



Governance Reform Project

Chi-Naaknigewin Working Group Discussion Summary

To: Chi-Naaknigewin – Citizen Working Group & Council

From: Jessica Labranche, Advisor to the Special Committee on Governance

Date: July 25th, 2024

The following is a summary of the five working group sessions held in May and June that touched upon topics covered in the Chi-Naaknigewin. The purpose of these discussions was to probe Citizens on the topics that are being contemplated for amendment in the Chi-Naaknigewin. Those topics included:

- Addition of a residency requirement for elected Council Members.
- The process for Citizen engagement in the Nation's law-making.
- Removal of the reference to the Canadian Charter of Rights and Freedoms.
- Timing of Citizen Approval for the specified Council decisions.
- Timing for the Citizen meeting to review the draft budget.

May 14th, 2024: in-person at Michipicoten First Nation

In attendance at the May 14th, 2024, were the following participants:

Lena Andre

Brenda Pelletier

Roberta Day

Don Humphries

Gimaa Kwe Tangie

Evelyn Stone, Council
Member

Christine Lewis, Committee
Member

Irene Armstrong,
Committee Member

Sandra Donny-Fraser,
Committee Member

Attached to this memo as Appendix A is the background information memo that was distributed to participants at the session. The topics in the memo focused on residency requirements for elected officials and the number of seats on Council reserved for residents.

Residency Requirements for Elected Officials

Participants were asked whether Council members should be required to live within the traditional territory or treaty territory to be eligible to sit on Council. Participants were presented with a map of the Nation's traditional territory which begins in Sault Ste. Marie to the east and Pukwaskwa River to the west. The feedback was mixed. The highlights of the participants contributions are:

- A residency requirement is essential. Elected officials should live in proximity so as to maintain a connection with the land and people they serve because it is difficult to get to know the community from afar.
- At least one of the sitting Council members should be a resident of Michipicoten First Nation—one participant expressed that this was appropriate for the office of the Chief but perhaps not for the Councillor.
- The question should be approached using a values-based approach that focuses on the seven grandfather teachings-- Nibwaakaawin—Wisdom; Zaagi'idiwin—Love; Minaadendamowin—Respect; Aakode'ewin—Bravery; Gwayakwaadiziwin—Honesty; Dabaadendiziwin—Humility; and Debwewin—Truth-- and the medicine wheel. Although it was not discussed how to approach this question using these teachings.
- The decision needs to factor in the impact on the Citizens given the history of forced relocation and the fact that the community has been forcibly dispersed.
- Data on where Citizens currently live should inform the decision.
- Anyone should be able to run and voters should be left to decide. The counter view was expressed that if voters grow disconnected to the territory, their voting preferences could also distance themselves from their connection to the land.
- We should not discriminate against off-reserve members. The counter view was also framed as, *I would rather have people in neighbourhood instead of those living at a distance making decisions for me here.*
- Concerns were raised about the spending on leadership if they are travelling long distances to attend to their function as Council members. Others disagreed that spending be factored into this decision.

Reserved Seats for Residents

Participants were then asked whether there should be a certain number of seats on Council reserved for MFN Citizens who live on the reserve. The feedback was mixed, expressed as:

- Let the electorate decide. Candidates who know the community will get elected.

- We need more Council members who reside in the community, particularly for the functioning of the administration. We need signing authorities who are local to us.
- At minimum there should be one seat reserved for residents.
- Anyone should be able to run – creating democracy for members – be inclusive.
- The majority of seats should be reserved for residents. The practical limitations—the fact that employees and members of the trust cannot run for Council—of reserved seats on Council where also explored and it was agreed that the pool of residents was too small to allow the majority of Council members seats be reserved for residents.
- As long as they live in this hemisphere, that you can contact them with ease and meet them occasionally. They need to know about area as opposed to never been here.

In-person Council Meetings

Participants were asked what the exquisite number of in-person Council meetings would be sufficient in order to meet the desire to enhance Council members connection to the reserve.

Responses included:

- Quarterly and Y&E Gathering as well.
- Inauguration – citizenship meetings Sault and Sudbury – at least 1 day at Gathering and 1 more meeting.
- Once a month, plus quarterly Sault, Sudbury and here – more involvement would happen from members that live on reserve if Council was present here for meetings.
- Monthly-could move to different spots where Councillors/Citizens live.
- Quarterly in MFN – be mindful of winter travel and Council’s budgets.

Nomination Process

One participant expressed concern with the way the draft Election Law and Regulation approaches nominations. As it stands, the process happens organically. A citizen sees the leadership potential in another and nominates that person—the process evolved organically and allows for people to accept or decline the opportunity to pursue election. The new process requires the individual to have focused intention and eliminates the expressed will of others. This participant does not want to see the nomination process changed.

May 26th, 2024: virtual session

In attendance at the May 26th, 2024, were the following participants:

Rachelle Philippe

Gimaa Kwe Tangie

Sandra Donny-Fraser,

Jackie Tangie

Linda Peterson, Committee
Member

Committee Member

Attached to this memo as Appendix B is the background information memo that was distributed by email to the Project listserv. The topic in the memo focused on residency requirements for elected officials and Citizen engagement in the Nation’s law-making process.

Residency Requirements for Elected Officials

Participants were asked whether Council members should be required to live within the traditional territory or treaty territory in order to be eligible to sit on Council. Participants were presented with the same map of the Nation that was presented during the May 14th sessions. Much of the discussion circled around the same concerns – desired for a strong attachment to the land and the people. However, in looking carefully at the map and at the proportion of Citizens who live in the traditional and treaty territory--roughly 45% (see Appendix C)--there was an acknowledgement by participants that it was not in the best interest of the Nation to leave out more than half of their Citizens. Participants ultimate conclusions following the discussion was as follows:

- Participant 1 – should have an attachment to the traditional territory; concerned with by-elections if the elected official doesn’t relocate.
- Participant 2 – the majority of Council members should be resident within the traditional territory.
- Participant 3 – we should not be too limiting in our choices today regarding residency, instead we should lean on the values we want represented and hold Council to them.
- Participant 4 – it is essential to have a connection to the region and occasional in-person meetings are not enough. New citizens are not familiar with the issues that the Nation faces because they have been disenfranchised for so long. There are also the costs of bringing Council members in from all over to attend to their duties. Council needs Citizens who fully understand the territorial interests and are deeply familiar with Michipicoten’s culture/history/lands/language.
- Participant 5 – Councillors should have a demonstrated and strong connection to the territory, but it is not necessary for them to reside in the territory in order to sit on Council.

Time did not allow for the exploration of the topic on Citizen engagement in the Nation’s law-making process and that item was carried over to a subsequent discussion.

June 6th, 2024: in-person meeting in Sudbury

In attendance at the June 6th, 2024, were the following participants:

Rachelle Carrière	Rheal Gascon and wife	Carole Mayhew
Denise Churchill	Raymond Gascon	Will Morin
Anne Gascon	Raymond Jr. Gascon	Gimaa Kwe Tangie
Guy Gascon	Margo Gascon	Chad Edgar, Council Member

Evelyn Stone, Council
Member

Irene Armstrong,
Committee Member

Linda Peterson, Committee
Member

Diane Purser, Executive
Officer

Attached to this memo as Appendix D is the background information memo that was distributed to participants at the session. That memo focused on Citizen engagement in law-making processes and the removal of the reference to the Canadian Charter of Rights and Freedoms. However, the topics raised during this discussion were varied because many of the participants who attended the session in Sudbury had not been engaged in the working group discussions to date. A lot of time was spent updating participants on the Governance Reform Project and why it was being pursued. The two main topics that were brought forward by me were Citizen engagement in law making and the Charter of Rights and Freedoms.

Citizen Engagement

When participants were asked how and when Citizens should be engaged in the law-making process, there was a lot of discussion around the question but not many participants raised specific points that they would like to see as part of Citizen engagement in law-making. The Chi-Naaknigewin has a process outlined for how Citizens are to be engaged – three public readings of the proposed law, one presentation at a public meeting and a ratification vote – but the purpose of raising this point is because Citizens expect more. During the May 9th Citizen Information session in Sault Ste. Marie, participants had expressed their concerns that law-making processes should have more Citizens involvement but there were no suggestions provided.

