

THE MINNESOTA CHIPPEWA TRIBE
TRIBAL EXECUTIVE COMMITTEE

Special Meeting
August 21, 2018

A Special Tribal Executive Committee meeting was called to order at 10:12 a.m. by President Kevin Dupuis at Grand Casino, Onamia, Minnesota.

Invocation: Joe Nayquanobe

Roll Call: Kevin Dupuis, Chairman, Fond du Lac; Ferdinand Martineau, Secretary/Treasurer, Fond du Lac; Percy Benjamin sitting in for Melanie Benjamin, Chief Executive, Mille Lacs; Sheldon Boyd, Secretary/Treasurer; Ray Toutloff sitting in for Cathy Chavers, Chairwoman, Bois Forte; David Morrison, Secretary/Treasurer, Bois Forte; Faron Jackson, Chairman, Leech Lake; Arthur LaRose, Secretary/Treasurer, Leech Lake; Norman Deschampe, Chairman, Grand Portage; April McCormick, Secretary/Treasurer, Grand Portage; Terrance Tibbetts, Chairman, White Earth; Alan Roy, Secretary/Treasurer, White Earth.

Others: Gary Frazer, Executive Director, MCT; Phil Brodeen, Legal, MCT; Joel Smith, Director of Administration; Eugene Tibbetts, Rep., White Earth; John Morrin, Rep., Grand Portage; William "Bill" Meyers, Rep., Grand Portage; Steve White, Rep., Leech Lake; LeRoy Fairbanks, Rep., Leech Lake; Amos LaDuke, Executive Assistant, Leech Lake; Dale Green, Legal, Leech Lake; Diane Osceola, Executive Assistant, Leech Lake; Syngen Kanassatega, Legal and Policy Counsel, Mille Lacs; Emily Johnson, Strategic Planning, Mille Lacs; Bridget Donahue, Dir. Real Estate, Mille Lacs; Nora Benjamin, Special Events Coordinator, Mille Lacs; Wendy Merrill, Legislative Office Manager, Mille Lacs; Chasity Garbow, Assistant, Mille Lacs; Shena Matrious, Government Affairs Area Relations/Special Projects, Mille Lacs; Joe Nayquanobe, Sr. Spiritual Advisor, Mille Lacs; Joe Nayquanobe, Jr., Commissioner of Corporate Affairs, Mille Lacs; Roger Smith, Rep., Fond du Lac; Kathy Goodwin, Rep., White Earth; Lorna LaGue, White Earth; Tadd Johnson, Professor, UMD; Dennis Olson, Executive Director, MIAC; Patty Olby, Superintendent, BIA-MN Agency; Mitch Berg; MCT staff and other interested parties.

Motion by Secretary-Treasurer Martineau to approve the agenda. Seconded by Chairman Tibbetts. 8 For, 0 Against, 0 Silent. Carried.

RESOLUTIONS:

President Dupuis asked about the votes for NCAI, 180 for the Minnesota Chippewa Tribe. Are individual bands counted as votes? Chairman Deschampe responded yes.

Motion by Secretary-Treasurer McCormick to approve Resolution 105 – 18 regarding NCAI membership. Seconded by Secretary-Treasurer LaRose. 8 For, 0 Against, 0 Silent. Carried.

Motion by Secretary-Treasurer Martineau to approve Resolution 106-18 regarding JAG Grant application. Seconded by Secretary-Treasurer Morrison. 8 For, 0 Against, 0 Silent. Carried.

Resolution 107-18 Wild Rice Taskforce drafted based on recommendations from the Natural Resources/Environmental Subcommittee and TEC. Legal Counsel Brodeen read the resolution. Chairman Jackson arrived at 10:32 a.m. during the reading of Resolution 107-18.

President Dupuis stated that the argument was to maintain government to government relations with the Governor and the State of Minnesota. Chairman Jackson responded that he had discussed our concerns with the Governor. The Governor was open to alternative model and open to all consultation with the tribes. Do we want to pursue an alternative method? Representative Toutloff stated that there are two task forces going that will carry equal weight. Legal Counsel Brodeen responded that a direct link to Governor is beneficial. It is important to look at both task forces at the same time. President Dupuis stated the Governor understood it's a cultural issue with us. He discussed the trust responsibility, stating at least we are at the table and it is a step forward.

