

Tribal Executive Committee
Special Meeting
InterContinental Riverfront
St. Paul, MN
December 14, 2021

A special Tribal Executive Committee meeting was called to order at 9:13 a.m. by President Chavers at InterContinental Riverfront Hotel, St. Paul, Minnesota

Invocation: Baabiitaw Boyd

Roll Call: Michael J. Fairbanks, Chairman, White Earth; Alan Roy, Secretary-Treasurer, White Earth; Faron Jackson, Chairman, Leech Lake; Archie LaRose, Secretary-Treasurer, Leech Lake; Catherine Chavers, Chairwoman, Bois Forte; David Morrison Sr., Secretary-Treasurer, Bois Forte; Melanie Benjamin, Chief Executive, Mille Lacs; via Zoom: Robert Deschampe, Chairman, Grand Portage; April McCormick, Secretary-Treasurer, Grand Portage; Kevin Dupuis, Chairman, Fond du Lac; Ferdinand Martineau, Secretary-Treasurer, Fond du Lac; Sheldon Boyd, Secretary-Treasurer, Mille Lacs.

Others: Minnesota Chippewa Tribe - Gary Frazer, Executive Director; Joel Smith, Director of Administration; Phil Brodeen, Legal; Michael Northbird, GAP Coordinator and other interested parties.

Motion by Secretary-Treasurer Roy to approve Agenda with additions. Seconded by Chief Executive Benjamin. 11 For, 0 Against, 0 Silent. Motion Carried.

DRAFT ELECTION ORDINANCE: Phil Brodeen, Legal

Phil explained the three changes that were made by the election ordinance review committee: Generally, throughout ordinance terminology: “will” was stricken and replaced with “must”, Page 3: Section 1.2 (d) regarding postponing elections related to a public health emergency such as the pandemic, Page 13 Section 1.7 (d) oath of office it was requested that the election contest judges will take an oath.

President Chavers asked for comments regarding the Election Ordinance.

Chairman Fairbanks asked about the Election Ordinance – Section 1.3 (c) regarding governing bodies certifying eligible candidates by running background checks. He recommended having the background checks run through the MCT or a third party certify candidates for all six MCT Bands, or recommended that his idea go to the constitution committee.

Secretary-Treasurer LaRose made a statement about how he couldn't vote to support the election ordinance because of this issue: he disagreed with the with approval of the Secretarial Election

that happened 2005 where amendment A and B were passed. We can't pick and choose when to follow 30%, we have to follow our constitution of 1934 or the amended revised constitution and bylaws of the Minnesota Chippewa Tribe of 1935. Cited Article 12 refers to 30% required to change or amend the constitution. When this passed, how could we as TEC enforce new requirements on our membership? He said, "I can't vote to support the election ordinance because of this issue," and would "vote no under protest," further he requested it to be reflected in the minutes.

President Chavers responded that she was glad we were meeting with the Constitution Committee. She restated that clarification of the 30% does need to be done, as it has been an ongoing issue for many years, and asked if there were any other comments to Election Ordinance?

Secretary-Treasurer Roy stated the clarification of 30%, needs to be clear in our minds. I know the TEC voted to affirm that the 30% is 30% this year, the only question is 'how does that 30% affect us moving forward on the proposed amendments that the delegates are working and how does it affect specifically, to the resolution in front of you today. You asked what I wanted to do and that is what this resolution is, it is related to the ordinance because it has the 30% factor to it, last page. Secretary-Treasurer Roy reads the *Now Therefore be it Resolved* section of his proposed resolution. The purpose of this is to find that clarity, it doesn't bind the TEC to any specific reaction, it says the TEC is going to "re-examine" or "re-affirm" and put it to rest. There is another clarification but I'm not bringing that up today, but I want to get clarification on the 30%. As related to the Election Ordinance. He thanked the TEC for their patience. If the president would permit, I would like to make a motion for that examination or affirmation for the staff to help the TEC find that clarity.

President Chavers requested Secretary/Treasurer Roy wait a moment, and asked for comments from Tribal Leaders on Zoom before Secretary/Treasurer Roy does the motion.

