

**TETLIT GWICH'IN COUNCIL
SPECIAL ASSEMBLY**

**APRIL 29, 2004
TETLIT GWICH'IN RECREATION COMPLEX
FT. McPHERSON, NT.**

TETLIT GWICH'IN COUNCIL SPECIAL ASSEMBLY

TETLIT GWICH'IN RECREATION COMPLEX FT. McPHERSON, NT. ~ APRIL 29, 2004

Present: Abe Wilson, Chief
Johnny Kay, Councillor
Johnny Charlie, Councillor
Hazel Nerysoo, Councillor
Neil Colin, Councillor
Frank Firth, Councillor
Wilbert Firth, Councillor

Larry Firth, Chairman
Bertha Francis, Translator
Sharon Snowshoe, Band Manager

James Andre
Mary Ruth Wilson
Richard James Blake
William George Firth
Wayne Greenland
Betty Vittrekwa
Rachel Stewart
James Wilson
Renie Frost
William Charlie
Robert Alexie, Sr.
Dwayne Firth
Louisa Kay
William Neyando
William Nerysoo
Roland Koe
Phillip Blake
Amos Francis
Johnny Peterson
Dorothy Alexie
Richard Wilson
John A. Snowshoe
Danny Peterson
William Koe
Mary Teya
Perry Villebrun, Sr.
Evelyne Parry
Christine Firth
Eunice Mitchell
Annie B. Koe
Eileen M. Kay

Recorder: Jack Cunningham

1. Call to Order

At 1:45 p.m., Larry Firth recognizes quorum and calls the meeting to order. Mary Teya leads the group in an opening prayer.

Larry Firth invites Chief Abe Wilson to make a few opening remarks.

Chief Abe Wilson says there are two main items for discussion today. One is the draft TGC Election Code, the other is an update on the Youth Center project. We heard this morning that Tsiigehtchic lost an Elder, and we will send people over to visit and provide comfort.

2. Appointment of Chairman

Be it Resolved That Larry Firth be appointed as Chairman of the April 29, 2004 Tetlit Gwich'in Council Special Assembly.

Moved by: James Andre

Seconded by: Abe Wilson

Passed. (Resolution #01/04)

3. Approval of Agenda/Waiver of Notice

Agreement that the present meeting has been duly called.

Frank Firth notes that the agenda as circulated lists both "Declaration of Conflict of Interest" and "New Business" as item 4.

Larry Firth replies that this is a typo and will be corrected. "New Business" becomes item 5, and "Adjournment" becomes item 6.

Be it Resolved That the agenda for the April 29, 2004 Tetlit Gwich'in Council Special Assembly be approved, as amended.

Moved by: William Koe

Seconded by: Frank Firth

Passed. (Resolution #02/04)

4. Declaration of Conflict of Interest

Agreement that any conflict may be declared as it arises.

5. New Business

a) TGC Election Code

Larry Firth invites Band Manager Sharon Snowshoe to introduce this item.

Sharon Snowshoe informs the group that copies of the draft Election Code, and Bylaw No. 3, which it will largely replace if adopted, are available at the front of the room.

She explains that last year DIAND developed a sample election code for Bands to follow. The TGC sought funding to develop its own election code in 2002, but did not receive the funds in time to complete the work before the end of Fiscal Year 2003. As a result, we had to return much of the money. We were able to put together another proposal this year, which led to the preparation of the draft you now have. This meeting is largely to go through the draft and discuss its provisions. There are a number of proposed changes from past practice. It is for the members to either accept the draft or request changes to it.

Larry Firth directs the group's attention to the document, "Election Code for the Tetlit Gwich'in Council, Draft 3, February, 2004." This is a 24-page document, and the table of contents includes 87 line items, and 17 main headings in bold. It would be very time-consuming to go through every item. He proposes that we go through the main items, and focus on the changes from the current Bylaw.