Motion by Chairman Deschampe to approve Resolution 107-18 Wild Rice Taskforce. Seconded by Secretary Morrison. 9 For, 0 Against, 0 Silent. Carried.

Joel Smith presented the draft Minnesota Chippewa Tribe Drug and Alcohol Policy. He informed the Committee that he added language in the section on "Voluntary Disclosure" that it is a one-time occurrence. He requested approval of the draft Drug and Alcohol Policy and to update the MCT Personnel Policies by adding this as Section XII. Also discussed the composition of an internal review board that could be made up by the six reservation Human Resources Directors rather than MCT managers.

Secretary-Treasurer Martineau stated that there is no reference to the review board in the resolution or Personnel Policy. Question was could he add language to the Personnel Policy. Joel responded that he is open to suggestions.

President Dupuis asked what the job of the Review board is. Joel responded they would address violations of the policy and make recommendation on what action to take. He stated that Secretary-Treasurer Roy suggested the review board, and the original recommendation utilized MCT management.

Secretary-Treasurer Roy stated that the IRB language should be included in policy. Six members is excessive, three members as suggested by Chairman Deschampe. Secretary-Treasurer McCormick suggested HR Managers from White Earth and Leech Lake and the third person may be a Chemical Dependency Counselor. Chairman Jackson asked for clarification, what about 10 years down the line, for a one-time offense. Joel responded yes, this was taken into consideration along with continuous relapses. Chairman Jackson stated that this should be clarified in the policy. Joel stated that he would like to get the current policy passed and update down the road as necessary. Secretary-Treasurer Roy asked wouldn't that be the job of the IRB. Joel responded yes; it should be up to the IRB with input from MCT management and TEC concurrence. President Dupuis stated that MCT would like to get a working document in effect.

Motion by Chairman Deschampe to approve Resolution 108-18 MCT Drug & Alcohol Policy. Seconded by Secretary-Treasurer Roy. 9 For, 0 Against, 0 Silent. Carried.

RESEARCH TRIBES & LOCAL GOVERNMENTS: Mitchell Berg

Mitchell discussed the important research that he is doing in Minnesota's Indian Country. His research is on tribal and local government cooperation and the benefits of how local intergovernmental cooperation can be beneficial in the advancement of tribal self-governance and self-determination.

His purpose is to gain the acceptance from the group to go to each of the six tribal nations within the MCT to gain their permission to conduct research with them. He has already gained the permission of 2 of the 6 MCT tribal nations. In addition, he completed research entirely with 4 of the 11 other tribal nations in Minnesota.

Mitchell included a narrative of the purpose of his research that he had submitted to gain the approval of White Earth - of which he was able to secure. In addition, he attached the two surveys that he would like to have each tribe complete and an article he submitted as part of his literature review for the dissertation.

President Dupuis asked when the surveys are complete, who get the results. Mitchell stated that the tribes own their data. He informed the Committee that in his research he noted that Tribes with a higher per capita income have gained status in dealing with city/county/state on a more equal level. President Dupuis responded that wouldn't it be easier to say we have money now and economic success.

Representative Toutloff asked if this information provided to the bands would incur a cost to the bands. Mitchell responded no this is your own research, payment is a smile. Representative Toutloff asked if this would assist in his research paper and be published. Mitchell responded yes, but only half of the research.

Secretary-Treasurer Roy informed the Committee that Mitchell's background was strategic planning and had worked with him in Economic disparities.

CERTIFICATION QUESTION: Fond du Lac RBC

President Dupuis referred to Article X – malfeasance charge, stating once established, can't change. When you are convicted of a felony or lesser crime in the State and paid your dues, you get back your rights, but not in the Minnesota Chippewa Tribe. Criminal jurisdiction/civil jurisdiction. We let outside entities govern – the Minnesota Chippewa Tribe doesn't have a tribal court, doesn't give authority to transfer jurisdiction. Clarification question – does individual get to run again. Article X – worded specifically.