Secretary-Treasurer Martineau stated I think the only thing I have to add is, and Phil, I may need you to clarify this, when this Amendment was accepted in 2005 or 2006, it went before Secretary of the Interior (SOI), I believe, the SOI looked at what happened and they certified election. When that that election was certified by the SOI, a lot of objections to 30% or to whether we had 30% or not in the vote – that kind of became a mute issue because of the SOI. Then a court case came out that upheld what the Secretary of Interior did. I thought we would make that change with the Constitution Reform Committee and take care of that issue and I did not think that we would have to deal with this as TEC again, that our Constitution Reform would take care of that issue. I pushed our delegates to bring this up and work on it in that process. He believes that we didn't reach 30% threshold, but in the way that vote was presented to Secretary of Interior and they certified the vote.

Phil responded, my counsel is the same this time as it was last time and the time before that, from a legal perspective, there is nothing to reexamine regarding this issue going back to 2005. The time to challenge that has passed, it was challenged and that challenge failed. That's my counsel, and it largely follows what you've stated. I would agree that the constitution committee should take this up, but I don't think that this is the right way to even reexamine it.

Secretary/Treasurer LaRose asked Phil if that is his legal opinion. Phil responded yes; it certainly is. Secretary/Treasurer LaRose thanked Phil.

Phil responded to audience questions regarding the constitution, and the SOI. Answering the Secretarial Election is a federal process and follows federal rules, and regarding “due process”, due process rights come into play when there is a challenge, and it was challenged and that’s where their due process. Secretary-Treasurer LaRose claimed the SOI rubber stamped that waiver; asked about in our constitution we don’t have that waiver authority to waive anything, we have to require 30% as stated in our 1935 constitution. Phil stated I would disagree that it was rubberstamped, because it went to the court, the Interior Board of Indian Appeals (IBIA).

Comments were heard from audience.

President Chavers called on Secretary/Treasurer McCormick.

Secretary/Treasurer McCormick remarked, I have the same concerns that Secretary/Treasurer Martineau raised, looking at this issue, and hearing what Phil has said, that the IBIA challenge has gone through, the SOI decision to approve that Amendment has occurred. To be honest, I don’t think we should take action on this resolution because it creates constitutional issues of reinterpreting the past. I think strongly that the information that’s been presented on the agenda is the approval of the election ordinance, which happens every two years, and as we approve that election ordinance, that is the purpose that we have today. I appreciate Secretary/Treasurer Roy bringing packets of information, and putting together a resolution, however, in good conscience, I don’t think the TEC should take action on this today.

Motion by Secretary-Treasurer Roy.

Secretary-Treasurer Roy asked for approval to look at the matter more comprehensively and admitted that even if it doesn’t pass, this is what is known as an administrative remedy. I have to administratively exhaust all remedies with this body before I can take it to another place and I need that clarification. He confirmed his motion to approve his resolution today.

President Chavers acknowledged Secretary/Treasurer Roy motion and called for a second. Second by Chairman Jackson.

Secretary/Treasurer LaRose requested a Roll Call Vote. President Chavers stated this will be a roll call vote as requested.

Executive Director announced names for Roll Call Vote:

Chairman Fairbanks?

Chairman Fairbanks said, my question is before we vote is, does this mean we pass this on to the Constitution Committee? Or what action is this going towards? Secretary-Treasurer Roy responded it doesn’t identify a particular individual or set of individuals who are going to reexamine the issues, and the Tribal Executive Committee can decide who would look at these issues, whether it be constitution committee, attorney, etc.

Chairman Fairbanks I'm in favor of bringing that to the Constitution Committee to the people.

Executive Director announced Roll Call start again, Chairman Fairbanks?

Chairman Fairbanks, yes to push it to Constitution Committee.

Chairman Dupuis asked for clarification point of order. President Chavers acknowledged Chairman Dupuis. Is the ability to ask questions was before our vote? Or was that taken away when we started the vote? Right now, I am confused, can we make clarification first: are we are roll call voting on this with or without comments or explanation?

Secretary/Treasurer LaRose, I'd say let's just vote, roll call yay or nay.