Participants were informed that any decision to include further prescriptive measures into the Chi-Naaknigewin on the process of law-making should be balanced against the likelihood of achieving Citizens participation, given the low engagement numbers now. Otherwise, measures that are too prescriptive will hinder Councils abilities for law-making down the road. Some of the points draw out from the discussion include:

- Accessibility: information should be accessible, and it should be delivered through multiple mediums given different abilities.
- Surveys are a good tool for initiating projects.
- Each individual has preferences for how they want to be engaged but it may not be possible to meet all Citizen's preferences all the time.

It was suggested that the Council could be the arbiter of whether the engagement threshold has been met but little conversation ensued. Participants were asked to weigh in on whether there should be a threshold, that is minimum number of voters who need to turn out for ratification votes, for the adoption of laws or other decisions that require Citizen approval under the Chi-

Naaknigewin. No one offered a response, but participants were given information on the current engagement so far: roughly 33% of Citizens (approximately 320) voted in the last election; 113 Citizens responded to the Survey; roughly 75 people participated in the engagement and information sessions to discuss the topics for the draft Election Law.

Charter of Rights and Freedoms

It was suggested to participants that section 16 in the Chi-Naaknigewin, which references the Charter of Rights and Freedoms, could be removed and replaced with the acknowledgment that, as Citizens of an Anishinaabe Nation, we follow an Anishinaabe value system. Some participants were unsure about the implications of the proposal. It was explained that Citizens of Canada enjoy the rights and freedoms built into the Charter no matter what the Nation's Chi-Naaknigewin says. The point was made that there is a possibility that the Anishinaabe values are at odds with the Charter but the work of identifying whether they are compatible or not has not been completed. Most participants were unfamiliar with one or both of the Charter or Anishinaabe values and did not feel confident in providing input either way.

The questions of whether the Nation should first engage in a community conversation about a "Charter" of community values before removing the Canadian Charter reference was put to participants. It was suggested by a participant that perhaps we can use the Canadian Charter as a baseline document to develop a Michipicoten Charter. We spent some time reviewing the rights outlined in the Charter and I highlighted a few areas where I could see conflict, namely:

- Freedom of mobility rights guaranteed under the Charter could impact the Nation's ability to banish residents from the reserve, which was a common practice historically as a form of punishment for serious misconduct.
- Language rights guarantee that all services delivered by the Federal government should be available in both official languages. The Nation may want to go further to recognize the importance and use of Anishinaabemowin.
- The Nation may also be concerned with the way in which the freedom of expression conflicts with the desire to promote positive and healthy communications.
- The democratic and equality rights in the Charter may conflict with the way the Nation wishes to set eligibility criteria for candidates who wish to run for election and the composition of Council, assuming the Nation pursues a path to enhance diversity through different ages and sexes of Council member.

Other participants felt strongly that colonial tools – such as the Charter – should not take priority over Anishinaabe law and values. Our Nation should no longer accept that other governments make unilateral decisions on our behalf. In the end, it was proposed that the Chi-Naaknigewin acknowledge that the Charter exists, but the Nation chooses to prioritize Anishinaabe law and values.

Other contributions

One participant had reviewed the 2016 Chi-Naaknigewin and came prepared with specific proposed amendments:

- Sections 7 & 8: replace the “it” with “they/them” because the Nation is a collective of people.
- Section 16: “Every citizen of the Michipicoten First Nation shall be entitled to enjoy all of the rights and freedoms guaranteed in the Canadian Charter of Rights and Freedoms **as it was prior to the forming of settler colonial governments.**” The addition proposed is in bolded and underlined text.
- Section 18: We need to recognize that Anishinaabe laws were preexisting laws that were never extinguished. The language should emphasize that we are reviving those laws.

The topic of residency of elected official arose through a discussion on how to accommodate all Citizens during engagement, even those who live at a distance. Most participants at this in-person gathering felt strongly that elected officials should live closer to the reserve and be familiar with the traditional territory. One participant expressed it as a need in order to have firsthand knowledge of the issues and opinions closer to home. While one participant expressed that they wanted a process that was more inclusive of all Citizens, regardless of their place of residence. The contributions related to this topic could be summarized as follows:

- The office of the Gimaa should be resident of Nation, alternative living in proximity.
- The Council members should have an attachment to the reserve and the traditional territory.
- Council members must have a physical presence at the reserve.
- Participation in Council meetings is essential, regardless of the time zone you live in.

The length of the term was also introduced by a Council member present at the meeting who voiced the opinion that a new Council member requires at least one to two years to become familiar with the issues the Nation faces and become productive members. This view was endorsed by other Council members who were present.

Through this discussion, one of the participants acknowledged that the number of seats on Council should reflect the workload of the Council—if more Council members are needed in order to share the workload, then there should be more Councillor positions. Another participant expressed concern about the cost of governance if we should increase the number of Council members and create youth and elders Council.

June 11th, 2024: virtual meeting

In attendance at the June 11th, 2024, were the following participants:

Kenna Dufresne

Chad Edgar

Linda Peterson, Committee
Member

Jennifer Jacques

Irene Armstrong,
Committee Member

Sandra Donney-Fraser,
Committee Member

Paul Robinson

Will Morin

Attached to this memo as Appendix E is the background information memo that was distributed by email to the Project listserv prior to the meeting. That memo focused Citizen engagement in law-making processes and the removal of the reference to the Canadian Charter of Rights and Freedoms.

Enfranchisement

The first topic that was discussed, and introduced by a participant, was the question of enfranchisement and whether the Nation is doing anything to address it. The participant was concerned that the ongoing discrimination in the *Indian Act* is adversely affecting the Nations Citizens and Ottawa is taking far too long to address it. Another participant in the working group echoed those concerns and made a request to the Council members present at the session to bring the topic of a Citizenship Law to Council for immediate action. The participant suggested that Council should not proceed with the Governance Reform Project until the question of Citizenship can be addressed.

Educating Citizens on their Anishinaabe law and governance practices

Jumping off on this discussion that the *Indian Act* status provision and how they don't reflect Anishinaabe laws, the participant also articulated that all other colonial instruments—such as the Criminal Code, Constitution, Canadian Charter of Rights and Freedoms—do not honour Anishinaabe laws. In order for Citizens to engage in informed discussions, the Council needs to take more immediate action to educate Citizens on their roles and responsibilities with their spirit name, with their clan, their community, and their Nation. The education piece is the starting point of this process of governance reform, otherwise it's an imbalanced process of reinvigorating our laws wherein people who are informed about traditional protocols steer the discussion. Citizens must be educated on the three fires Confederacy, the clan system, and our traditions. It will take decades to be in a place where our Nation is fluent in these practices, but Council has to be prepared to “play the long game”.

Everyone must be given the opportunity to participate in that educational process. However, only those who engage in enhancing their knowledge of their role and responsibility as Anishinaabe can participate in the conversations on governance. In this participant's view, Citizens cannot have the benefits of a status card but do nothing to be Indigenous.

Another participant raised their concern about this proposal to educate and allow only the informed to move the governance discussion forward since colonial and religious indoctrination is deeply ingrained. There are many who may be unwilling to re-integrate the Anishinaabe way. The response was that we can only remain kind and gentle to those who are struggling and those who are in the process of re-educating themselves, the lodge door will remain open for them when they are ready. They will not be excluded and they will not be forgotten either. Most participants agreed that this is a vision for the Nation to pursue but that steps should be taken now to improve our governance processes but leaving pathways to onboard traditional governance practices while we enhance our knowledge of those practices.

On the question of Citizen engagement in law-making, the general consensus of the group was that the Nation should be providing Citizens with as many avenues as possible for engagement. But Citizens cannot be forced to engage, they must come willingly to the process. What gets reflected in the final product are the voices of those who engaged in the process; who must consider the perspectives of those who are not at the table. Then everyone is given an opportunity to vote on the final document. There was no suggestion on what an appropriate voting threshold should look like.

Other topics raised

The topic of term of office was also raised organically and the two participants who engaged in that discussion endorsed a four-year term of office for Council.

There are several participants who expressed their opinions around the need to dedicate more financial resources to enhancing Citizen's knowledge of the language and cultural practices.

Charter of Rights and Freedoms

While the topic was raised as to whether the Chi-Naaknigewin should continue to emphasize the Canadian Charter of Rights and Freedoms, there was a shortage of time for a fulsome discussion, and the topic was deferred. One participant did offer the suggestion that we should be recognizing ourselves as citizens of North America – not simply Canadians. Charter mobility rights may be at odds with this notion that Anishinaabe people have a mobility right within Turtle Island.

One participant voiced their opinion that they were perfectly comfortable with leaving the reference to the Charter out of the Chi-Naaknigewin since Charter rights apply to all Canadian Citizens.