Lynn Olson – in this situation, the council member was “convicted” by the Reservation Business Committee – can the RBC “convict” an RBC member under Article X? Does that constitute a violation of the MCT Constitution?

President Dupuis – it did not go to Tribal Court.

Chairman Jackson and Chairman Deschampe discussed the issue of stealing from Band Members. Is there going to be an interpretation of Article X? We have a common goal, helping people. Sovereigns - no government federal or state can dictate what’s good for our people.

Secretary-Treasurer Boyd stated that in 2008 there was a removal at Mille Lacs. Secretary-Treasurer Roy asked who convicted the Fond du Lac Committeeperson. Chairman Jackson responded Reservation Business Committee. Secretary-Treasurer Roy asked for clarification, Chairman Jackson explained. Question was asked if signatures of members were provided, Secretary-Treasurer Martineau responded yes, and read Article X. Question is asked –is she eligible to be certified?

Vanessa Northrup explained that there was no conviction, no plea agreement and she wasn’t allowed to call witnesses.

Secretary-Treasurer Roy responded if she didn’t receive due process - a question to legal counsel. Phil Brodeen replied Article IV, Sec. 4. Secretary-Treasurer Roy stated – never been convicted.

Vanessa responded not convicted, paper produced, reads: dismissed went to diversion program. Article IV, Sec. 4 – document from County Attorney.

Secretary-Treasurer McCormick stated, clarification – Tribal Election Court of appeals should address certification issue, not TEC.

DISCUSSION, PROCEDURES FOR ELECTION OF OFFICERS:

Executive Director Frazer

President Dupuis stated that the clarification was for election or meeting.

Secretary-Treasurer McCormick discussed equal voting power among the Bands; when Norman was not allowed to vote two years ago, Grand Portage was denied equal representation with the other Bands. President Dupuis stated the Bylaws state the President can’t vote unless there is a tie. Secretary-Treasurer McCormick stated that we need to have procedure.

Secretary-Treasurer Roy discussed issues with selection of officers. Composition of Committee voting power with each Band having equal weight in voting is disproportionate representation for White Earth because of enrollment population vs. other bands; also impacts Leech Lake. White Earth and Leech Lake make up 75% of the MCT population. Value of delegate is 20 times more.

If the President wants to vote – he should step down. Is appointing a presiding officer allowable in Roberts Rules of Order? If it is a meeting, President/presiding officer cannot vote. An election may be different from a meeting.

Phil Brodeen referred to Roberts Rules of Order – Roll call or ballot – language in Bylaws conflict.

Chairman Jackson asked are we required to use Roberts Rules of Order to a tee.

Phil Brodeen replied, no; you can develop a custom use of Roberts Rules of Order.
Question asked, are you creating an undue balance?

President Dupuis stated he doesn't believe bylaws need to be changed, you need to separate a meeting from the Election Process. If it is a meeting, the President doesn't have right to vote, roll call vote or secret ballot. We need something in place.

Question: There is a difference between a meeting and an election - would this be considered a meeting or election? Secretary McCormick stated the body established should give President the opportunity to vote.

Question: then if there is a tie, who breaks the tie.

12:40 p.m. – Lunch Break

1:47 p.m. – Reconvene meeting

Secretary-Treasurer Roy referred to Article III, Sec. 1. Election outside meeting, tie, remain in office for another 2 years.

Discussion about established practice – do we leave things the way they are – address document through convention – leave things as they are.

Secretary-Treasurer McCormick stated that it changed in December 2016; need to come to a consensus. Secretary-Treasurer Roy stated the President can vote by roll call vote – it is established procedure. Secretary-Treasurer McCormick stated to have Executive Director Frazer run the election of officers. President Dupuis responded it wasn't a procedural vote – that's what we need. Chairman Deschampe stated we need to deal with this issue.