The TGC has engaged in constitutional change before. In October of 2000 we decided to amalgamate the Band and the DGO. The Band had its own membership code, which allowed members who were not Beneficiaries under the Gwich'in Comprehensive Land Claim Agreement. The October 2000 Constitution specified acceptance of both memberships, so we inserted a clause stating that only Gwich'in Beneficiaries registered under the Claim could vote on Claim issues. Band members who are not Beneficiaries cannot do so. The DGOs must operate consistently with the GTC. The GTC does recognize Band Councils, but only as land Claim organizations that recognize registered Beneficiaries. It is problematic for Bands to accept members who are not Beneficiaries.

James Andre asks if the Community Assembly to be held this Summer will have to approve the draft election code even if this Assembly approves it.

Larry Firth replies that if this Assembly decides to approve the election code it would then go to Industry Canada for registration.

William Koe asks if the code would be registered right away after approval by this Assembly, and when it would take effect.

Larry Firth explains that Bylaw No. 3, which has been circulated, sets out the rules and procedures currently operative, including the procedures for Special Assemblies, which we are following now. This Bylaw remains in effect until the new election code is approved by Industry Canada. At that point, the elections code replaces Bylaw No. 3 in all matters pertaining to elections.

Wilbert Firth observes that when the TGC has amended its Bylaws in the past, there has been a "turn-around time" of at least 60 days. He takes this to mean that if this Assembly approved the draft election code today, it would not take effect until the end of June at the soonest. If we are to have a Fall election and want it to take place under the new code, we must decide today.

Larry Firth says it is theoretically possible for approval of Bylaw changes to be "fast-tracked" within 45 days, but he has never seen it happen.

Mary Teya says there seems to be a lot to cover in just one afternoon. She wonders if there has been enough opportunity to discuss the proposed changes. It is important that we all understand what we're doing when we make a decision on this document.

Larry Firth says it may be that more community consultation would have been desirable. If people are not comfortable making a decision today, we can go through the draft, discuss it, and clarify points about which people are unsure. We could recommend the document for discussion by the Annual Community Assembly in June rather than making a decision today. There is no emergency, and funding will not be affected if we take more time to decide.

James Andre asks why there were no workshops to go over the draft.

Sharon Snowshoe reiterates that the funding for the exercise came in late. Our legal counsel was ill, so we did not get a legal review of the draft until April, rather than March as we had hoped.

Mary Teya observes that when we had a Chief and Council alone we could essentially do as we wished. Things are changing now, and we need educated people to take part in our decisionmaking. She would like to see some more young people here, since they are the ones who will be making decisions later on, operating under these rules. As one of our Elders once told her, we should always be careful when making decisions on behalf of our people.

Abe Wilson explains that the Council did review the draft election code, and went through it several times. Clearly, it is problematic for people to have to decide upon a document like this at an Assembly without having an opportunity to familiarize themselves with its provisions and their impact. There are a number of changes in the election code which require discussion. These include the extension of the vote to people who declare affiliation with the Tetlit Gwich'in but live outside the GSA. There is also a six months' residency requirement before you can run for office. This would exclude people like students who might have been away for most of the year but then return and decide they would like to seek office. These are debatable issues, and we should have an informed discussion of them before making a decision.

James Andre says there are provisions in the draft election code that differ significantly from what is in the Community Constitution being drafted under the self-government process. Under the self-government document, the Chief would have a four-year term, and there would be three at-large Councillors for two-year terms, so as to provide both a degree of continuity and rotation of officeholders. He would like to see this arrangement discussed within the context of the document we're dealing with today. In another five years self-government may be a reality, in which case we would be making constitutional changes again. Perhaps the appropriate venue for addressing constitutional matters would be a "constitutional workshop" in which the draft election code and the self-government Constitution could be discussed together.

Frank Firth suggests focusing the discussion on the main headings, so people would at least find out what the main changes are. By the end of the day we should know if we are prepared to make our decision now or not.

Evelyne Parry says some Elders do not understand all of the terminology in the draft election code. Workshops might help clarify some of what's in here.

Larry Firth says the consensus seems to be that we should go through and discuss the major items in the draft without accepting or rejecting them, but recommending the document to the Community Assembly for its consideration.

