

Minutes
March 27, 2008

*Vermont Commission
On
Native American Affairs*

Mark Mitchell, Chairman
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Commission Members:

Jeanne A. Brink
Timothy de la Bruere
Hilary Casillas
Judy Dow
Charlene R. McManis
Donald W. Stevens

Members Present: Mark Mitchell, Chairman; Tim de la Bruere; Judy Dow; Jeanne Brink; Hillary Casillas

Staff: Diane McInerney, Executive Assistance DHP

Guests: Doris Seale, Burlington; William Whitney, Northfield; Paul Erlbaum, VT Human Rights Commission; Richard (Skip) Bernier, Coventry; Phyllis Donovan, Wheelock; John Moody; Alicia Seyler; Dian Mueller, Burlington; Dorothy Ton, Warren; Charles Delaney, Burlington; Senator Vince Illuzzi, Derby

This meeting was brought to order by the Chairman, Mark Mitchell at 1:00 pm in the AOT Board Room, 5th Floor, National Life Building; Montpelier, Vermont.

Minutes from January 24, 2008, February 25, 2008 and March 13, 2008

Jeanne moved for the approval of the March 13th minutes and Hilary seconded. Minutes from March 13, 2008 meeting were approved by Commission consensus with one grammatical correction. Jeanne moved for the minutes from the January and February meeting to be approved and Hilary seconded. Minutes from January 24, and February 25, 2008 were also approved by Commission consensus.

1. Update on Process for Amendment of S117

Mark began the meeting by distributing a copy of S.369 (5.1) as introduced, and a discussion on that current draft amendment that came out of the Senate Committee at a hearing held earlier in the day. Mark noted that immediate state tribal recognition is an unrealistic thought, driven by fear and anxiety that has been negative and unproductive. The Commission has taken the position of open process for all as a beginning point. Mark questioned whether the Committee has reviewed input sent to them by certified letter or e-mail by "voices not as loud" as others. Committee positions seem to be driven by only those allowed to testify. As creators of S117, this

is the legislature's problem. The Commission has tried to work out a process for the better of the native community. Mark explained that he reviewed the current amendment presented, and it is not the Commission's amendment. Mark did not understand the reason for the addition of the Attorney General to the process and was reluctant to accept a forced time limit to a volunteer board that has not been provided funding for the work suggested to be completed within this limited time frame. Since S117 states that the Commission only needs to meet 3 times a year to fulfill statutory requirements, it is unrealistic to believe that three applicants seeking tribal recognition could be reviewed and a decision made within a five month period.

Mark does not believe that the Commission's position will change in regard to the amendment they presented, and the Commission is not willing to entertain any other amendments. Mark felt that, to understand the procedure for amending S117, the Commission would have to seek legal counsel. Alicia Seyler, Vermont Law School student, asked Mark if the Commission had thought about a restructuring of the Commission and how it might better advocated for native people in Vermont. Mark informed Alicia that the makeup of the Commission lies in statute; S117 can only be amended by the Governor. The Commission does not have the authority to amend S117. Mark felt that the seven Native American volunteer Commission members have worked hard on highly sensitive issues within the state of Vermont to obtain a balance. They developed a web site that is used by thousands with updated information about Native American issues and needs. Mark felt that the only way the Commission could be more efficient is if it were budgeted, with an Executive Director, and volunteers willing to put in 20-40 hours of time per week.

Mark felt that it would be a great disservice to the native community if the Legislature does not take action on S117 this year, and that the direction the Commission has taken is realistic and prudent. All Commission members agreed that they would not support S.369 and they will only endorse their original amendment with the change of the vested authority being held by the Legislature.

2. Title VII Indian Education Power Point Presentation & Discussion

Mark shared his concern for native children and Indian education. He distributed a Power Point Presentation, *Formula Grant Projects*, from the Office of Indian Education, U.S. Department of Education. The Commission discussed how to promote these grants at district schools and where to start. Mark encouraged Commission members to visit the Title VII Indian Education web site for information about more grants and presentations. Mark felt that members need to be more familiar with the process

before they can offer assistance and teach communities about the program to present to school boards. Paul Erlbaum offered advice about LEA (Local Education Agency) and “eligible Indian tribes” that caused concern with the Commission since there are no recognized tribes in the state of Vermont. Mark suggested that this statement pertains to organized communities. Commission members agreed to research the web site and become educated with this program and its process.