Motion by Secretary-Treasurer McCormick to have the Tribal Executive Committee establish officers by roll call vote, each member has a vote. Seconded by Chairman Deschampe. 6 For (Secretary-Treasurer McCormick, Secretary-Treasurer Morrison, Chairman Deschampe, Secretary-Treasurer Martineau, Secretary-Treasurer Boyd, Secretary-Treasurer LaRose), 3 Against (Chairman Tibbetts, Secretary-Treasurer Roy, Chairman Jackson), 0 Silent. Motion Carried.

Secretary-Treasurer McCormick stated this has been common practice, established procedures, no change to bylaws.

Secretary-Treasurer Morrison discussed representation from each tribe and what the constitution requires, and Secretary-Treasurer Roy brought up referendum.

President Dupuis – Tribal Executive Committee can do referendum, when has any resolution come before the people?

Secretary-Treasurer Roy stated because it's in black and white doesn't make it right. Because something is written doesn't make it right. One person one vote – officer's act as executives. Let the people vote – we the people choose their leaders. In 1980 the TEC interprets the Constitution – it should say the majority interprets the constitution. Article III Section 1 – one person one vote – needs to be resolved.

President Dupuis stated in 2005 – Felony issue – applicable law – push for Constitutional Convention is to fix this. We have to move forward. As President, he believes he doesn't have the right to vote. Secretarial Election for felony issue was politically motivated, represent members.

Phil Brodeen referred to Roberts Rules of Order – Roll call vote.

President Dupuis stated that the Tribal Executive Committee never had anything written down, one practice, should have dialog in front of us at all times.

How is it fair when there is two that can't vote?

President Dupuis stated the people – quorum to make without ability to vote, filling a void. Sitting to make a quorum.

Deadlock – How can we pick and choose?

CENSURE AND REMOVAL ORDINANCE: Gary Frazer, Executive Director

Executive Director Frazer stated each reservation can take this back to their Tribal Councils and make suggestions, recommend amendments. Determine what the governing body wants to do. Tribal Councils can look at suggested options.

Secretary-Treasurer Roy referred to Section 9, observation of Ordinance, it needs more teeth or it's useless. Censure at Tribal Executive Committee level, then referred back to the band. Consensus at this level – it should have effects on duties.

President Dupuis – Ordinance gives a direction based on Constitutional violation only. Define

Constitutional violation – 50 charges – has to be defined that charges are a Constitutional violation. The vote has to define what constitutes a violation. Get rid of - strengthen – or put something else in place.

Isn't this for the Constitutional Convention?

President Dupuis responded as written it goes back to the Tribal Executive Committee. Article X section 4, changes need to be addressed – goes back to reservation.

Secretary-Treasurer Roy asked what specific language and consequences for what? President Dupuis asked what's 2/3 membership.

Dale Green suggested education on the Constitution is needed to make real changes. Cover the cost with education monies.

President Dupuis asked who are the 2/3's referring to in the Constitution.

Chairman Deschampe requested to take the Ordinance back to the reservation for review, recommendations at Tribal Council level.

Phil Brodeen suggested adding teeth to the Ordinance (strengthen)

Secretary-Treasurer McCormick inquired whether it is necessary take to Secretary of the Interior. President Dupuis responded that in November 2015 the Committee first relinquish the Secretary of Interior – have no more Secretarial Elections. Had ability to have own election, exercise our own authority as an entity.

Secretary-Treasurer Roy stated we're wrestling with rights of tribes, not individual members.

CONSTITUTION CONVENTION

The next Constitutional Convention meeting is scheduled for September 10, 2018, 5 p.m. to 10 p.m. at Black Bear Casino.

BIA MN AGENCY: Patty Olby, Superintendent

Superintendent Olby presented an update on the MCT trust lands maintained the TAAMS system. She informed the Committee that she has a flash drive that show the MCT trust lands that could be transferred from the Minnesota Chippewa Tribe to the individual bands. The flash drive was provided to Joel Smith who will copy the data for, and send to, each reservation. Patty provided an update regarding the MCT trust lands transfer authority. Solicitor's Opinion has not yet been issued. Patty stated that she recommended to the Field Solicitor that a provision for a 30 day comment period should be added to the process, similarly to fee-to-trust acquisitions

since TEC resolution (33-18) was not a unanimous vote, and some TEC members were opposed to it. Patty further stated that she “probably” would not have suggested this if the resolution passed unanimously.

