

FORT WILLIAM FIRST NATION

CHIEF and COUNCIL MEETING MINUTES

April 1, 2020 – 5:30 p.m. (ZOOM Conference Call)

CHAIR: Chief Peter Collins

COUNCILLORS: Desiree Morriseau-Shields, Kyle MacLaurin, Sheldon Bannon, Jenny Charlie, Philip Pelletier, Yvette Greenwald, Michele Solomon, Leo Bannon Jr., Sherry Pelletier, Tony Collins, Tannis Kastern

STAFF: Recorder-Mike Pelletier Jr., CEO-Michael Pelletier Jr., Director of Health & Community Services-Karen Bannon, Director of Economic Development-Mike Pelletier Sr., Communications-Kristy Boucher

GUESTS: Mike Strickland

GOVERNANCE

AGENDA ITEMS – 1. Chief’s Update on COVID-19, **2.** CEO Update on COVID-19 - Staffing Update, **3.** Emergency Response Group Meeting, **4.** Food Distribution Program Proposal, **5.** Security Officer Recruitment Update

Call to Order/Opening Prayer – Chief called meeting to order 5:30 p.m.

MOTION TO ACCEPT THE AGENDA

MOTION #1 – Moved by Tannis Kastern and seconded by Jenny Charlie to accept the agenda of April 1, 2020 as read. All in favour. Motion Carried.

DECLARATION OF INTEREST DECLARED – None

AGENDA ITEM – Chief’s Update/Mike Strickland/Jessica - Mike Strickland presented a privileged and confidential memo dated April 1, 2020 on restricting access of members and non-members to Reserve during COVID-19 Pandemic. Mr. Strickland also provided the COVID-19 Trespass By-law.

Mr. Strickland presented applicable federal legislation as follow:

- 1. The Emergencies Act, R.S.C. 1985-** This authorizes the Government of Canada, Governor in Council take special temporary measures to ensure safety and security during various nation emergencies by regulation or

simple order to make certain declaration which could include restricting travel to or from certain places. This is a power that is restricted to Governor in Council, referring to Prime Minister and cabinet. Nothing really for First Nation under the Act.

2. **Emergency Management Act, S.C. 2007** – The purpose of the Act is to delegate emergency management to the Minister of Public Safety and Emergency Preparedness. This Act sets out the Minister’s responsibilities with respect to emergency management. No real power to restrict activities for First Nations, this is more planning in event of emergency.
3. **Quarantine Act, S.C. 2005** – This Act is not particularly of use to First Nation communities or chief and councils. The Act essential authorizes the federal government to quarantine persons and animals entering Canada. Powers restricted to Governor of Council. Can enforce quarantine by way of fines or imprisonment.
4. **Indian Act, R.S.C. 1985** – This Act powers federal accorded to chief and council are set out in section 81 of the Indian Act (A1A”). Chief and councils are authorized to pass by-laws on any one of the matters enumerated under subsection 81(1), provided they are not contrary to the 1A or the regulations enacted pursuant to section 73 of the 1A.

Ontario’s Emergency Management and Civil Protection Act – The Lieutenant Governor or the Premier may declare a state of emergency if certain enumerated criteria exist. Upon such declaration, the Lieutenant Governor may make orders to reduce or mitigate serious harm to person or substantial damage to property. Ontario has declared a state of emergency and is exercising certain powers, including closing certain premises and banning gatherings of large crowds. One issue regarding Ontario’s powers under this Act is whether the legislation, and the orders made under the legislation, apply to a reserve. There is an argument that the Act is a law of general application and that would apply pursuant to section 73 of the IA. This has not been tested in court.

Ontario government has no opted to restrict movement or to impose curfew anywhere in the province. It is unlikely to exercise its powers to impose such restrictions on reserve lands solely, as this would no longer be a law or order of general application and would be the province’s ability to do so.

Options available to Chief and Council

The following options are available to Chief and Council in an attempt to reduce the traffic inflow and outflow on reserve during the COVID-19 pandemic:

1. Passing a by-law pursuant to subsections 91(a)(a), (p), (p1) and (r) of the Indian Act, restricting the entrance of non-members of FWFN reserve lands during the COVID-19 pandemic, for the purpose of preserving the safety of community members;
2. Passing a second by-law, temporarily setting a curfew or complete restriction for members and other legally authorized person entering and exiting the FWFN reserve lands during the COVID-19 pandemic, and providing an exception for emergency situations (this second by-law is suspect and will likely be struck down if challenged in the courts);
3. Posting information bulletin throughout the reserve, setting out guideline and rules that all members should abide by for the safety of the community and its members;
4. Appeal to the federal government to declare a state of emergency and thereafter impose travel restrictions (this is unlikely to occur); and
5. Appeal to the provincial government to place an order restricting vehicular and pedestrian traffic and/or imposing curfews (this is unlikely to occur).

