

MCT Constitutional Reform Convention
August 26, 2022, 9 AM to 4 PM
Hosted by Fond du Lac delegates at FDL Ojibwe School and via
Zoom

Attendees: Cheryl Edwards FDL, Carol Janick FDL, Wayne Dupuis FDL, Julia Lintgen FDL, Tara Dupuis FDL, Joy Annette WE, Carol Jaakola FDL, Sally Fineday LL, Celeste Cloud WE, Angel Stevens WE, Stacey Stevens WE, Pat Rasch FDL, Shirley (Keezer) Miner WE, Sybil Gund WE, Millie Holmes BF, Jean Skinaway SL, Lorri Antus FDL, Maureen Jones WE, Wallace Storbakken LL, Debra Storbakken LL, Tracey Dagen BF, Ricky DeFoe FDL, Patty Straub WE 23

ZOOM Attendees: Jolyn Donnell WE, Michael Smith Jr. LL, Sandra Borden GP, Char Ellis WE, Theresa Z FDL, Elki, Marci McIntire GP, Gary Frazer MCT, Rose Robinson LL, Ellen Olson, Levi Libra, Michele Hakala-Beeksma GP, Nechiwaakwaang FDL, Michaa Aubid, Danielle Smith MLB, Debra Topping FDL, Shrelle Graves, Jason Burnett GP, Thomas Miranda FDL, Rita Evans GP, Victoria McMillian FDL, Mike's iPad, iPhone, Connie Saaristo FDL, Alicia, Sherry LaFave, Awanikwe 27

9:00 am **Welcome** by Cheryl Edwards

9:08 am **Invocation** by Ricky Defoe

9:17 am **Delegation Roll Cal**

Delegates in attendance-Fond du Lac, Grand Portage, Leech Lake, White Earth, Boise Forte, Mille Lacs

Housekeeping/Reminders

Cheryl reminds the delegates of the Approved Process Motion that was attached to the agenda. She emphasized that the process is as follows:

- Identify and prioritize a focus issue (one Meeting).
- Brainstorm possible solutions/ options/direction in regard to that issue (One to Two Meetings).
- Take possible solutions/options/direction to our communities for input (in between meetings).
- Take a vote on proposed solutions/ options/directions regarding the issue (One Meeting).

- Then start the process over on another issue.

Referendum Vote Debriefing (What did we learn? What can be improved before another election? Thoughts?)

Gary Frazer, the Executive Director of MCT provided the following summary:

- 32,728 mailed-out ballots
- Of those there were 4700 that were un-mailable
- MCT received an updated mailing list after the initial mailout.
- 7,470 ballots were returned (which fell short of the 30 % threshold)
- There were 8000 incorrect addresses
- There were 17,000 delivered, but not returned (9,118 would be the 30% threshold).
- 4778 yes and 2729 no

Questions from the delegation:

- How many were identified as deceased? Gary's answer-200 were updated.
- Who is responsible for updates? Gary's answer-Enrollees and enrollment staff.
- Delegation asked if a written analysis could be compiled on the election tally and number of votes ballots returned, how many ballots were from each reservation, etc.? Gary's Answer-He will provide that report.

Break-

Project Plan Update! A couple of reservations have not been submitted yet. Delegates were reminded of the fact that all reservations need to submit their project plans for us to move forward. Cheryl suggested that all project plans that are outstanding should be submitted to Birdie Roberts within two weeks.

Press Release Sub-committee

- Any press release needs to reflect the approved minutes of the delegation.
- Vote on developing a Sub-Committee:
Fond du Lac, Grand Portage, Leech Lake, White Earth, and Boise Forte, all voted yes. Mille Lacs abstained. Carried by super majority, we move forward with the Public Relations sub-committee. White Earth, at first, objected to the super majority

because this has not been approved. This was corrected as an abstinence is not a no vote.

- Volunteers for the sub-committee:
 - Grand Portage- Jason B. and Marcie M.
 - Fond du Lac- Wayne D. and Cheryl E.
 - Leech Lake- Rose R. and Debra S.
 - White Earth- Maureen J. and **Jolene Donnell or Joanne Alt?**
 - Boise Forte- Tracy D. and Millie H.
- Meeting to be held within two weeks. Subcommittee will develop criteria and bring it back to the delegation for a vote on the developed criteria.