Chairman Deschampe asked what the timeframe is. Patty responded that if the notice of decision was challenged during the comment period, it could take 2-4 years to get through IBIA (Interior Board of Indian Appeals). If there wasn't any challenges, it could be done in as little as 2-4 months, depending on how quickly the deeds can be prepared. Bands who have compacted Realty functions (WE, LL, BF & ML) would need to prepare the deeds, while BIA would prepare the deeds for FDL and GP.

Secretary/Treasurer McCormick reminded Patty that 1) there are two new TEC members since 33-18 was passed in January 2018 and, 2) there was discussion at NR/Environmental subcommittee meeting by a couple subcommittee members that they may want to take this back to their reservations for further discussion, then NR/ Environmental subcommittee recommended approval to TEC. Same thing happened at TEC when 33-18 was voted on and passed, those who voted against it did so with comments that we'd like to take this back for further discussion. There was nothing stated that they were opposed to it.

Chairman Tibbetts stated that this will slow down the process, mandatory trust to trust.

Superintendent Olby stated it is not a mandatory trust to trust transaction, there may be some opposition on these, and BIA needs to offer due process.

Secretary-Treasurer McCormick discussed consensus – those against included previous Secretary-Treasurer Tara Mason, Secretary-Treasurer Carolyn Beaulieu, Secretary-Treasurer Dennis Morrison and Secretary-Treasurer Ferdinand Martineau, silent. Phil Brodeen stated that people still have the option to appeal, opposition to the administrative process.

Superintendent Olby stated the timeframe was sixty days with no opposition it's a done deal. Have to offer due process for those opposed. This is her recommendation.

Secretary-Treasurer Roy asked would a new resolution help.

Phil Brodeen stated it would help, but it's up to the Field Solicitor.

Superintendent Olby stated the Solicitor is making sure in giving everyone due process. Secretary-Treasurer McCormick asked if a letter from the bands would assist in the process. Superintendent Olby stated it is a trust to trust issue.

President Dupuis asked does individual band members have ability to challenge.

Secretary-Treasurer McCormick stated the Solicitor is interpreting a resolution approved by the Tribal Executive Committee. She thinks the resolution should stand.

Representative Fairbanks asked what if they pass another resolution, what would you do differently. Process hasn't been decided, there needs to be clear guidance on what BIA needs.

Superintendent Olby responded, the resolution didn't contain a unanimous vote.

Representative Fairbanks stated that every meeting there's an update, need some accountability, eight months have passed, waiting for direction.

Superintendent Olby stated that the request from the Minnesota Chippewa Tribe, legal review, and request from the Minnesota Chippewa Tribe hasn't come.

Phil Brodeen stated they need to clear up this process, would like to know, so we could move forward.

President Dupuis responded the Solicitor is part of the process. There are concerns. Solicitor has authority, does individual band have ability to challenge.

Phil Brodeen stated if we need to jump through hoops it's still better.

BIA Regional Director, Tim LaPointe stated this is the Solicitor's top priority.

President Dupuis asked when the last time the Minnesota Chippewa Tribe met with the Solicitor.

RECORDS MANAGEMENT

The Minnesota Agency files – how long to keep records on site before archiving. We have a cooperative agreement with the Minnesota Chippewa Tribe and secured funding for three individuals to scan and file according to the Federal Records Schedule. Original trust records are sent to the AIRR (American Indian Records Repository) in Lenexa, Kansas; scanned copies are maintained at the MN Agency and will be provided to the MCT and bands when the project is complete. Requests for copies of original records housed at the AIRR have a 2-3 day turnaround time. Tribes may ship records to the AIRR for free and your records are not subject to FOIA.