Phillip Blake wonders if we could consider adding what's in the draft election code to the Community Constitution.

Larry Firth responds that the Community Constitution is for a public government, so different membership requirements apply. We would have to change the number of Councillors for one thing. There's also the appointment of youth and Elder representatives, which does not occur under the Community Constitution. The differences between the two are considerable. Perhaps we could take a short break during which the Council can discuss our next steps.

The Assembly breaks at 2:40 and reconvenes at 3:00 p.m.

Larry Firth informs the group that the Council is of the opinion that we should discuss the major headings in the document, and go through as much as we can.

Phillip Blake says he gathers that the Assembly as a whole must decide what to do.

Larry Firth says that is the case. He is relaying the Council's recommendations. Obviously, we will not be able to go through the document line-by-line in the time we have. An Assembly need not simply accept what is put before it. There is no pressure here; if people don't like the draft election code, or have unanswered questions about it, then they should not vote for it. We would still be in good standing with Industry Canada under the Bylaws as they now stand.

Agreement to continue discussion of the major items in the draft election code.

Larry Firth notes that some of the major changes include allowing Beneficiaries who do not live in Ft. McPherson but choose to affiliate with the Tetlit Gwich'in to vote in our elections. In the past, there have been cases in other jurisdictions where Band members have taken legal action against their Chiefs and Councillors on such decisions. Regrettably, we do not have legal counsel here today. Some of the changes here are largely administrative, with more detailed provisions for giving notice and greater accountability on the part of the Election Committee.

He notes there are also provisions for removing the Chief or Councillors that are contentious. There is already a provision for removal in the case of criminal conviction or mispending of Band funds. The Assembly should consider whether the proposed change would allow three or four Councillors to remove a Chief on the basis of political disagreements. The six-month residency requirement conflicts with the two-year requirement in the Community Constitution developed by the Self-Government Committee. The existence of two conflicting provisions will cause confusion, and the provision in the election code would only be valid until self-government came into effect. The provision of mail-out ballots would be something new, and people should consider that questions will arise as a result. Where would the funds to cover increased election costs come from? Who will handle the voters' list? We could end up with 1,200 or 1,300 voters, rather than 400 or so. There are more questions than answers at the moment, so people should take the time required to consider the possible effect of their decisions.

As outlined in section 3 of the draft, the composition of the Council would remain as it is, with one Chief and six elected Councillors, and appointed youth and Elder representatives. The term of office for all positions is three years. When a vacancy for the position of Councillor arises, it will be filled by automatic byelection if the remaining portion of the term exceeds 18 months, but may be filled by Council appointment if it is less.

Section 10 sets out eligibility to vote. An elector must be a Band member of the TGC, or a Gwich'in Beneficiary affiliated with Tetlit Zheh, as well as eighteen years of age on election day. This would include Beneficiaries who do not live here and may never live here.

Eligibility to run for Chief and Councillor are specified in sections 11 and 12, respectively. The six months' residency requirement pertains in both cases.

Abe Wilson suggests the six months' residency requirement should be deleted. It prevents someone who might have been outside the GSA either as a student or for medical treatment from returning here and running for office.

Phillip Blake says the self-government Constitution allows those who do not meet the residency requirement for educational or medical reasons to vote.

Larry Firth adds that under the Canada Elections Act there are specific exemptions from the normal residency requirements, for students, those undergoing medical treatment elsewhere, and those serving with the Canadian Forces. If the Assembly wishes, we can make a note of this issue for further discussion.

Another matter to consider is the requirement in section 11.8 and section 12.8 that a candidate for either Chief or Council may not be in debt to the Council for an account equivalent to \$500, without having made restitution or a substantive payment by the close of nominations. Is the Assembly comfortable with this requirement?

William Koe says this could exclude good people, particularly young people who might owe the Council money. Moreover, there are ways of getting around such a restriction.

Mary Teya says we cannot just let people walk away from their debts.