June 18th, 2024: virtual meeting

In attendance at the June 18th, 2024, were the following participants:

Kenna Dufresne

Diane Gaudet

Linda Peterson, Committee
Member

Ann Gascon

Irene Armstrong,
Committee Member

Sandra Donny-Fraser,
Committee Member

Attached to this memo as Appendix F is the background information memo that was distributed by email to the Project listserv in advance of the meeting. The topics in the memo focused Council decisions requiring Citizen approval and financial accountability.

Charter of Rights and Freedoms

The topic of whether to remove the reference to the Charter was carried forward from the prior working group session. Most participants were of the view that the language of the Charter could be removed. One participant did feel strongly that the inclusion of the Charter was important. From there, the conversation focused on what the impact of an Anishinaabe Charter would have on Citizens, as opposed the inclusion of the Canadian Charter. It was explained that the removal of the language related to the Canadian Charter in the Chi-Naaknigewin would not eliminate the applicability of the Charter to the federal, provincial, and First Nation governments. But the addition of an Anishinaabe Charter would impact the decisions and actions of the First Nation government but it would not likely influence Citizens' relationship with the federal or provincial governments.

The topics will be deferred to Council for discussion and final decision.

Council decisions requiring Citizen approval

The Chi-Naaknigewin outlines several decisions where Council must get Citizen approval, but the Chi-Naaknigewin does not specify when Council should seek out that approval. The ambiguity on the timing could create problems down the road if Citizens have an expectation that they should be engaged earlier in the process. Is there an appropriate moment when Citizens can be asked to weigh in?

One participant stated that they would like to have all key information needed to make a decision on whether or not to approve. That key information was defined as what the impact/implications of the project will be, what opportunities there are that will benefit Citizens directly, what benefits will accrue to the Nation, and what costs will the Nation have to bear. There was also a suggestion about a consultation protocol for all these decisions that includes an initial introduction to the project, a mid-term engagement, and a final check-in once all the documents have been completed.

The Chi-Naaknigewin only talks about approval but that doesn't require a vote. One participant suggested that we forgo ratification votes and instead contact, by telephone, those individuals who vote in elections to get their opinions. One participant suggested that the youth—whether they are eligible to vote or not—should be brought into the conversation since some decisions, such as 25-year leases, would extend well into their adulthood.

There was also discussion about scenarios when Council decisions cannot be brought back for Citizen approval because the Nation must move quickly—for example economic development opportunities. Despite this interjection, there were no suggestions about any other decisions that should be added to the existing list in section 12.1 of the Chi-Naaknigewin.

The general conclusion was that ratification votes are not essential to achieve Citizen approval for the purpose of the decisions outlined in the Chi-Naaknigewin but that all Citizens should be given an opportunity to voice their approval/disapproval. There was emphasis that Citizens should be informed as the project unfolds. There is also no bright line rule on when the approval must be sought. However, when Citizen approval is sought, there should be enough information for Citizens to be able to actually make an informed decision.

Financial Accountability

Participants were asked whether it was reasonable to remove the prescriptive dates for the Citizens' review of the annual budget outline in section 15 since the April date does not allow the Nation to approve a budget before the beginning of the fiscal year. It was suggested that the word "before" should replace the word "during" in that section in order to allow the Nation to approve an annual budget before the beginning of the fiscal year.



Citizen Working Group

Background Information

To: Election Law – Working Group

From: Jessica Labranche, Advisor to the Special Committee on Governance

Date: Prepared for the session hosted on Tuesday May 14th, 2024

The purpose of this document is to provide participants with some background information for the discussions during the May 14th, 2024, working group session aimed at discussing the elements of Chi-Naaknigewin. The document is intended to help provoke discussion and is not intended to reflect the views of Council or the Special Committee on Governance.

Residency Requirement for Elected Councillors

Residency requirements for elected officials are a way to ensure effective representation and strengthen the connection between elected officials and the community they serve. While Michipicoten's Citizens live everywhere, their Indigeneity and Nationhood is intrinsically tied to Michipicoten's traditional and treaty territory.

In the past, residency was addressed by the fact that the Council met in-person. In turn, these in-person meeting requirements necessitated that Council members live in proximity to the Council's meeting location. When it comes to the office of the Chief, the fact of having to maintain their office at Michipicoten's administrative buildings located at Gros Cap No. 49, by default, forces the Chief to maintain a residence in proximity.

However, the Nation has embraced technology and the Council's meetings have moved to a virtual platform to facilitate access by Citizens who live off reserve. Offices have been opened in Wawa and Sault Ste. Marie—with Citizens pressing for offices in Thunder Bay and Sudbury.

A question on residency requirements was put to Citizens in the 2024 Governance Survey and 78.67% of respondents indicated their desire for some form of residency requirement for Council members. Among the options provided on the survey, Ontario was the most preferred geographic region, while residency within the Traditional Territory was the next favoured option.

The responses to Question 14 can also be contrasted to responses provided to Questions 10 & 11 of the survey that asked what requirements, if any, should a candidate meet to be eligible to run for Council. The responses to that question indicate that Citizens are less likely to require that a Candidate “is or has resided (within their lifetime) in Michipicoten’s traditional territory” in order to qualify for a nomination. It seems that the place of residence is only significant if a person is elected.

During the March 19th Citizen working group session, participants were asked to reflect upon the expressed desire to impose a “residency requirement” for Council members. The consensus of the group was that elected Council members should be residents of Ontario.

- Proximity to the Nation for face-to-face meeting among Council and the cost associated with facilitating;
- Residents of Ontario would have a more intimate knowledge with the provincial government and agencies that serve the Nation;
- Most Citizens reside in Ontario;
- Having all Council members operating in the same time zone.

Subsequent to that session, the Supreme Court of Canada (SCC) released its decision in the *Dickson v. Vuntut Gwitchin First Nation*¹ case (herein after *Dickson Case*) stating that the Vuntut Gwitchin First Nation residency requirement imposed by their Constitution was permissible under s. 25 of the *Charter* even though it infringes Mrs. Dickson’s s. 15(1) rights under the *Charter*. According to the SCC, the residency requirement protects Indigenous difference — understood as interests connected to Aboriginal cultural difference, Aboriginal prior occupancy, Aboriginal prior sovereignty, or Aboriginal participation in the treaty process – which they considered to be an “other right” under s. 25 of the *Charter*.

A significant fact supporting the SCC’s conclusion was that the Vuntut Gwitchin First Nation residency requirement outlined in their Constitution specified that residency had to be within the settlement land (equivalent to Treaty lands) or in the village of Old Crow in the traditional territory of the Vuntut Gwitchin First Nation.

¹ 2024 SCC 10

The question of residency requirements was again raised during the April 14th Citizen working group session. While the group did not arrive at a consensus on the question of the residency requirement, there was a lot of discussion about what should inform the decision on a residency requirement.

Reasons cited:

- importance of face-to-face meetings, specific mentions were during quarterly meetings in Sault Ste. Marie and Sudbury, youth and elders gathering;
- importance of being connected to the traditional territory of the Nation and the residents of the reserve;
- important that the office of the Chief be resident in the traditional territory and a deep understanding of the traditional territory;
- acknowledging that this Nation's government serves Citizens everywhere;

Implications of the Dickson Case for Michipicoten's Governance Reform Project

The precedence set by the *Dickson Case* suggests that a residency requirement that maps the Nation's traditional territory and even Treaty territory would be acceptable and defensible from a *Charter* challenge, even though it infringes a Candidate's rights to equality under the *Charter*. However, this precedence does not align with the direction expressed by Citizens, thus far.

