VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS



VCNAA Meeting Minutes February 15th, 2011



vcnaa.vermont.gov

COMMISSION CHAIRMAN Luke Willard (802) 754-2216

COMMISSION
Charlene McManis, Secretary
Melody Walker Brook
Dawn Macie
Takara Matthews
Nathan E. Pero
Shirly Hook
David K. Vanslette
Fred W. Wiseman

Members Present: Luke Willard, Chairman; Melody Walker, Vice-Chair; Dawn Macie; Takara Matthews; Shirly Hook; David Vanseltte; Fred W. Wiseman; Nathan Pero

Absent: Charlene McManis

Guests: Peter Thomas, Nancy Millette-Doucet, Candace Dague, Stuart Silloway, Kirstin Reeser-Baldwin, Patricia Duclos Silloway

The meeting was brought to order by Chairman Luke Willard at 1pm at the Red School House in Randolph Center, Vermont.

1. Approve minutes of January 19, 2011

Fred moved to approve the minutes. Dawn seconded. All agreed.

2. Update on current recognition legislation

Luke gave a briefing on the status of the bills regarding the State Recognition of the Elnu and Nulhegan tribes. The two House bills have passed and crossed over to the Senate.

Peter Thomas was recognized by the chair. He asked if scholars from the Review Panel would be testifying in regards to pending applications (ie Missisquoi). Luke explained that the legislative committees had taken testimony from Review Panel scholars during the Elnu and Nulhegan committee hearings. Presumably, the committee will do the same with future recommendations.

3. Public records redaction process

After requesting clarity on the process of redacting information that is exempt from the public record (ie Archeological site locations, Genealogy) from recognition applications and reports from the Commission and Scholar Review Panels, legal counsel from the Division for Historic Preservation is helping to develop a process.

Luke has made it clear to legislators and Historic Preservation that the Commission does not have the resources to perform legal redactions. Luke suggested that the Commission consider adopting a policy that instructs applicants that this information can't come to us.

Dawn mentioned that it would be difficult for us to establish the kinship criteria in our reports without the genealogical references. Luke noted that the Scholar Panels would still be able to access the information and we can reference their responses in our reports.

Fred moved to make it policy from this point on that applications may not include genealogical information that identifies specific living individuals or archaeological site locations. This information may be included in the Expert Review Panel packets. Nathan suggested that we use the word "must", rather than "may" in the last sentence. Fred amended his motion to replace "may" with "must". Takara seconded Fred's motion. Luke stated the motion with the exact wording, "Applications may not include genealogical information that identifies specific living individuals or archaeological site locations. This information must be included in a separate packet that only goes to the expert review panelists." All agreed.

4. Review draft Commission Report re: Koasek of the Koas

Dawn began by noting that the addendum satisfied any concerns from the initial review but voiced a concern about some names and addresses that were not included in the application.

Luke mentioned that the Commission has already voted unanimously to recommend recognition of Koasek to the General Assembly. He noted that Nathan had originally brought up the fact that there were Koasek members whose names and street addresses were left out for privacy purposes. Luke confirmed it as 17 members and that their Band ID numbers and town/state of residence were listed in the roster to document their existence. This is detailed in the Commission's draft report to the legislature. Luke asked how we interpret Criterion 4. He mentioned that, fundamentally, the criterion is to establish the existence of the applicant's "organizational structure" and how the fact that a tribe keeps a detailed census of its members supports that. He said that although some names were left out for privacy purposes, the Commission was still able to confirm that the applicant maintains a census of its members.

Fred mentioned that the criterion did not specify that 'all' names and addresses be included. Discussion continued around the purpose and intent of the names and addresses. Nathan voiced that his concern is that we will set a precedent. Luke mentioned again that we must look at the criteria. We use the names and addresses for two purposes: To establish that a majority of the applicant's members currently reside in a specific geographic location within Vermont; and to support that the applicant maintains an organizational structure that exerts influence and authority over its members. We've seen this.

Chief Nancy Millette-Doucet was recognized. She explained that this particular family would not permit the publishing of their personally identifiable information for reasons of privacy. She said that Koasek is a tribe, not a dictatorship, and she cannot force them to be public or expel them from the tribe for exercising their own right to privacy. Nathan said that the law needs to be changed.