3. New Business

Mark welcomed Senator Illuzzi and related the Commission’s stance on the amendment to S117; that of a fair process for all native people and not just the three tribes that were added to the bill. Mark noted concern about the addition of the Attorney General to the bill, along with the time constraints for review and recognition. Judy asked to answer a question that Senator Illuzzi put forth at the Committee hearing earlier in the morning concerning Eugenics records. The Senator was not aware that the Eugenics records of Native Americans are of public record; housed in the state archives, the 44 boxes are available to the public. Mark noted that one requirement for recognition is to show a “link” to genealogy, and that complete records are not required.

Judy noted that language in the Indian Arts & Crafts Board allows for Indian art work to be sold labeled “Abenaki descent,” so to take their time to be recognized will not be an economic burden. Mark and the Commission felt there should be legitimacy to the process that brings higher value to art work labeled “Indian made” rather than “descent.” Mark noted that federal monies are available to minorities for economic purposes, and no federal agencies have come to the aid of this minority group. Mark expressed his feelings to the Senator with appreciation for assistance, but felt that there is a need for House support, Senate support, and that of the Governor to move this bill forward.

Senator Illuzzi shared his thoughts with the Commission about the amendment to S117. The Senator felt that the bar set for recognition may be too high; the reason for the time of five months for review not being enough time. The Senator felt that state recognition for arts and crafts should have a lower bar than the bar for federal recognition. Mark noted that when he worked with the Attorney General and the Governor’s office they agreed that if the amendment was “watered down” there would be the chance for the Indian Arts & Crafts Board to disagree with the criteria. The Senator expressed his respect for the Commission’s process, but does not want applicants to be fearful of the process; he would like to see a balance so applicants do

not feel discouraged by the weight of the workload imposed by the requirements suggested by the Commission. The Senator noted that the majority has expressed substantial resistance. There was a difference of opinion on the "majority" of Native Americans having issues with the Commission's amendment.

Mark felt that the forced time line was the priority issue and the Senator said this deadline could be omitted. The Senator suggested short term grants of recognition to the three tribes in question for the sake of the Quadricentennial after which time the individual/tribe would have to submit their formal application for review and further recognition. The Commission did not agree with this solution.

The Senator informed the Commission that, since there is a need for staff assistance the Attorney General's office was added to the amendment. The Senator said that assistance from the Attorney General can be removed from the review process, the time line can be extended and administrative support can be provided by Robert Appell, Executive Director for the Human Rights Commission. The Senator requested that the Commission reconsider the criteria for recognition and give suggestions on time lines; making the criteria less "onerous" for those who are anxious to go through the process, as well as reducing the Commission's work load.

Jeanne asked if the Senator had particular criteria in mind. The Senator said a common thread of concern was the genealogy element, and suggested that the Commission consider eliminating this criterion. Guest, Doris Seale, spoke for the importance of genealogy as part of the criteria. Tim also felt that genealogy is an important part of the criteria; providing legitimacy to the process. The Senator suggested that the Commission be made up of members from other larger tribes like the St. Francis/Sokoki Band. Jeanne informed the Senator that all tribes and bands were given the opportunity to apply for a seat on the Commission, but chose not to, and now they are complaining about not having a position. Guest, William Whitney, also shared his belief that genealogy should be part of the criteria. Charles Delany shared ideas for the criteria that excluded genealogy and felt that native communities should decide recognition.

Skip Bernier addressed Senator Illuzzi and reminded him that when he joined the minority program in the state of Vermont years ago he was required to prove his ancestry to become a part of that minority, and the same criteria should apply to S117 and recognition.

Senator Illuzzi asked the Commission to reconsider the criteria for recognition and noted that S.369 is still a working draft. Dian Muller said that Human Rights support should apply to all applicants, (pg. 4, line 5). Paul Erlbaum advised the Commission to define the word "administrative" and "section." Mark and all Commission members felt that their work is now coming to an end in June and they have done the best they can. Dorothy Ton thanked the Commission for working so hard with these important issues. Attending meetings, with no personal interest, Dorothy felt that the commission should not lose heart, and encouraged them to hold fast to the genealogy criteria; that it is important for future generations.

Mark noted that the last meeting for the two year term of this Commission will be April 24th.

The meeting was adjourned at 2:50 p.m.

Respectfully submitted,
Diane McNerney (say-air-kee-wayn-chukws)