Larry Firth responds that one option would be to specify that a candidate who owes the TGC money must, upon being elected and before assuming office, come up with an acceptable repayment plan. Or, you could insist upon repayment beforehand.

Phillip Blake says that repayment is good for everyone: the Band (which gets its money back); and the candidate (who gets to run).

William Koe adds that there have been people on community boards who owed money elsewhere and could not take office until they had paid it back.

Larry Firth suggests that rather than recommend deletion of sections 11.8 and 12.8 we can rework them so that if no substantial payment is made beforehand, the candidate must agree to a legally binding repayment plan. This would go to the Election Committee, who would have to be satisfied by the proposed arrangement before approving the nomination.

Abe Wilson says this would seem to meet everyone's concerns. Agreement.

Larry Firth notes that section 13 discusses nomination of candidates for both Chief and Councillor. A candidate may be nominated for both positions, and if elected to both must agree to accept the position of Chief, with votes he or she gathered for Councillor cancelled. Does the Assembly want people to be able to run simultaneously for both positions?

William Koe observes that the Hamlet follows a similar policy, allowing candidates to run for both Mayor and Council. The idea is to ensure that if you have several good people running for Chief, one can lose but still serve in another capacity.

Larry Firth responds that if we are to preserve that principle, the only alternative to the proposed clause would be to have two elections, one for Chief and a later one for Council. This would be much more expensive. The election date is specified in section 14 of the draft. Normally, the election to fill all positions would be on the first Monday after the Council's term expires. Alternatively, if the entire Council resigned or was duly removed, an Annual or Special Assembly would set an election date not later than 45 days after the Assembly. This ensures that under normal circumstances, the election will fall on the same date every three years. If we have this year's election in September, the next one will in September three years later, and so on unless we have a mass resignation.

Neil Colin says many people would prefer the elections be held in July, after they come back from the bush.

William Koe says the choice of an election date is of some importance, since it may determine whether the next election is held under the existing rules or the draft election code.

Larry Firth responds that we can accept the election code and have the next elections under the old rules, and the subsequent ones under the code. Even if we accepted the code today it would have to be registered quickly if it were to take effect in time for this year's elections.

Abe Wilson recalls that a July Assembly passed the existing Constitution and Bylaws, setting a three-year term for all positions, with an election 45 days later. This leads to a September election under the current rules.

Larry Firth confirms that under the present Bylaw, the election will be held in the first week of September, unless the Council collectively resigns, precipitating an early election.

Mary Teya asks if people had an opportunity to indicate a preference between a July and a September election date. If so, what did they want?

Wilbert Firth replies that many people favoured a July election.

Agreement.

Larry Firth asks if people are suggesting an election in July, with the new Chief and Council not taking office until September. A transition like that would require a further amendment, and therefore would not take effect in time for this election.

William Koe observes that as it is, we seem to change election dates every time. If we chose a date now for the next election, could we then amend the Constitution so that it would always fall on the same date?

Larry Firth responds that if we pass an Assembly resolution in favour of a precise date, it would take a subsequent Assembly decision to change it. If the GTC can specify an exact date, so can we. We can specify an actual date or the second Monday in July every three years. If people want a July election this year, the way to arrange it would be to have the Chief and Council resign in time for one to be called.

Neil Colin says this would amount to ending the terms of current Council members early. Some might decline to step down unless they were compensated for the balance of their term, or threaten legal action.

William Koe says it might be easier to have a September election this time, making it clear that the next one would be in July. The term of the Council elected this time would be three years minus two months. After that, it would always be three years, so there would be no need for further wrangling over election dates.

Larry Firth says if the Assembly wants the current Council to resign in time for a July election, that would have to be decided today. We would need a motion directing all Council members to resign effective July 9, and another calling for an election on July 12. We would also have to strike an Election Committee right away. We can do so if that is what everyone wants; we have quorum, and this is a duly constituted Special Assembly.

Neil Colin suggests the easier course would be to stipulate that the term of the next Council expires in July, in just under three years.

Mary Teya says she agrees.