Joel Smith briefly went through records management. Executive Director Frazer asked about the site for the new federal building. Superintendent Olby responded behind the Paul Bunyan Communications building in Bemidji.

Phil Brodeen asked about the proposed reorganization of the DOI and the realignment of the BIA. How many recommendations opposed to reorganization are you aware of?

Superintendent Olby stated Regional Director Tim LaPointe stated the BIA won't be included in the reorganization of DOI. Phil Brodeen asked if any information was provided to MAST. President Dupuis stated no information provided to tribes, the reorganization could happen. Phil Brodeen read transcripts of that meeting.

President Dupuis suggested Tribal leaders attend MAST.

SECRETARIAL ELECTION REGARDING ENROLLMENT:

Gary Frazer, Executive Director

Executive Director Frazer stated the last action was July, 2017 on the enrollment resolutions regarding blood degree changes. The Resolutions (31-15 and 32-15) were on hold, tabled for one year.

Chairman Deschampe stated that he would like to see us move forward on the resolutions. Executive Director Frazer stated there were just tabled and could proceed with a cover letter to the Bureau. The resolutions were brought for discussion and can be put on agenda for regular TEC meeting in October.

Secretary –Treasurer Roy responded that we should publish these for members to look at. Executive Director Frazer responded that no action is needed today, action or discussion on resolutions can occur at the October meeting. President Dupuis stated for Canadian First Nations, if they don't use blood quantum, how do you add that to a fractionated system? Those that don't have fractionated system are going to be considered full blood. Chairman Deschampe responded an employee who is First Nation would be considered Grand Portage.

Secretary-Treasurer Roy referred to Article II, Section II. President Dupuis stated the requirement is blood quantum – if you're not a US. Citizen, it doesn't count.

Phil Brodeen stated it would correct the blood quantum of current members, already enrolled members. It would be extending opportunity to heirs. President Dupuis referred to Bois Forte 2002 – 1941 – what's going to happen.

Chairman Deschampe stated that these are two separate resolutions. The first resolution is First Nation and the seconded is accepting other Chippewa/Ojibwe blood. It's not my decision to make; it's up to the people. President Dupuis stated that this would open up the enrollment, meaning anyone that's Anishinabe could be added to the Minnesota Chippewa Tribe. Secretary-Treasurer Roy responded that we are being told how to breed.

Chairman Jackson stated that it should be a choice for our children; we are becoming a lost tribe. Kevin Washburn specifically stated each tribe can determine their own membership. The issue is in the last 40-50 years, decisions are too tough, and we have grandchildren that are not enrolled. He believes that everyone wants to do what is right for the children and grandchildren. Understand the need to be thoroughly looked at. Effects all – land base discussion is good. Don't need to be afraid of change.

U.S. CENSUS BUREAU: Bridget Donahue

The Census Bureau list includes MCT, all six Bands and one tribe just referred to as "Chippewa". This is confusing to those who will respond to the 2020 census. Should we take out MCT and leave the six Bands? Need to remove "Chippewa" from the list as it doesn't represent us. Request supportive action to have Phil Brodeen draft on behalf of the Minnesota

Chippewa Tribe. Mille Lacs Band of Ojibwe – proper census reporting leads to grant funding – if left as is it would bring down numbers for funding opportunities. Are we including Sioux, just Chippewa or non-members? Leave Chippewa to identify as Native American Indians.

Chairman Jackson stated Leech Lake Ojibwe. Deadline for submitting comments on updating the list of federally recognized tribes in the 2020 census is August 31st. President Dupuis asked what it means. For the budget use federally recognized name for proper funding sources.

Secretary-Treasurer Roy, the Minnesota Chippewa Tribe's listing is abstract, it does matter.

Gary informed the Committee that meeting date for the next Tribal Executive Committee and subcommittee meeting would be scheduled for October 29-30, 2018, Grand Portage, MN

NCAI is scheduled for October 21-26, 2018.

Motion by Chairman Deschampe to adjourn the meeting at 5:01 p.m. Seconded by Secretary-Treasurer Morrison. 9 For, 0 Against, 0 Silent. Carried.