Consider the following options towards the inclusion of a residency requirement:

- 1. Set out a residency requirement that maps the traditional and treaty territory of Michipicoten First Nation in the Nation's Chi-Naaknigewin. Note, that a residency requirement that maps the traditional and treaty territory would eliminate a large proportion of Citizens from taking up a role on Council.**
- 2. Spell out a residency requirement that maps the province of Ontario with the understanding that it may be challenged down the road. The Nation would be leaning heavily on the fact this residency requirement was endorsed by Citizens.**
- 3. Do not spell out any form of residency requirement in either the Election Law or Chi-Naaknigewin. Instead, re-institute the procedural aspect that would bring Council members closer to the Nation. For example, in-person attendance at key electoral/community events (such as nomination meeting, inaugural meeting, youth and elders gathering, Citizen information meetings); re-instate in-person meetings for regular Council business (with virtual attendance for Citizens)—other meetings, particularly those hosted on short notice, could be hosted virtually; establish office hours for all Council members (particularly since they will be holding portfolios that**

**may require direct engagement with the Administration/resident/citizens);
budgetary limitation for travel for in-person activities. Note, these processes would
all fall within a policy framework and not the Election Law.**

Seats on Council for Resident

As part of the 2024 Governance Survey, Citizens were asked whether there should be a dedicated number of seats on Council for Candidates who have their place of residence located on the reserve. Of the total 111 survey responses received, 69 respondents identified a preference for dedicated seats on Council for residents of the Gros Cap No. 49 Reserve. While one participant of the working group suggested that there should be at least one seat on Council that is dedicated for a resident of the reserve, others expressed concern about a framework that allocated dedicated seats to residents who were nominated for a Council position. Those concerns were expressed as:

- What happens if there are not enough Candidates who are residents to fill any resident dedicated seats. The position would be acclaimed.
- The pool of Candidates among the residents is quite small, particularly since the Community Trust operates with a board consisting of mainly residents and members of that board cannot sit as Council members.
- A large number of Candidates who ran in the last election (19 out of 23) were non-residents. Voters should be allowed to decide on who gets elected among those eligible nominees rather than be required to elect a portion of residents.

It was also suggested to participants that a residency requirement could allow for non-residents who are elected to commit to relocating to the reserve in order to take up an elected position for a “resident only” seat. Although some participants viewed this option to relocate to take up a “resident only” Council position as impractical because of lack of housing and employment opportunities on the reserve.

Instead of dedicated seats on Council for residents, the following could be implemented:

- The oath of office for Council members should reflect an explicit undertaking to represent the voice of all Citizens, both on and off the reserve.
- A policy framework could be developed whereby a Councillor(s) has the dedicated role and responsibility of bringing residents voice to the Council table.
- Establish an advisory role for a resident during terms where no residents achieve sufficient votes to be elected as a Council member.
- The Deputy Chief could also be required to take up residency on reserve.

Appendix A

The Seven Grandfather Teachings

According to Benton-Banai (1988), the Seven Grandfather Teachings form the foundation of an Indigenous way of life. Key concepts of respect and sharing are built into the Seven Grandfather Teachings. There are many versions of the Seven Grandfather Teachings. The following is a shortened version of the teachings as recounted by Benton-Banai (1988).

According to Benton-Banai (1988), the Creator gave the seven grandfathers the responsibility to watch over the people. In this recounting of the story, the seven grandfathers, seeing that the people were living a hard life, sent a messenger down to the earth to find someone who could tell what Ojibway life should be and bring him back. The messenger searched all directions – North, South, West and East – but could not find anyone. Finally, on the seventh try, the messenger found a baby and brought him back to where the grandfathers were sitting in a circle. The grandfathers, happy with the messenger's choice, instructed him to take him all around the earth so the baby could learn how the Ojibway should lead their lives. They were gone for seven years. Upon his return, as a young man, the grandfathers, recognizing the boy's honesty, gave him seven teachings that he could take with him. They are as follows: Nibwaakaawin—Wisdom; Zaagi'idiwin—Love; Minaadendamowin—Respect; Aakode'ewin—Bravery; Gwayakwaadiziwin—Honesty; Dabaadendiziwin—Humility; and Debwewin—Truth.

Nibwaakaawin—Wisdom: Wisdom, a gift from the Creator, is to be used for the good of the people. The term “wisdom” can also be interpreted to mean “prudence” or “intelligence.” This means that we must use good judgement or common sense when dealing with important matters. We need to consider how our actions will affect the next seven generations. Wisdom is sometimes equated with intelligence. Intelligence develops over time. We seek out the guidance of our Elders because we perceive them to be intelligent; in other words, they have the ability to draw on their knowledge and life skills in order to provide guidance.

Zaagi'idiwin—Love: Love is one of the greatest teachers. It is one of the hardest teachings to demonstrate especially if we are hurt. Benton-Banai (1988) states that “To know Love is to know peace.” Being able to demonstrate love means that we must first love ourselves before we can show love to someone else. Love is unconditional; it must be given freely. Those who are able to demonstrate love in this way are at peace with themselves. When we give love freely it comes back to us. In this way love is mutual and reciprocal.

Minaadendamowin—Respect: One of the teachings around respect is that in order to have respect from someone or something, we must get to know that other entity at a deeper level. When we meet someone for the first time we form an impression of them. That first impression is not

based on respect. Respect develops when one takes the time to establish a deeper relationship with the other. This concept of respect extends to all of creation. Again, like love, respect is mutual and reciprocal – in order to receive respect one must give respect.

Aakode’ewin—Bravery: Benton-Banai (1988) states that “Bravery is to face the foe with integrity.” This simply means that we need to be brave in order to do the right thing even if the consequences are unpleasant. It is easy to turn a blind eye when we see something that is not right. It is harder to speak up and address concerns for fear of being retaliated against. Often times, one does not want to ‘rock the boat.’ It takes moral courage to be able to stand up for those things that are not right.

Gwayakwaadiziwin—Honesty: It takes bravery to be honest in our words and actions. One needs to be honest first and foremost with oneself. Practicing honesty with oneself makes it easier to be honest with others.

Dabaadendiziwin—Humility: As Indigenous people we understand our relationship to all of creation. Humility is to know your place within Creation and to know that all forms of life are equally important. We need to show compassion (care and concern) for all of creation.

Debwewin—Truth: “Truth is to know all of these things” (Benton-Banai, 1988). All of these teachings go hand in hand. For example, to have wisdom one must demonstrate love, respect, bravery, honesty, humility and truth. You are not being honest with yourself if you use only one or two of these teachings. Leaving out even one of these teachings means that one is not embracing the teachings. We must always speak from a truthful place. It is important not to deceive yourself or others.

Source: <https://ecampusontario.pressbooks.pub/movementtowardsreconciliation/chapter/the-seven-grandfather-teachings/>



Citizen Working Group

Background Information

To: Chi-Naaknigewin – Working Group

From: Jessica Labranche, Advisor to the Special Committee on Governance

Date: Prepared for the session hosted on Sunday May 26th, 2024

The purpose of this document is to provide participants with some background information for the discussions during the May 26th, 2024, working group session aimed at discussing the elements of Chi-Naaknigewin. The document is intended to help provoke discussion and is not intended to reflect the views of Council or the Special Committee on Governance.

Residency Requirement for Elected Councillors

Residency requirements for elected officials are a way to ensure effective representation and strengthen the connection between elected officials and the community they serve. While Michipicoten's Citizens live everywhere, their Indigeneity and Nationhood is intrinsically tied to Michipicoten's traditional and treaty territory.

In the past, residency was addressed by the fact that the Council met in-person. In turn, these in-person meeting requirements necessitated that Council members live in proximity to the Council's meeting location. When it comes to the office of the Chief, the fact of having to maintain their office at Michipicoten's administrative buildings located at Gros Cap No. 49, by default, forces the Chief to maintain a residence in proximity. However, the Nation has embraced technology and the Council's meetings have moved to a virtual platform to facilitate access by Citizens who live off reserve. Offices have been opened in Wawa and Sault Ste. Marie—with Citizens pressing for offices in Thunder Bay and Sudbury.

A question on residency requirements was put to Citizens in the 2024 Governance Survey and 78.67% of respondents indicated their desire for some form of residency requirement for Council members. Among the options provided on the survey, Ontario was the most preferred geographic region, while residency within the Traditional Territory was the next favoured option.

During the March 19th Citizen working group session, participants were asked to reflect upon the expressed desire to impose a “residency requirement” for Council members. The consensus of the group was that elected Council members should be residents of Ontario.

- Proximity to the Nation for face-to-face meeting among Council and the cost associated with facilitating;
- Residents of Ontario would have a more intimate knowledge with the provincial government and agencies that serve the Nation;
- Most Citizens reside in Ontario;
- Having all Council members operating in the same time zone.

Subsequent to that session, the Supreme Court of Canada (SCC) released its decision in the *Dickson v. Vuntut Gwitchin First Nation*¹ case (herein after *Dickson Case*) stating that the Vuntut Gwitchin First Nation residency requirement imposed by their Constitution was permissible under s. 25 of the *Charter* even though it infringes Mrs. Dickson’s s. 15(1) rights under the *Charter*. According to the SCC, the residency requirement protects Indigenous difference — understood as interests connected to Aboriginal cultural difference, Aboriginal prior occupancy, Aboriginal prior sovereignty, or Aboriginal participation in the treaty process – which they considered to be an “other right” under s. 25 of the *Charter*.