Luke said that there is definitely a gray area in the law, however, we already voted to unanimously to recommend Koasek for recognition. No one brought this up at the public hearing or any of the other meetings we have had since Koasek's application was submitted on November 16th of last year. We need to provide a report to the legislature and that is the item at

hand. It can be amended to say anything we want but we need to provide the legislature with a report.

Nathan moved to not approve the draft report. No one seconded.

Fred noted that he is fine with the report because we noted in it that the 17 names were redacted for privacy purposes. We are up front about it in the report and we explain our decision.

Nathan brought up how Chief Roger Longtoe asked about the names and addresses in Newport and we told him that they have to be included. Everyone should have to do the same thing. Luke said that Koasek did provide names and addresses and that he told Chief Nancy the same thing that he told Chief Roger. Luke said we may be forgetting that Eloise Beil, Bill Haviland, and David Skinas all provided detailed reports of approval, that include the fourth criterion.

Nathan brought up that he hadn't received the tribal rolls until recently. Luke brought up that it is up to Historic Preservation to provide you with handouts if you are absent from a meeting. Takara said that we each have the personal responsibility to request the handout if we don't have it. All handouts are recorded in the agendas and minutes.

Fred said that we drafted this report based upon what we were given. We've done our job. Takara said we need to get back to the report and moved to approve the draft report and forward to the legislative committees. Fred seconded. Motion passed by unanimous vote.

The Commission took a :20 recess break and reconvened at 2:26

5. Missisquoi Application Review

The Commission looked at reports from the Scholar Review Panel (Peter Thomas, Kevin Dann, and Bill Haviland). All were positive. Nathan mentioned that he did not have a copy of the Missisquoi application because he was absent from the January 19th meeting when they were passed out. Melody has excused herself from the Missiquoi review because she is a former member and because she is mentioned in the application, so she offered her copy to Nathan.

Dawn had positive remarks about the Missisquoi application but has an issue with the names and addresses because there are people listed who are not members of the tribe anymore. Dave mentioned that the tribe has procedures that members must file to be removed from the tribe's rolls. Luke noted that he understands that but having Don Stevens, who is Chief of the Nulhegan Tribe listed, is a conflict. It is common knowledge that Chief Don is no longer a member of Missisquoi. These names conflict with other applications that have already been checked for accuracy. It looks like an older list that just needs some updating. No harm done. We can work with Chief April when she returns from vacation to amend the list. We must do this so that we can accurately determine the percentage for the first criterion.

Nathan said we should look over all information first to make sure it is correct before it is sent to the scholars. Luke said that we can't do that. The scholars examine information that we're not even allowed to see. Addenda are forwarded to scholars. Dave said it's up to the applicants to

provide correct information. We can ask for clarity and additional information and send it along to the scholars but our job is to facilitate, review, decide, and report. More discussion followed.

6. Status of Active Scholar's List

David Lacy and David Skinas were both given ethics violations by the USDA for using Forest Service and USDA letterhead on their reviews. Luke found this interesting since Mr. Lacy was given permission to conduct his review during work hours and Mr. Skinas has worked with Native American tribes for a long time. He found it even more interesting that chain of communication in regards to these "violations" originated from the Bureau of Indian Affairs. Identical reviews (minus the letterhead) were provided for our files so that the record would reflect that the federal government does not share the views of their employees. The Commission was less than impressed and even less surprised.

Peter Thomas added that BIA should have no interest in State Recognition review panels. Nathan asked if we would be issuing a response. Luke mentioned that our process and the individuals themselves have been harmed by this. Even on personal time, Lacy can't participate anymore. Nathan asked if they are allowed to volunteer at the local food shelf or anywhere else. Takara said that this is a free country and it was even on their own time. Luke said we didn't ask the USDA or the Forest Service for anything. Our interest is in the scholar's experience and education and not their title. Nathan suggested we give the two agencies some extra paper for their time. Luke added that hostility from the feds is nothing new.

The Commission agreed that the service that Mr. Lacy, Mr. Skinas, and all of the expert review panelists performed, is commendable and the record will reflect that.

NEW BUSINESS

Takara requested that physical addresses be added to our meeting announcements to make the location easier to find.

Nathan wants to meet in July at the Community Center in Fairlee. He also invited everyone to the Snow Snake gathering at his home on the 19th. Luke encourage as many people to go as possible and to meet new people.

Melody moved to adjourn. Fred seconded. All agreed.

Respectfully submitted by Melody Walker Brook