one most important question, read it: Are you willing to argue that previous practices could be used in an upcoming election because something other than 30% was used previously? Phil Brodeen answered, "Yes." The other questions were not read to the TEC.
2. Sally presented the Request for Action, and Kevin D. responded strongly to the words "do your job."
3. Sally handed out Draft 11 of the Alliance, The answers to the Mille Lac Band questions, and a copy of Leech Lakes drafted Local Constitution. Kevin spoke of getting the Secretary out of the Constitution and then having Tribal elections.
4. Faron J. expressed his concerns that the Reform Delegation has done nothing.
5. I was allowed to speak and tried to explain the reasons for the questions, noting:
 - a. We must know our parameters: 30% of eligible or 30 % of registered voters.
 - b. We have to educate the citizens.
 - c. We have to get the vote out, noting that the threshold would be easier with the use of past practice of 30% of registered voters, which the BIA and Courts have given deference for the tribes to interpret their Constitution.
 - d. There was a need to waive the registration if 30% of the people entitled to vote were to use it because it is a higher standard than the Federal regulation of 25 CFR 81. Waiving registration would make it easier for voters because they don't like or forget to register, which might bring more people out to vote.
 - e. I explained that the Drafting Committee was tasked with writing an Alliance and briefly explained what I saw an Alliance as. I emphasized that Nebs helped with the document's name, meaning We are all Aninshinaabeg together. I further said the Bands were in the process of drafting their constitutions.
 - f. I spoke about the fact that a lot of work has been done by the 5 to 6 people who meet each week and explained that the Drafting Committee had drafted

- an amended Constitution to remove the Secretary of the Interior. However, the delegation did not bring it to the TEC because of consensus voting and one holdout. I asked them to review the posted minutes, which showed that much education was provided (Treaties, Sovereignty, 30%, Blood quantum, etc.). Everything has been very transparent, and I encouraged TEC to participate.
6. Kevin D. and I had some back and forth, both in agreement that there is a need for a Secretarial Election on whether you amend one thing in the Constitution or revoke the current Constitution and replace it with the Alliance and local Constitutions.
 7. New information was obtained during the TEC meeting.
 - a. First, I did not wholly understand what Kevin D. said about the Constitution when he said to use it to "raise it" and "strengthen it." Someone else said "build-up" the Constitution. They may have been relating to the next issue that Faron J. brought up.
 - b. Faron J. motioned for the TEC to support Leach Lake using 32-15 at the band level. The issue was using 32-15 to get descendants up to the 25% threshold, but the 25% threshold in the Constitution would not be changed. He implied it would be a procedural change, starting with a resolution. However, Phil B. said It would all depend on how they presented it because the Constitution states 25% of MCT blood. Faron J. talked about Red Lake Chippewa counting. [I did not say this at the meeting, but I would not be too sure that Red Lake would be eligible since MCT is a very specific determination given the MCT by the IRA, and it only includes the six bands.
 - c. Sally mentioned that Mille Lacs Band did a report and determined that the MCT was not a Tribe. Kevin D., I think, said they didn't have to spend all that money and time because we know that MCT is not a Tribe.
 - d. When asked about the hold up by BIA proceeding on the request for a Secretarial Election, a TEC member explained that the BIA wanted a written interpretation "30% of what?" Entitled or Registered voters. The TEC member further said that a solicitor's opinion was ready when TEC wrote the answer. As sovereigns, the TEC felt they did not have to put it in writing, and the legislative committee also "nixed it."
 - e. The BIA Patty Olby, Deputy Regional Director, was present. After questioning her, she left to make some phone calls and returned with information. She stated there were two ways to look at the 30% criteria: eligibility and registration. Ms. Olby said that since TEC mentioned 30% of eligible voters in the incoming letter, BIA wanted an interpretation. Ms. Olby mentioned, "Which was more achievable?" She also stated that the BIA does not interpret Constitutions. She suggested that TEC look at 25 CFR 81.2(b), [which I would have to look at further to see how it could apply.]

- [FYI:81.2 (b) Secretarial elections will be conducted in accordance with the procedures in this part unless the amendment article of the tribe's governing document provides otherwise and is not contrary to Federal voting qualifications or substantive provisions, in which case the provisions of those documents shall rule, where applicable.]
- f. Faron J. withdrew his motion, and another motion requested a Secretarial Election to remove the Secretarial from the Constitution. W.E. was concerned about safeguards and did not want the vote called until W.E. got to talk to their citizens and elders. TEC took the vote. It passed to remove the Secretary from Articles XII but not from Articles V, VI, X, or XV. The TEC member also talked about amending Article IV-Elections.
8. When I mentioned that Referendum question #2 was inconsistent and confusing and that our Constitution does not have the authority to use an ordinance in the way mentioned, Kevin said the people voted to remove blood quantum.
 9. I discussed bridging the gap between MCT, the Bands, and their Local Constitutions.
 10. The 32-15 Resolution seems to be off the table for a Secretarial Election. Phil said if the request to remove the Secretary of the Interior goes forward, there is no need to rescind the first request for the 32-15 vote. The second request will override the first. Phil also asked the TEC if he was directed to start the resolution. He was told yes.
 11. We will have to see how they frame the request to remove the Secretary of the Interior only in one Article and not in the others.
 12. I had my hand up but was not allowed to talk. I would have asked why TEC would not remove the Secretary altogether, not just from one or two Articles. What is the point? We want to get out from under the Secretary's approval process and then do it.
 13. Interesting. If they leave it in Article XV-Manner of Review, will they use it as a safeguard? Most likely not.

REMOVING SECRETARY FROM TRIBAL ELECTIONS, CONCERNS ABOUT LACK OF CHECKS ON POWER.

1. Potentially, there could be changes to the delegates' role in a meeting.
2. The committee had concerns about removing the Secretary without safeguards.
3. Clarification that there is no 30% referendum.
4. Concerns that Tribal governing bodies would control elections and lead to manipulation.

5. Discuss potential solutions to prevent colonialism in tribal elections.
6. Expression of frustration about the lack of transparency in the TEC meeting.

TRIBAL LEADERSHIP AND TRANSPARENCY.

1. If 32-15 is voted on and passed, there is a potential use of Turtle Mountain blood in tribal decisions, with concerns about the personal interests of the TEC members and the ramifications for others.
2. Expression of frustration with lack of transparency in decision-making processes.
3. The committee expressed concerns about potentially undermining delegates' work through a rushed resolution and lack of communication.

TRIBAL CONSTITUTION INTERPRETATION AND LEGAL CHALLENGES.

- Discuss Chairperson Kevin's inconsistent stance on constitutional interpretations and frustration that Kevin appears to have changed his position.
- Carol explained the two types of solicitor's opinions, with one being an opinion and the other being a binding interpretation.

REVIEW OF ADMINISTRATION AND SUPERVISORY COUNCIL-ATTACHMENT 1

- It is ready to go to the delegation.

REVIEW OF TRADITION AND CUSTOM DISPUTE RESOLUTION

- Look at the elements of the Navajo Nation's peacemaking program.
- We discussed Including information on Public Law 280, emphasizing its importance on Restorative Justice and the development of an alternative dispute system separate from the judiciary.
- Continue the review next week.

Next meeting: 5/7/24 at 6 PM