A significant fact supporting the SCC’s conclusion was that the Vuntut Gwitchin First Nation residency requirement outlined in their Constitution specified that residency had to be within the settlement land (equivalent to Treaty lands) or in the village of Old Crow in the traditional territory of the Vuntut Gwitchin First Nation.

The question of residency requirements was again raised during the April 14th Citizen working group session. While the group did not arrive at a consensus on the question of the residency requirement, there was a lot of discussion about what should inform the decision on a residency requirement. Reasons cited:

¹ 2024 SCC 10

- Importance of face-to-face meetings, specific mentions were during quarterly meetings in Sault Ste. Marie and Sudbury, youth and elders gathering.
- Importance of being connected to the traditional territory of the Nation and the residents of the reserve.
- Important that the office of the Chief be resident in the traditional territory and a deep understanding of the traditional territory.
- Acknowledging that this Nation's government serves Citizens everywhere.

During the May 14th in-person working group session held at Michipicoten First Nation, the feedback was also mixed, expressed as:

- Elected officials should live in proximity so as to maintain a connection with the land and people they serve.
- At least one of the Council members should be a resident of Michipicoten First Nation.
- Should approach the question using a values-based approach that focuses on the seven grandfather teachings-- Nibwaakaawin—Wisdom; Zaagi'idiwin—Love; Minaadendamowin—Respect; Aakode'ewin—Bravery; Gwayakwaadiziwin—Honesty; Dabaadendiziwin—Humility; and Debwewin—Truth-- and the medicine wheel (see Appendix A).
- Where Citizens currently live should inform the decision.
- Anyone should be able to run, and voters should be left to decide. The counter view was expressed that if voters grow disconnected to the territory, their voting preferences could also distance themselves from their connection to the land.

Consider the following options towards the inclusion of a residency requirement:

- 1. Set out a residency requirement that maps the Nation's traditional territory (see attached Map A) and Robinson Superior Treaty territory (see attached Map B) of Michipicoten First Nation in the Nation's Chi-Naaknigewin.**
- 2. Spell out a residency requirement for a specific number of elected seats – E.g. majority of Council, less than half, minimum of three seats on Council.**
- 3. Do not spell out any form of residency requirement. Instead, re-institute the procedural aspect that would bring Council members closer to the Nation. For example, in-person attendance at key electoral/community events (such as nomination meeting, inaugural meeting, youth and elders gathering, Citizen information meetings); re-instate in-person meetings for regular Council business (with virtual attendance for Citizens)—other meetings, particularly those hosted on short notice, could be hosted virtually; establish office hours for all Council members**

(particularly since they will be holding portfolios that may require direct engagement with the Administration/resident/citizens); budgetary limitation for travel for in-person activities. If so, where should the requirements be spelled out—policy frameworks or the Election Law?

Citizen Engagement in the Nation's Law-Making

As currently drafted, the Chi-Naaknigewin spells out when the Council must return to Citizens for their endorsement before adopting a law (section 12.1) and set out a high-level process for law-making and Citizen engagement (section 13).

The Special Committee on Governance established a more robust process for the development of the Election Law that included multiple Citizen engagement processes—surveys, workings groups, consultation period on draft documents—even prior to following through with the law-making process set out in the Chi-Naaknigewin. Despite best efforts to engage Citizens, there are some Citizens who have expressed their concern for the lack of Citizen participation – 113 survey participants and roughly 60 working group/information meeting participants.

Consider the following questions in respect of the Council Law-Making function:

- 1. When should Citizens be engaged in the law-making process—E.g. at the draft stage; only once a draft is produced; as part of the enactment process (as currently spelled out in the Chi-Naaknigewin). Is there a bright line rule of should it be left to the discretion of the Council?**
- 2. How should the adequacy of Citizen engagement be measured? E.g. Number of Citizen meetings held; number of Citizens actually engaged; the passage of time for engagement –i.e.. 3-month, 10-month; a combination of these factors. Is there a bright line rule of should it be left to the discretion of the Council?**
- 3. If we use the number of Citizens being engaged as the threshold for satisfying Citizen engagement, what threshold should be met before the Council should deem engagement to be adequate? E.g. 50% of all Citizens, 50% of all eligible voters. Should this threshold also apply to the process for obtaining the “approval by eligible voters” as required under section 12.1 of the Chi-Naaknigewin?**

Appendix A

The Seven Grandfather Teachings

According to Benton-Banai (1988), the Seven Grandfather Teachings form the foundation of an Indigenous way of life. Key concepts of respect and sharing are built into the Seven Grandfather Teachings. There are many versions of the Seven Grandfather Teachings. The following is a shortened version of the teachings as recounted by Benton-Banai (1988).

According to Benton-Banai (1988), the Creator gave the seven grandfathers the responsibility to watch over the people. In this recounting of the story, the seven grandfathers, seeing that the people were living a hard life, sent a messenger down to the earth to find someone who could tell what Ojibway life should be and bring him back. The messenger searched all directions – North, South, West and East – but could not find anyone. Finally, on the seventh try, the messenger found a baby and brought him back to where the grandfathers were sitting in a circle. The grandfathers, happy with the messenger's choice, instructed him to take him all around the earth so the baby could learn how the Ojibway should lead their lives. They were gone for seven years. Upon his return, as a young man, the grandfathers, recognizing the boy's honesty, gave him seven teachings that he could take with him. They are as follows: Nibwaakaawin—Wisdom; Zaagi'idiwin—Love; Minaadendamowin—Respect; Aakode'ewin—Bravery; Gwayakwaadiziwin—Honesty; Dabaadendiziwin—Humility; and Debwewin—Truth.

Nibwaakaawin—Wisdom: Wisdom, a gift from the Creator, is to be used for the good of the people. The term “wisdom” can also be interpreted to mean “prudence” or “intelligence.” This means that we must use good judgement or common sense when dealing with important matters. We need to consider how our actions will affect the next seven generations. Wisdom is sometimes equated with intelligence. Intelligence develops over time. We seek out the guidance of our Elders because we perceive them to be intelligent; in other words, they have the ability to draw on their knowledge and life skills in order to provide guidance.

Zaagi'idiwin—Love: Love is one of the greatest teachers. It is one of the hardest teachings to demonstrate especially if we are hurt. Benton-Banai (1988) states that “To know Love is to know peace.” Being able to demonstrate love means that we must first love ourselves before we can show love to someone else. Love is unconditional; it must be given freely. Those who are able to demonstrate love in this way are at peace with themselves. When we give love freely it comes back to us. In this way love is mutual and reciprocal.

Minaadendamowin—Respect: One of the teachings around respect is that in order to have respect from someone or something, we must get to know that other entity at a deeper level. When we meet someone for the first time we form an impression of them. That first impression is not

based on respect. Respect develops when one takes the time to establish a deeper relationship with the other. This concept of respect extends to all of creation. Again, like love, respect is mutual and reciprocal – in order to receive respect one must give respect.

Aakode’ewin—Bravery: Benton-Banai (1988) states that “Bravery is to face the foe with integrity.” This simply means that we need to be brave in order to do the right thing even if the consequences are unpleasant. It is easy to turn a blind eye when we see something that is not right. It is harder to speak up and address concerns for fear of being retaliated against. Often times, one does not want to ‘rock the boat.’ It takes moral courage to be able to stand up for those things that are not right.