Youth Delegates? Ages? Other thoughts?

- Break-out session to discuss the inclusion of youth in each delegation.
- The question for the delegation- Will we have youth delegates on our respective delegations?
 - Grand Portage- have questions, but liked the idea.
 - Leech Lake- yes, but not a requirement
 - White Earth- proposed no, but open to having youth attend
 - Boise Forte- yes
 - Mille Lacs- would like more discussion

Cheryl, FDL, proposed that this question move forward to the next agenda at the Grand Portage Convention.

Subcommittee Database

- Cheryl E. can share Google docs.

Delegates per reservation, # of votes per reservation

- No consensus on the number of delegates per reservation
- Language in 2017 TEC applying for a grant “up to ten delegates”

11:55 Lunch Break

1:00 pm Bush Grant Application-

- Discussion about the term “Nation”. It was agreed that it would be changed to “six constituent reservations” as in the current constitution.
- This Grant is an initial application, there will be more questions and discussions later.

- **Approval to submit Grant:** Grand Portage, Fond du Lac, Leech Lake, White Earth, and Boise Forte all voted yes. At 1:49 pm Mille Lacs appeared by phone to vote Yes.

1:30 pm Education- Addressing Sovereignty -Presented by Carol Janick FDL. Her presentation emphasized the following:

- The importance of our tribal constitution as the fundamental law of our tribe; that it is the people who determine the language in the constitution; and it needs to be respected and followed until it is either amended or revoked.
- Identified a list of things that diminished our sovereignty starting with our ancestor's contact with the colonizers.
- The lack of compliance with the articles of the tribal constitution greatly diminishes our sovereignty.
- The criteria in Articles XVII Ratification and Article XVIII Amendments require both a majority vote and at least 30% of those entitled to vote, in order to amend or revoke the constitution. This criterion has existed since 1936 when the constitution was enacted under the IRA.
- The comparison between MCT Constitution, our past Secretarial Elections, and the Constitution of the Fort Berthold Reservation in North Dakota and their past Secretarial Elections as addressed in the Hudson v. Zenke and Hudson v Debra Haaland lawsuits that challenge the insufficient number of voter participation in the election, thereby lacked the 30% quorum of the IRA and Constitution, making the election invalid.
- Despite the fact that Hudson's suit was dismissed for lack of standing, the following published rulings in the District Court are relevant and sound.
 - This case presented some of the most fundamental aspects of our nation's democratic theory, those of "sovereignty and self-determination" Ranson v. Babbitt, 69 F.Supp.2nd 141, 154 (D.D.S. 1999).
 - When the Three Affiliated Tribes of the Fort Berthold Reservation enacted their Constitution in 1936, the meaning of "entitled to vote" had only one meaning, "any adult member."
 - The Department was correct in that the tribe had certified election results based on a quorum of registered voters. The court noted that the certification never referenced the constitutional provisions. The quorum provision always

referenced the IRA or the regulations while ignoring the Constitution.

- The tribe had not acquiesced to the registration requirement. The “entitled to vote language did not change its meaning when the regulation did so. A **Federal regulation cannot amend a tribal constitution.**
- The tribe’s quorum provision had been unchanged since its enactment and continues to require a 30% quorum of entitled voters, adult members of the tribe.
- Because the regulation requires a quorum of only registered voters it contradicts the tribe’s constitutional provisions and therefore the tribe’s constitution’s quorum requirement applies.
- Because the defendant’s certification of the 2013 election was based on the quorum of registered voters which is contrary to the law and violated the Administrative Procedural Act (APA), the defendant’s (Secretary’s) approval of the 2013 election must be vacated.

The first step of the FDL Project Plan was to understand the Secretarial Election Process (25 CFR Part 81). An educational document on the subject was prepared and is available to you at www.fdlconstitution.org.

