

Governance Pilot Project: Chippewas of Kettle and Stony Point First Nation

Through its project, the Chippewas of Kettle and Stony Point First Nation reviewed the community referendum requirements of the *Indian Act* with an eye to developing alternative procedures for community decision making. The project resulted in a set of Ratification Guidelines which the First Nation plans to take to the community for further review, discussion and development before being put forward for formal approval through a community vote.

An Elections Code Committee oversaw this governance project as well as the concurrent development of a community election code. Development of the Guidelines was informed by the results of questionnaires and consultations with the community membership, as well as by experience gained in previous discussions about electoral reform. Both the Kettle and Stony Point First Nation Election Code and Ratification Voting Guidelines will take effect in the future following approval by Council, the electorate and the Minister.

As proposed, the Chippewas of Kettle and Stony Point Ratification Guidelines would be used for community decisions concerning a broader set of subject matters than what is now covered by the *Indian Referendum Regulations* and the *Indian Act*. The Minister's authority to determine that a referendum will be held is replaced with the authority of Council to make such determinations. The Guidelines specifically identify that the following matters would be subject to a community ratification vote:

- a land claim,
- the *First Nation Land Management Act*,
- land designations,
- bylaws relating to intoxicants on the First Nation,
- long-term community development plans, and
- other issues deemed to be of significance and importance by the Council.

One of the purposes of the Ratification Guidelines is to address the impediment to effective community decision making that is presented by the *Indian Referendum Regulations* and, in particular, the requirement that 50% of all eligible electors must vote in favor of a proposed decision before it can be implemented. This threshold is recognized by many First Nations as difficult to achieve, especially when a large portion of the membership resides off-reserve, and in many cases, the First Nation simply does not have access to the addresses of all eligible electors.

The Ratification Guidelines address the issue of off-reserve participation by removing the requirement that a majority of all eligible electors vote in favor of a decision. This is replaced with the requirement that a majority of eligible electors who cast a vote in the ratification vote, vote in favor. The Procedures do not specify a minimum threshold of eligible voter participation that must be met, for example the requirement that a defined percentage of eligible voters must actually cast a vote for the result to be valid.

With respect to procedure, under the Kettle and Stony Point First Nation Guidelines the ratification officer would mail a voter registration card to every non-resident elector for whom a last known address has been given by the Council. The elector would then be required to respond to the ratification officer and request a mail-in ballot. The Guidelines include other provisions tailored to the preferences of the community. An Appeal Board

would be established with six members comprising a person with a legal background and five members of the First Nation.

If approved by the community, the Ratification Guidelines will provide the First Nation with a comprehensive set of procedures that are responsive to contemporary realities and circumstances. They reflect a strong orientation towards community decision making, and encourage voter participation. The Ratification Guidelines prepared by Kettle and Stony Point First Nation would be transferable to other First Nation contexts. They will be of interest to First Nations that are considering new approaches to community decision making, plebiscites and referendum processes, and reform of either custom election codes under the *Indian Act*, preparation for *Indian Act* or successor legislation, or self-government.

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