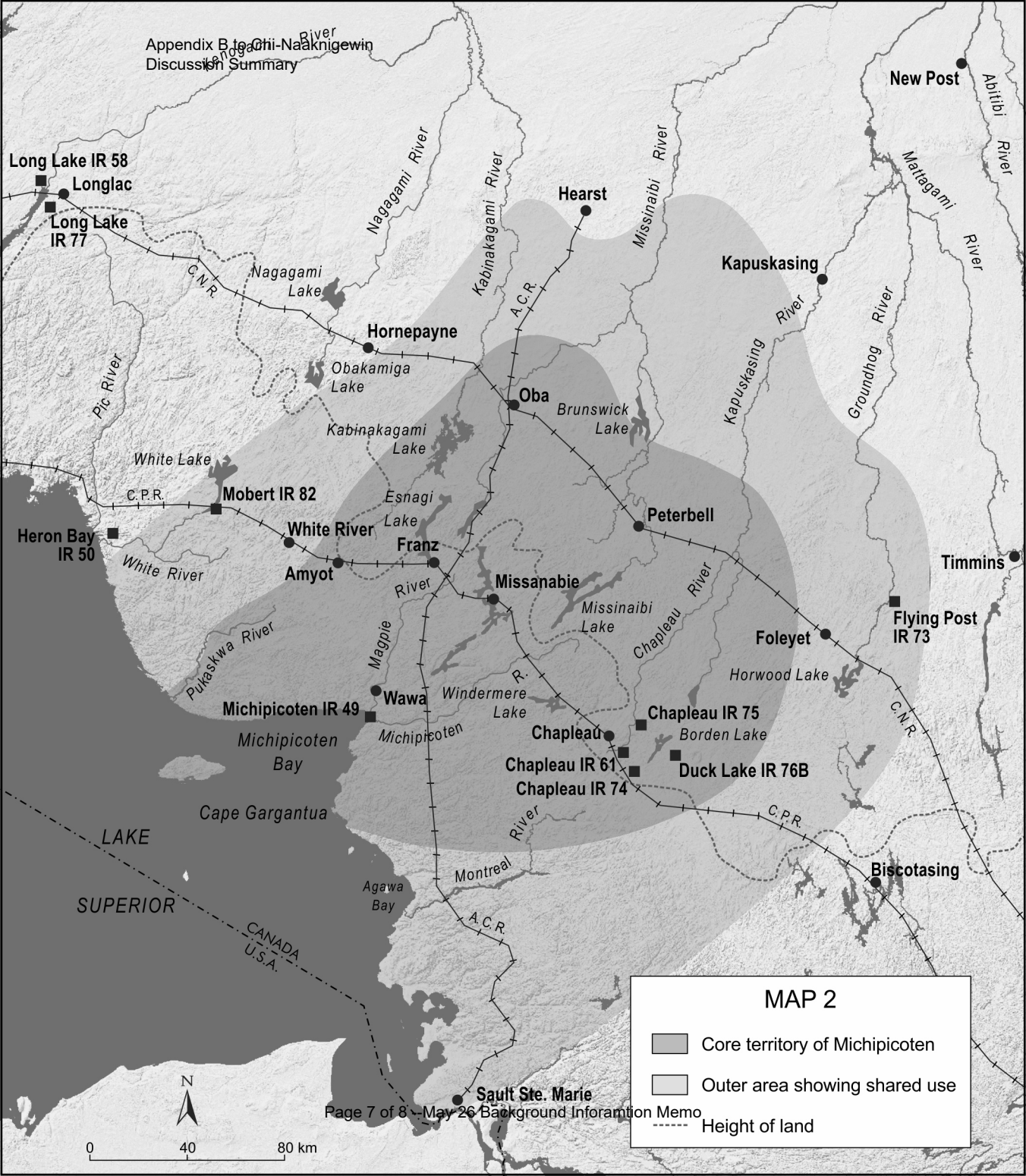
Gwayakwaadiziwin—Honesty: It takes bravery to be honest in our words and actions. One needs to be honest first and foremost with oneself. Practicing honesty with oneself makes it easier to be honest with others.

Dabaadendiziwin—Humility: As Indigenous people we understand our relationship to all of creation. Humility is to know your place within Creation and to know that all forms of life are equally important. We need to show compassion (care and concern) for all of creation.

Debwewin—Truth: “Truth is to know all of these things” (Benton-Banai, 1988). All of these teachings go hand in hand. For example, to have wisdom one must demonstrate love, respect, bravery, honesty, humility and truth. You are not being honest with yourself if you use only one or two of these teachings. Leaving out even one of these teachings means that one is not embracing the teachings. We must always speak from a truthful place. It is important not to deceive yourself or others.

Source: <https://ecampusontario.pressbooks.pub/movementtowardsreconciliation/chapter/the-seven-grandfather-teachings/>

Referencing: Benton-Banai, Edward. *The Mishomis Book: The Voice of the Ojibway*. Minneapolis: University of Minnesota Press, 2010.



MAP 2

- Core territory of Michipicoten
- Outer area showing shared use
- Height of land

0 40 80 km

	No. Citizens age 18 +	Percentage of the Total
Traditional Territory Total	391	40.10%
Aweres Township	4	
Batchewana Bay	10	
Chapleau	12	
Dubreuiville	3	
Foleyet	1	
Goulais Bay / River	11	
Hawk Junction	9	
Michipicoten	12	
Missinaibe	1	
Sault Ste Marie	208	
Sultan	2	
Wawa	110	
White River	8	
Treaty Territory -- outside the traditional territory -- Total	53	5.44%
Dorion	1	
Fort William First Nation	1	
Longlac	1	
Manitouwadge	3	
Marathon	5	
Murillo	1	
Red Rock	2	
Schreiber	6	
Shuniah	1	
South Gilles	1	
Terrace Bay	7	
Thunder Bay	24	
Other Ontario Total	353	36.21%
Robison Huron Treaty Territory	140	
Norther Ontario	42	
Southern Ontario	107	
Greater Toronto Area	64	
Outside of Ontario Total	138	14.15%
Alberta	33	
BC	52	
Manitoba	19	
Newfoundland	2	
Nova Scotia	5	
Quebec	20	
Saskatchewan	5	
Yukon	2	
United States Total	29	2.97%
Michigan / Wisconsin / Minnesota	16	
Other US States	13	
Outside of North America Total	4	0.41%
No City	7	
Total	1548	



Citizen Working Group

Background Information

To: Citizens of Michipicoten First Nation

From: Jessica Labranche, Advisor to the Special Committee on Governance

Date: Prepared for the session hosted on Thursday, June 6th, 2024

The purpose of this document is to provide participants with some background information for the discussions during the June 6th, 2024, in-person working group session in Sudbury. The document is intended to help provoke discussion and is not intended to reflect the views of Council or the Special Committee on Governance.

Citizen Engagement in the Nation's Law-Making

As currently drafted, the Chi-Naaknigewin spells out when the Council must return to Citizens for their endorsement before adopting a law (section 12.1) and sets out a process for law-making and Citizen engagement (section 13).

The Special Committee on Governance established a more robust process for the development of the Election Law that included multiple Citizen engagement processes—surveys, workings groups, consultation period on draft documents—even before the Project will follow through with the process set out in the Chi-Naaknigewin. Despite best efforts to engage Citizens, there are some Citizens who have expressed their concern for the lack of Citizen participation – which to date consist of 113 survey participants and roughly 65 working group/information meeting participants.

Consider the following questions in respect of the Council's Law-Making function:

- 1. At which point in the law-making process should Citizens be engaged—e.g. prior to drafting any documents; at the drafting stage; only once a draft document is produced; as part of the enactment process (essentially, the process currently spelled out in the Chi-Naaknigewin). Should the process be the same for the creation of a**

new law versus the amendment of an existing law? Is there a bright line rule for when Citizens should be engaged or should that decision be left to the discretion of the Council to design based on the nature of the Project and the cost?

2. How should the adequacy of Citizen engagement be measured? e.g. setting a minimum number of Citizen meetings held; number of Citizens actually engaged; the passage of time for engagement –i.e. 3-month, 10-month period of consultation; or a combination of these factors. Is there a bright line rule for reaching a saturation point for engagement or should it be left to the discretion of the Council to determine when engagement was sufficient?
3. If we use the number of Citizens being engaged as the threshold for satisfying Citizen engagement, what threshold should be met before the Council should deem engagement to be adequate? E.g. 50% of all Citizens, 50% of all eligible voters. Should this threshold also apply to the process for obtaining the “approval by eligible voters” as required under section 12.1 of the Chi-Naaknigewin?
4. If there is an established threshold for Council to meet when it comes to Citizen engagement, should there be a reciprocal obligation on Citizens to engage when called upon? If so, how would that be enforced? Should the Nation eliminate any privacy law barriers to ensure that Citizens are receiving updated information about areas where Citizen consultation is required?

Canadian Charter of Rights and Freedoms

The *Charter* is a constitutional document that forms a key part of Canada's *Constitution Act*, 1982. It guarantees certain fundamental rights and freedoms for all Canadians. It outlines a range of rights and freedoms, including:

1. **Fundamental Freedoms:** These include freedom of conscience and religion, freedom of thought, belief, opinion, and expression, including freedom of the press and other media of communication.
2. **Democratic Rights:** This section ensures democratic rights such as the right to vote and the right to run for public office.
3. **Mobility Rights:** Canadians have the right to enter, remain in, and leave Canada, as well as the right to move and take up residence in any province.
4. **Legal Rights:** These include rights related to arrest, detention, and the right to a fair trial, such as the right to be informed of the reasons for arrest or detention, the right to retain and instruct counsel without delay, and the right to be tried within a reasonable time.
5. **Equality Rights:** The Charter guarantees equal protection and equal benefit of the law without discrimination based on race, national or ethnic origin, color, religion, sex, age, or mental or physical disability.