Larry Firth replies that if the Assembly is agreed, there is no need to pass any motions on the election date today. We would modify section 14 of the draft election code to specify that election day will always be the first Monday in July. This would take effect after this year's elections, which will be in September.

Agreement.

Larry Firth directs the group to sections 15 through 20, which deal with the appointment and duties of the Election Committee. It is important to note that Election Committee members do not have a vote and are ineligible to run. It is not easy to find people who are willing to relinquish their rights in order to serve. Section 29 deals with election by acclamation where only one candidate comes forward for a position. Sections 31 through 35 deal with some of the administrative procedures with which Election Committee members must be familiar.

Section 36 deals with the procedure for distributing mail-in ballots in the event we decide to open up the elections to non-resident electors. Do people want non-residents to have the right to vote?

William Koe says he is concerned that non-resident voters would not know much about the candidates. If people want to vote, at the very least they should have to come to Ft. McPherson on election day. He sees no reason to spend a lot of money to enable people who live elsewhere to vote in our elections.

Larry Firth responds that if people decide they don't want non-residents to vote, the clauses on non-resident voting in the draft would be void. Mail-in ballots would mainly be for the convenience of these voters, although others would need them, such as students, medical patients outside the GSA, and residents serving in the Canadian Forces. Until now, we have not had non-resident voting.

Sharon Snowshoe adds that this issue was discussed in Council. It would be up to each non-resident voter to contact us, provide an address, ask to be placed on the voters' list, and request a mail-in ballot.

Abe Wilson says the question of non-resident voting was raised because it has arisen in GTC elections. In Ft. McPherson, there have only been one or two enquiries. If people don't like the idea, we can delete these sections of the draft election code.

William Koe reiterates that people who live outside will not be well-informed on community issues or the merits of the candidates.

Neil Colin points out that they will not see and hear the campaign either.

Frank Firth says he would prefer to limit the franchise to residents.

Bertha Francis says it is too costly to provide mail-in ballots for people living outside the GSA when there are so many more pressing needs which we cannot afford to meet.

Larry Firth informs the group that section 38 outlines the limits on campaigning. Candidates may campaign up to the day before election day, but are forbidden from campaigning at the polling station either on election day or the day of the advance poll.

Neil Colin asks how limits on campaigning would be applied to the community radio station.

Larry Firth replies that the radio station has its own policies governing access to the airwaves for political purposes. Section 49 of the draft election code outlines the procedures for marking a ballot, and section 50 for returning one. Section 51 outlines measures to take when an elector is unable to mark a ballot. Section 57 deals with the procedure for breaking a tie vote for the position of Chief. Everyone should understand what happens. The Electoral Officer must personally mark as many additional ballots as are tied, one for each of the tied candidates, and place the ballots in a container. The Deputy Electoral Officer must then draw one ballot from the container, without looking at it, add it to the ballots for the candidate whose name it indicated, and record the tie-breaking ballot in the Voters' Register. The other ballots cast in this manner are marked as cancelled. This is unlike the procedure followed by the GTC, where in the event of a tie between Presidential candidates, there would be a runoff.

People should also look at section 74, which states how an elected Council member can become ineligible to hold office. This occurs when a Council member accepts a position as a full-time Council employee; is convicted of a crime while in office; misses three or more consecutive regular Council meetings without Council approval; or ceases to be a Tetlit Zheh resident. Larry Firth wonders why half-time Council employment is not disqualifying.

Sharon Snowshoe says there are times when a Councillor is selected to run a particular Council project, on a basis that could be interpreted as part-time employment. The Council would like to retain the freedom to do so.

Larry Firth says section 76 outlines procedures for suspension or removal of a Council member. The section specifies that a Council member "whose conduct is considered to be detrimental to the interests, reputation or objects of the Council" can be suspended or removed by a majority vote of Council in his or her absence. The Council member would be entitled to seven days' written notice, setting out the reason for removal or suspension. Are people comfortable with this provision?

William Koe wonders why such a provision is necessary when section 74 already outlines the circumstances under which a Council member would cease to be eligible to hold office. Moreover, the term "detrimental" is too open-ended.