President Chavers, do you to rescind your motion?

Phil stated the roll call should be Yay or Nay and the time for discussion is when the motion was presented.

Secretary-Treasurer Roy, aye; Secretary-Treasurer LaRose, yes; Chairman Jackson, yes; Secretary-Treasurer Morrison, no; Chief Executive Benjamin, no; Secretary-Treasurer Boyd, no; Chairman Deschampe, no; Secretary-Treasurer McCormick, no; Chairman Dupuis, aye; Secretary-Treasurer Martineau, aye.

6 For, 5 Against, 0 Silent. Motion Carried.

Chairman Dupuis stated Madam President, I have a question, during this process, when we do something like this, I think it's clear the conversation needs to happen. To go into immediately a roll call without any other clarification or discussion, maybe that wasn't the right way to do it. I don't feel this resolution should it be turned over to the delegates. This is a Tribal Executive Committee action or discussion. Someone should clarify to me why it should go to the delegates.

Comment from audience.

Chairman Dupuis stated the resolution simple, does the Constitution say 30% entitled to vote? Yes, it does. The other part is the waiver: Yes, the Secretary of Interior approved waiver, yes, the waiver happened. To me it is simple. Did waiver go to membership for approval? No, it did not. That's why I voted yes. However now I'm more confused than ever.

Chairman Deschampe stated I have a comment, that it's a little disturbing that we get a Resolution sent to us on Saturday, and its Tuesday, and we had two days to look at this and go over it. I think everyone needs to do their due diligence and get this to us two weeks in before the meeting, so we can have a little time to absorb this.

Chief Executive Benjamin made a similar statement explaining, this is a three-page resolution, a lot of citations and a lot of different references, that is necessary for the MLBO to make sure that that it works for MLBO. Even though I voted no, it wasn't necessarily about the resolution itself, it was about the process. There is a process at the Mille Lacs Band, that has to be followed when

looking at these resolutions. We didn't have the opportunity to analyze and have time for our discussion on the parameters for the Mille Lacs Band. There is a process we have to follow at Mille Lacs, that's how we govern, that's how we are going to follow that process.

Comments from the audience.

President Chavers asked for a motion to approve the Draft Election Ordinance that was presented.

Motion by Secretary-Treasurer Roy to approve the Election Ordinance with changes. Seconded by Secretary-Treasurer Martineau. 9 For, 2 Against (Chairman Jackson, Secretary-Treasurer LaRose), 0 Silent. Motion Carried.

Comments from the audience regarding electronic voting machines. Discussion about the voting machine contracts.

CONSTITUTIONAL DELEGATES: Sally Fineday. Leech Lake; Cheryl Edwards, Fond du Lac; Millie Homes, Bois Forte

The Constitution delegates said they have no formal report. They discussed two possible questions for recommendation, at the Friday meeting they had four supportive delegations, one delegation abstain, one delegation voted nay of the following:

1. Question: Remove Secretary of the Interior requirement from Minnesota Chippewa Tribe Constitution.
2. Remove Blood Quantum requirement and replace with lineal decent.

A delegate from White Earth commented that there were delegates that were not at the meeting and did not accept the questions.

Discussion among those present about how the delegates thought they should come to the TEC with a recommended question for the referendum vote, and how each of the delegations 'voted' on the questions discussed above.

Secretary-Treasurer McCormick want to make a point to say that when the Tribal Executive Committee passed the motion for referendum regarding enrollment, we called forth specific parameters for the question. I can read this again, if that's helpful for the delegates and audience to refer to: the Tribal Executive Committee passed motion for referendum regarding enrollment process the question that we ask each Band would determine their enrollment under the Minnesota Chippewa Tribe. (Read question: Page 4 June 22, 2021). The TEC The question has to be clear and only in regards to enrollment, and very defined for our voters. As the committees are reviewing this information we have to stick to those parameters.

Chairman Jackson thanked Secretary/Treasurer McCormick, and also wanted to reiterate if the constitution delegation had dialogue about how they feel about each tribe determine their

enrollment process and still be part of the MCT? We all have to listen to each other. We need somewhere to get started and continue to move in tandem, the TEC and the constitution delegates.