6. **Language Rights:** Canadians have language rights, including the right to use English or French in the Parliament of Canada and the legislature of Quebec, as well as the right to receive services in either English or French from federal and certain provincial institutions.

For more information about the *Charter*, [here is a link to the Government of Canada's website](#).

The *Charter* applies to all levels of government in Canada—federal, provincial, and territorial—providing a framework for protecting individual rights, promoting equality, and upholding the rule of law. While the Supreme Court of Canada's most recent jurisprudence states that the *Charter* also applies to First Nation governments, there are some judges of the Supreme Court that don't agree that it should apply to all—they recognize that the *Charter* was not developed in collaboration with Canada's Indigenous peoples and its implementation has not always adequately addressed the unique rights, interests, and perspectives of Indigenous peoples in Canada.

While the *Charter* does contain certain provisions that have implications for Indigenous rights, for example section 25 of the *Charter* shields constitutionally protected rights (i.e. section 35 rights) from *Charter* challenges, it does not explicitly address the distinct inherent rights of Indigenous peoples, as recognized by treaties or other international instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

However, Michipicoten First Nation's Chi-Naaknigewin has stated that the *Charter* applies to all its Citizens (see section 16). In doing so, the Nation effectively adopts into its own governance structure the interpretation of that *Charter* that is being crafted through Canada's courts. The process leading to the inclusion of section 16 in the Chi-Naaknigewin was not a deliberate reflection of whether or not the *Charter* enhances democratic rights and freedoms of its Citizens within the Nation's governance. Take for example, language rights under subsection 16(1) of the *Charter* which provides that English and French are the official languages. With the incorporation of the *Charter* into the Nation's Chi-Naaknigewin, the Nation could be seen as having adopted these two languages as the official languages for the delivery of its services to its Citizens. Subsection 6(1) of the *Charter* is concerned with mobility and may act to bar the Nation's ability to remove Citizens from the reserve or the territory, if the condition so merits. These are just a few examples of how the *Charter* may not align with the Nations desire to self-govern. Since this is the first time the Nation is taking a deliberate review of the Chi-Naaknigewin, the following questions arise:

1. **Would it be acceptable to remove sections 16 and 17 of the Chi-Naaknigewin until there is a clear understanding of whether the Charter encompasses the values that the Nation wishes to promote? Alternatively, should these provisions of the Chi-Naaknigewin remain until they can be replaced with something more appropriate?**
2. **Is the Nation's governance enhanced by the inclusion of Charter rights? If so, how? If not, why not?**
3. **Should the Nation embark on a process of developing a "Charter" that is more aligned with Anishinaabe law and values (see Appendix A) or sacred law of the Anishinaabe?**

Appendix A

The Seven Grandfather Teachings

According to Benton-Banai (1988), the Seven Grandfather Teachings form the foundation of an Indigenous way of life. Key concepts of respect and sharing are built into the Seven Grandfather Teachings. There are many versions of the Seven Grandfather Teachings. The following is a shortened version of the teachings as recounted by Benton-Banai (1988).

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Referencing: Benton-Banai, Edward. *The Mishomis Book: The Voice of the Ojibway*. Minneapolis: University of Minnesota Press, 2010.



Citizen Working Group

Background Information

To: Citizens of Michipicoten First Nation

From: Jessica Labranche, Advisor to the Special Committee on Governance

Date: Prepared for the session hosted on Tuesday, June 11th, 2024

The purpose of this document is to provide participants with some background information for the discussions during the June 11th, 2024, virtual working group session. The document is intended to help provoke discussion and is not intended to reflect the views of Council or the Special Committee on Governance.

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The Special Committee on Governance established a more robust process for the development of the Election Law that included multiple Citizen engagement processes—surveys, workings groups, consultation period on draft documents—even before the Project will follow through with the process set out in the Chi-Naaknigewin. Despite best efforts to engage Citizens, The Committee received feedback during the May 9th Citizen information meeting there are some Citizens who have expressed their concern for the lack of Citizen participation – which to date consist of 113 survey participants and roughly 75 working group/information meeting participants.

This topic was brought up for discussion during the June 6th in-person working group in Sudbury. The feedback provided included concern for ensuring materials are accessible to Citizens—all of whom have different means, capacity, and access to supports. Nevertheless, there was a recognition that the Citizens are becoming more technologically savvy, even the older generation, suggesting that perhaps a fixed approach for engagement may be too rigid. There was also a comment made

around the fact that, no matter how far-reaching and accessible the consultation are, there will always be Citizens who maintain that they have been left out.

Consider the following questions in respect of the Council's Law-Making function:

- 1. At which point in the law-making process should Citizens be asked to provide their input—e.g. prior to pursuing any law-making project; at the drafting stage; only once a draft document is produced; as part of the enactment process (which is essentially, the process currently spelled out in the Chi-Naaknigewin). Should the process be the same for the creation of a new law versus the amendment to an existing law? Is there a bright line rule for when Citizens should be engaged or should that decision be left to the discretion of the Council to design based on the nature of the Project and the cost?**
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- 3. If we use the number of Citizens being engaged as the threshold for satisfying Citizen engagement, what threshold should be met before the Council should deem engagement to be adequate? E.g. 20% of all Citizens, 20% of all eligible voters. Should this threshold also apply to the process for obtaining the “approval by eligible voters” as required under section 12.1 of the Chi-Naaknigewin?**
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6. **Language Rights:** Canadians have language rights, including the right to use English or French in the Parliament of Canada and the legislature of Quebec, as well as the right to receive services in either English or French from federal and certain provincial institutions.

For more information about the *Charter*, [here is a link to the Government of Canada's website](#).

The *Charter* applies to all levels of government in Canada—federal, provincial, and territorial—providing a framework for protecting individual rights, promoting equality, and upholding the rule of law. While the Supreme Court of Canada's most recent jurisprudence states that the *Charter* also applies to First Nation governments, there are some judges of the Supreme Court that don't agree that it should apply at all—they recognize that the *Charter* was not developed in collaboration with Canada's Indigenous peoples and its implementation has not always adequately addressed the unique rights, interests, and perspectives of Indigenous peoples in Canada.

While the *Charter* does contain certain provisions that have implications for Indigenous rights, for example section 25 of the *Charter* shields constitutionally protected rights (i.e. section 35 aboriginal rights) from *Charter* challenges, it does not explicitly address the distinct inherent rights of Indigenous peoples, as recognized by treaties or other international instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Michipicoten's Chi-Naaknigewin has stated that the *Charter* applies to all its Citizens (see section 16). In doing so, the Nation effectively adopts into its own governance structure the interpretation of that *Charter* that is being crafted through Canada's courts. The process leading to the inclusion of section 16 in the Chi-Naaknigewin was not a deliberate reflection of whether or not the *Charter* enhances democratic rights and freedoms of its Citizens.

When this topic was discussed during an in-person working group session in Sudbury on June 6th, some of the feedback included:

- Adding language to section so that it reads, “Every citizen of Michipicoten First Nation shall be entitled to joy all of the rights and freedoms guarantee in the *Canadian Charter of Rights and Freedoms* as it was prior to the forming of settler colonial governments.” (additional text is underlined)

- The Canadian Charter of Rights and Freedoms applies no matter what the Chi-Naaknigewin states. However, our Nation's documents should focus on Anishinaabe laws and our values. We should remove this section and replace it with something that is our own.
- Another participant asked what were our prior rights? The response from me (Jessica) was that Anishinaabe people followed the seven grandfather teachings to guide them in how to live with one another. Sacred law is also an informative source for understanding Anishinaabe law, but I am not familiar with the teachings of sacred laws—the Nation would have to revive those teachings.
- Concern was expressed that the inclusion of the *Charter* could displace Anishinaabe rights.
- A suggestion was made to use the *Charter* as a baseline to rewrite an Anishinaabe Charter for Citizens.
- The Chi-Naaknigewin should acknowledge that the *Charter* exists, but that we want to prioritize the Nation's laws and Anishinaabe values. This was proposed as a middle ground solution to address any concerns about the impact of the removal of the *Charter* references sections.