Afternoon Break

Wally S. requested time to comment on Sovereignty and The Constitution. He addressed the following:

- The Constitution goes beyond the government and people’s relationship. It is a Social Relation Contract related to others. What are my rights? and What are my responsibilities?
- Delineate a government of sovereignty, the individual and the creator. This is a Social Contract. Here is what we expect as our rights and the government represents the power of authority given to them, by the people, whether it is three or more Branches, Councils, a General Assembly or something else.
- We are in a Constitutional Crisis.
- BIA has ignored and violated our constitution.
- If all elections are invalid, there is no RBC, Courts, no way to implement the Indian Child Welfare, etc.
- Could we use the 1936 Constitution as a temporary government? We would still be recognized.

- Face the truth and set it straight! Where are we? Address this at the TEC Meeting on October 27, 2022.

Sally F. also addressed the group stating that we are at the point of making changes and need money to continue. She talked about online media and Survey Monkey.

2:45 pm A legal look at removing the Secretary of the Interior-Falmouth Constitution Draft presented by Carol Janick FDL

- The Falmouth Constitution Draft or the White Earth Draft or a combination of the two would be a good example of the removal of the language of the Secretary of the Interior from our governing documents.
- The Alliance document would serve as the oversight structure.
- Recommend that all delegates get a copy of and read the book STRUCTURING SOVEREIGNTY: CONSTITUTIONS OR NATIVE NATIONS by Melissa L. Tatum, et al. 2014 by the Regents of the University of California.

3:30 pm Committee Reports - Discussion about regrouping the subcommittees so all delegations are present at each meeting.

- **TEC Committee-** We are currently meeting biweekly to draft our recommendation to TEC on October 28, 2022. Discussion and agreement to change the Constitution Convention meeting for October 2022. Meeting will be held on **October 27 at Leech Lake** to accommodate for the TEC Meeting on October 28, 2022.
- **Drafting Committee-**The Alliance draft went out to all the delegates in Mid-June 2022. There have been no suggestions for additions or revisions to the document. The committee has started to address select topics on what the General assembly is and its powers; identifying treaties that preserved our original rights; and identifying the expectations, goals, and likely concerns of each council (Elderly, Women, Men, Youth, and Off-Reservation). The members met weekly until July 26, 2022. Because of low attendance, the meetings have been suspended temporarily.
- **Education Committee-** No meetings have been held.
- **Survey Committee-** On hold – waiting for education committee. Sandra B. noted that the Survey Committee has done a lot of work and has drafted a number of questions and is waiting for the educational portion. She mentioned that Survey Monkey is expensive.

• **Finance Committee-** After today's approval to move forward with Bush Grant Application, Finance Committee will submit our application.

4:00 pm Adjourn Next meeting September 16, 2022, Host: Grand Portage Delegates and meeting minutes. Zoom Meeting Only.

One additional issue came up before the convention meeting started. White Earth delegates handed the FDL host a copy of the following document. Although it was not on the agenda, our delegation addressed the majority of these items during the discussions and presentations. Those items not addressed should be brought back to the TEC Subcommittee.

White Earth Delegate - TEC Referendum Issues/Problems (8-22-22) Presented August 25, 2022 – 12:00 TEC Sub-Committee Meeting

- TEC should include/inquire/ask/inform MCT Delegate Group prior to any change(s) to the Revised Constitution for their input.
- Research/legal opinions must be conducted BEFORE going forward with an referendum/secretarial elections-this information must be shared prior to voting.
- Additional Referendum Options should have been listed such as:
 - o The 2- 2015 TEC Resolutions
 - o LOWER Blood Quantum Requirement
 - o ELIMINATE Blood Quantum Requirement
- Address Update – must be corrected FIRST!
- Address Update – is a MCT Tribal Enrollment responsibility.
- A reservation breakdown SHOULD HAVE been included in the tally-this will help for future election.
- Cost of Secretarial Election – Who paid for the referendum election?? Estimated cost was \$60,000.
- Was a funding/line item for a secretarial election included in the Bush Foundation Grant Application??
- Slow down on going forward – additional research/legal answers must be completed (on membership requirements with the federal government/acceptance on the federal level-how do we guarantee that they will accept the change? Funding for our program-will that be allowed?

- Remember the Washburn decision/letter to White Earth Chairwoman.
- The number of referendum voters did not meet the constitution requirement.