Discussion among those present on how the delegations were appointed by each Band, how they should be/are enrolled members, and the roles expected by the TEC.

Break- 10 minutes – 11:25 a.m.

Meeting resumes - 11:39 a.m.

2022 MEETING SCHEDULE

Executive Director Frazer stated the January meeting would be held in Grand Portage. President Chavers request the meeting dates be placed on the website for 2022.

President Chavers requested that Reid LeBeau update the Committee on the recent MIGA meeting. Legislature meets in January; sports betting is a major concern in the past few years. We need tribal consensus on on-line option sports betting. At the last MIGA meeting discussed Brick and Mortar gaming, online mobile sports betting. We know this is coming down the line. Suggest today that the Minnesota Chippewa Tribe set up meeting with all the tribes including Red Lake (all northern tribes). The pandemic has really taken a toll on some of the tribes' revenue in gaming. Believes Grand Portage suffered the most with pandemic/closure of border. In regards to the sports betting, the rural/northern tribes need to get together to discuss this issue.

Reid responded there are two (2) options. Should the proposed regulations apply to Brick and Mortar gaming facilities or be limited there, then patrons have to physically go to this location. This was strongly supported by Shakopee. Alternatively, with an online mobile option, people can be able to engage in sportsbook betting wherever they are physically located within the state. One idea proposed by Mille Lacs is that there be essentially one limited entity that be shared within the tribes of the state, thereby benefiting all tribes, that it doesn't matter where the tribe is located and I defer to the Chief Executive if I've misstated anything on that.

Chief Executive Benjamin thanked Reid for providing that update. Our team from Corporate ventures did a lot of research, including data, legislation, so that when we went to the table that we'd have solutions to this. Whenever we have that meeting coming up, we will be more than happy to share this information.

President Chavers requested that Reid provide information on the Seminole case.

Reid referenced the Seminole case, where the D.C. District Court, where the Seminole Tribe out of Florida, executed a compact with State of Florida to do off reservation online sports betting, which they controlled. The other gambling interests in the State of Florida sued, claiming that off reservation gaming is not covered by IGRA Indian Gaming Regulatory Act. The District Court has at least agreed to that. It is an obstacle that can be overcome, but practically it means that if tribes plowed ahead without considering this case, then we likely would have a compact that would not be approved by the Department of Interior pending final resolution for this issue. What it means practically is that for on reservation sportsbook, there would need a new compact.

To go down the road of Online mobile – we may have to have state regulation over the off-reservation gaming, it would need to be worked out.

President Chavers stated this is mainly informational. She asked Executive Director Frazer to set up, Mille Lacs would host. Leech Lake is currently working with setting up with Red Lake right now, they will be invited Meeting set as soon as possible.

Chairman Jackson stated in an initial meeting he attended he understood that our current compacts would not be opened. It would be new compact, with some sort of revenue sharing formula. There was dialogue that if the tribes were not going to participate, they were wondering if the State would move forward with out the tribes. There is more to clarify.

Reid stated what the Bands do collectively will carry weight at MIGA and Capitol. This meeting will try to get everyone on the same page. One other thing gaming related is Card games, that the two race tracks are engaging in card games under that argument that it was Class II. The NIGC has taken the strong position that they believe these games are Class III. Red Lake asked for an opinion, and NIGC issued a letter that their opinion is that these are Class III games which would require a new compact. Wanting to make people aware but also asking if it would make sense to seek an amendment to the black jack compacts card games potentially get this issue off the board before trying to potentially negotiate something new with the State.

INFORMATION: Election Calendar.

Executive Director Frazer informed the Committee of the following dates for the Primary Election is April 5th, indicating that the ‘one-year residency’ is as of April 4, 2021.

Legislative Dinner – begin planning for mid-March 2022, plan to check COVID-19 numbers and State regulations at end of January to evaluate whether to gather or not.

Motion by Chief Executive Benjamin to adjourn the meeting at 11:59 a.m. Seconded by Chairman Jackson. 11 For, 0 Against, 0 Silent. Motion Carried