The following questions arise:

- 1. Should the Chi-Naaknigewin prioritize Anishinaabe laws and values over the federal and provincial laws, including the *Charter*?**
- 2. Should the Nation embark on a process of developing a “Charter” that is more aligned with Anishinaabe law and values (see Appendix A) or sacred law of the Anishinaabe?**

Appendix A

The Seven Grandfather Teachings

According to Benton-Banai (1988), the Seven Grandfather Teachings form the foundation of an Indigenous way of life. Key concepts of respect and sharing are built into the Seven Grandfather Teachings. There are many versions of the Seven Grandfather Teachings. The following is a shortened version of the teachings as recounted by Benton-Banai (1988).

According to Benton-Banai (1988), the Creator gave the seven grandfathers the responsibility to watch over the people. In this recounting of the story, the seven grandfathers, seeing that the people were living a hard life, sent a messenger down to the earth to find someone who could tell what Ojibway life should be and bring him back. The messenger searched all directions – North, South, West and East – but could not find anyone. Finally, on the seventh try, the messenger found a baby and brought him back to where the grandfathers were sitting in a circle. The grandfathers, happy with the messenger's choice, instructed him to take him all around the earth so the baby could learn how the Ojibway should lead their lives. They were gone for seven years. Upon his return, as a young man, the grandfathers, recognizing the boy's honesty, gave him seven teachings that he could take with him. They are as follows: Nibwaakaawin—Wisdom; Zaagi'idiwin—Love; Minaadendamowin—Respect; Aakode'ewin—Bravery; Gwayakwaadiziwin—Honesty; Dabaadendiziwin—Humility; and Debwewin—Truth.

Nibwaakaawin—Wisdom: Wisdom, a gift from the Creator, is to be used for the good of the people. The term “wisdom” can also be interpreted to mean “prudence” or “intelligence.” This means that we must use good judgement or common sense when dealing with important matters. We need to consider how our actions will affect the next seven generations. Wisdom is sometimes equated with intelligence. Intelligence develops over time. We seek out the guidance of our Elders because we perceive them to be intelligent; in other words, they have the ability to draw on their knowledge and life skills in order to provide guidance.

Zaagi'idiwin—Love: Love is one of the greatest teachers. It is one of the hardest teachings to demonstrate especially if we are hurt. Benton-Banai (1988) states that “To know Love is to know peace.” Being able to demonstrate love means that we must first love ourselves before we can show love to someone else. Love is unconditional; it must be given freely. Those who are able to demonstrate love in this way are at peace with themselves. When we give love freely it comes back to us. In this way love is mutual and reciprocal.

Minaadendamowin—Respect: One of the teachings around respect is that in order to have respect from someone or something, we must get to know that other entity at a deeper level. When we meet someone for the first time we form an impression of them. That first impression is not

based on respect. Respect develops when one takes the time to establish a deeper relationship with the other. This concept of respect extends to all of creation. Again, like love, respect is mutual and reciprocal – in order to receive respect one must give respect.

Aakode’ewin—Bravery: Benton-Banai (1988) states that “Bravery is to face the foe with integrity.” This simply means that we need to be brave in order to do the right thing even if the consequences are unpleasant. It is easy to turn a blind eye when we see something that is not right. It is harder to speak up and address concerns for fear of being retaliated against. Often times, one does not want to ‘rock the boat.’ It takes moral courage to be able to stand up for those things that are not right.

Gwayakwaadiziwin—Honesty: It takes bravery to be honest in our words and actions. One needs to be honest first and foremost with oneself. Practicing honesty with oneself makes it easier to be honest with others.

Dabaadendiziwin—Humility: As Indigenous people we understand our relationship to all of creation. Humility is to know your place within Creation and to know that all forms of life are equally important. We need to show compassion (care and concern) for all of creation.

Debwewin—Truth: “Truth is to know all of these things” (Benton-Banai, 1988). All of these teachings go hand in hand. For example, to have wisdom one must demonstrate love, respect, bravery, honesty, humility and truth. You are not being honest with yourself if you use only one or two of these teachings. Leaving out even one of these teachings means that one is not embracing the teachings. We must always speak from a truthful place. It is important not to deceive yourself or others.

Source: <https://ecampusontario.pressbooks.pub/movementtowardsreconciliation/chapter/the-seven-grandfather-teachings/>

Referencing: Benton-Banai, Edward. *The Mishomis Book: The Voice of the Ojibway*. Minneapolis: University of Minnesota Press, 2010.



Citizen Working Group

Background Information

To: Citizens of Michipicoten First Nation

From: Jessica Labranche, Advisor to the Special Committee on Governance

Date: Prepared for the session hosted on Tuesday, June 18th, 2024

The purpose of this document is to provide participants with some background information for the discussions during the June 18th, 2024, virtual working group session. The document is intended to help provoke discussion and is not intended to reflect the views of the Council or the Special Committee on Governance.

Other Decisions Requiring Citizen Approval

As currently drafted, the Chi-Naaknigewin spells out the kinds of “decisions” that must be brought back to Citizens for their approval—see section 12.2. However, the process for how and when Citizen approval is obtained lacks precision and can cause uncertainty around Citizens’ expectations on when Citizens should be brought into the discussion/decision making process.

Up until this point, the Council has adopted a process whereby a ratification vote, by simple majority, is the method utilized for the purposes of eliciting the approval of eligible voters. The vote is held when there is a complete agreement, which is the embodiment of all the terms of the Council’s “decision”.

Practical Considerations

Timing of Citizen Engagement: There are practical considerations on the timing for bringing Citizens into the discussion/decision making process. If Citizens are brought into discussions too early, there may be limited information to be shared since the “decision” is still under development and the terms of an agreement are still being negotiated. In turn, Citizens have limited information on how to evaluate and provide input on Council’s proposed “decision”. If the Citizens approval

process is exercised by way of a ratification vote of a final agreement, a lot of time and financial resources have been invested to arrive at the terms of a final agreement leaving limited or no room for further negotiations if Citizens are unhappy with the terms of that agreement. Where resource development projects are concerned, lengthy negotiation processes can be viewed as in-depth consultations, in turn satisfying the Crown's constitutional obligations to "consult and accommodate". The lack of ratification at the end of the process does not imply that the development project will not move ahead. Rather, it would likely move ahead but with no benefit accruing to the Nation and its Citizens. Finally, some decisions require timely action by Council in order to execute—for example, decisions on borrowing—and the process for Citizen approval should be efficient.

Confidentiality: These decisions typically involve some form of negotiated agreement or business arrangement that has conditions around confidentiality or non-disclosure about the negotiation process and the agreement itself. Consideration must be given to how confidentiality over the process and/or agreement can be maintained while providing adequate information to Citizens about what the Council is doing.

Costs: The cost of conducting a ratification vote is estimated to be between \$15,000-\$20,000. While these costs may be absorbed by the resource development company proposing a development project, there are instances where the financial benefit of the project is limited, and the cost of a ratification vote may not be justified (in the eyes of the proponent).

There are also instances where the costs of ratification would be wholly the responsibility of the Nation—for example, borrowing decisions.

Consider the following questions in respect of Citizen's roles in the Nation's decision making:

- 1. At which point in the decision-making process should Citizens be asked to provide their approval? Before Council even engages in discussion regarding any of the decisions outlined at 12.2 or when there is a completed agreement setting out all the terms of the "decision". Is there a bright line rule for when Citizens' approval should be engaged or should it be left to the discretion of the Council to design an approval process the aligns with the nature of the decision, taking into consideration all the above (timing, confidentiality, and cost)?**
- 2. Are ratification votes the only method that could be employed to acquire the approval of eligible voters when it comes to the decisions outlined in section 12.2 of the Chi-Naaknigewin? Please share your thoughts on other ways in which voter approval may be acquired.**

Financial Accountability

At section 15 of the Chi-Naaknigewin, there are provisions for financial accountability to Citizens. The focus of the desired amendments is to the timelines that are built into section 15.0. There is a desire to want to move away from strict deadlines in the Chi-Naaknigewin in order to allow for a budget that would see the Nation begin its fiscal year—starting April 1st—with an approved budget. The proposed amendment would be as follows—struck-through text to be deleted and the underlined text added.

15.0 The Michipicoten First Nation Gimaa and Council shall hold at least one community meeting ~~during the month of April~~ of each year to allow its Citizens to review the draft budget of the Michipicoten First Nation for ~~that~~ the upcoming fiscal year.

From your perspective, are there any reasons why the Nation should stick with the prescribed April timeframe?

Are there other prescribed financial accountability measures that should be included in the Chi-Naaknigewin that are not already set out in the Financial Administration By-Law, 2023?