Abe Wilson says the substance of section 76 is already in the Bylaws. Council has this authority now, and there has been some internal discussion. His own view is that only the people who elect a Council member should have the power to remove him. We need direction on this point.

Neil Colin says section 77 provides for an appeal to the Assembly in such cases, so the Council member does have some rights under the process.

Larry Firth says section 76 also requires Council members to provide the reason for a suspension or removal. We could table this section, but since this procedure is already in the Constitution, we would need an additional constitutional amendment.

Wilbert Firth says we could "flag" the section for discussion at the Annual Assembly.

Larry Firth replies we can do that if people agree.

Phillip Blake says it is unfair to remove a Councillor in his absence.

Larry Firth points out that under the appeal procedure outlined in section 77, the Assembly's decision is final.

Wilbert Firth says another option might be to require a 2/3 vote of Council to suspend or remove, rather than a simple majority.

Larry Firth replies that there seems to be a consensus in favour of bringing this section to the attention of the Annual Assembly.

Agreement.

Larry Firth adds that section 78 deals with procedures for Council to fill a vacancy following suspension or removal, and section 79 provides for majority vote by Council, in the absence of the member in question, on that member's eligibility to run for the vacant office.

Phillip Blake says that prohibiting a Council member who has been removed from running is a violation of Charter rights. The people in the community, who elected the Council member in the first place, should have the opportunity to decide.

Larry Firth says we can "flag" this section for the Annual Assembly as well. He notes that the Assembly has identified a number of provisions of the draft election code for that Assembly to discuss. Having full-scale workshops beforehand is only one option for high-lighting the issues about which people are concerned. We will seek direction in the weeks leading up to the Annual Assembly.

Phillip Blake says it would be good to get as much input as possible. Getting copies of the draft out to everyone who's interested would help.

Larry Firth replies that we can have copies of the document available at the Band office, available to people who want them. We will also have the minutes of this Assembly, during which a number of concerns have been raised, sometime next week.

b) Youth Center

Chief Abe Wilson notes that he and the Council have been lobbying for this project for some time. He has visited representatives of various Federal Departments in Ottawa to promote our proposal, with results that were sometimes frustrating. Last April he met with then-Minister Nault of DIAND, who indicated his support. Last month he received a call from Yellowknife by way of follow-up, and a DIAND official has met with Council representatives about the project. At future meetings, DIAND, GNWT, Band and Hamlet officials will come together to discuss the next steps, get input from local youth and engage in design and costing exercises.

One option arises from the fact that sometime next year the Hamlet will have a new building. It might be possible to put the Hamlet office, firehall, and youth center in one building. We are getting DIAND funding to hire a consultant and put together a comprehensive proposal. Gathering the information and assembling the proposal are the next major steps. Input from the community, and from the youth in particular, are essential. The Tetlit Gwich'in Council and the Hamlet are working together on this file, and we have a solid team in place.

Once the consultant has all the information, things will move forward. Since government is sometimes reluctant to fund projects that are limited to youth, we may wish to make this a "youth and Elders' center" or a "family center." Inuvik has called its major project a family center, and managed to get large donations from industry and government.

Larry Firth says that an additional resolution of support for the project might be helpful.

Neil Colin adds that a lot of work is now being done on a proposal for a sidewalk around the Coop. and gasbar, so that Elders could walk there regardless of the weather. This is a health concern for those affected, and he is optimistic that something will come of the proposal. Work on a sidewalk could also create jobs for local young people.

Be it Resolved That this Assembly express its support for the establishment of a youth/family center in Ft. McPherson.

Moved by: Wilbert Firth

Seconded by: Johnny Kay

Passed. (Resolution #03/04)

6. Adjournment

Be it Resolved That the April 29, 2004 Tetlit Gwich'in Council Special Assembly adjourn.

Moved by: Neil Colin

Seconded by: Wilbert Firth

Passed. (Resolution #04/04)

The Assembly adjourns at 5:40 p.m.