Discussion:

-Can FWFN use BCR and not By-law? – Mr. Strickland stated that they are pretty much the same. By-Law is a more powerful document.

-Can we hire prosecutor to enforce by-laws and bill the Government of Canada? The Indian Act is where First Nation gets their powers. Mr. Strickland stated that this could work and set precedence. Push for hiring for by-law enforcement officer on First Nation. First would-be by-law enforcement officer who hands out the fine and then becomes the summons to the federal court. Then would need prosecutor, by U.O.I. for example to possibly represent all the First Nations.

-Discussion on APS enforcement of bylaws to restrict movement in the community. For example, could try have local police force to lay charges under Ontario trespass act to remove trespassers.

-Question, how would it affect non members who work on reserve? In the Covid-19 trespass by-law, it defines who and who cannot enter the reserve.

- 82 items are listed on the essential needs list. Members need to do what is essential and what they need and go back home.

Discussion on release of inmates and where do they go?

ACTION ITEM - Chief request Mr. Strickland to draft a by-law for updated trespass orders, on new curfews for Council discussion tomorrow.

MOTION #2 – Moved by Desiree Morriseau-Shields and seconded by Yvette Greenwald that effective immediately FWFN (Fort William First Nation) will be imposing a 24 hour checkpoint and maintain a curfew between 8 p.m. and 6 a.m.; and further FWFN band members will not be restricted from entering or exiting the reserve but encouraged to maintain social distancing and only leaving for essential reasons; and further more individuals who do not live or work on the reserve will be restricted to their places of employment and places of businesses only; and further that Health staff will follow up with identifying non members who reside on reserve that will need authorization from Council to enter and exit reserve. **All in favour. Motion Carried.**

ACTION ITEM - Chief and Leo Jr. will follow up with the access roads to the reserve that need to be blocked off.

Electronic Signatures for Council – Those councillors who are in agreement to use electronic signatures on the BCR/documents for the next month will have to sign a letter giving their consent. This will be reviewed in a month.

ACTION ITEM - CEO requests Mr. Strickland to draft up a letter for households on the reserve identifying who is residing there, i.e., Non-member. Focus on stopping those people who should not be entering the reserve; can't stop band members from going back and forth.

By-laws cannot be applicable to lands owned by the City of Thunder Bay, i.e. Mountain Road, City Road. FWFN by-law making power stops at reserve boundary. Some members living on those areas are not affected by the by-law. Duties of Council to protect the community as a whole.

ACTION ITEM – CEO will prepare a memo to go out to the community regarding 24-hour lockdown and explain how to add someone to the list of verified people. Have households to register anyone who is renting from that residence. Members will be able to access the reserve 24 hours.

Access will be denied to non-residents and people not doing business on reserve. The Communication Officer will post on website and Facebook.

ACTION ITEM - Chief and CEO will arrange a meeting with businesses on reserve to negotiation closure times from 6 a.m. to 6 p.m.

Discussion that those who travel to the city to get their methadone cannot be imposed with restriction, however, encouraged to travel to do their business and return home. Checkpoint employees are to remind individuals of the curfew and if not a band member, please leave, if someone insists on entering, call APS.

ACTION ITEM – The Director of Health and Community Services will follow up with creating a pass, send out notification to every home on reserve to identify non member residents who reside at their home. The pass will have full name and approved by council. The communications officer will post to the community on Facebook tonight. The membership clerk will gather information on colour coding for security check point system for non resident members. Security staff supervised by the Director of Lands and Property. The membership clerk will prepare list of names for CEO to present to Council. Membership clerk email address membership@fwfn.com.

AGENDA ITEM – Chief’s Update

Chief had a jurisdictional conference call. Chief and CEO will have conference call with Hutchinson tomorrow to follow up with legal matters and settle to council’s satisfactory.

Chief had conference call with East West Tie that they are shutting down. Chief will follow up with Council.

AGENDA ITEM - CEO Update

Staffing Update – All departments are operating at minimal levels still. Communication from CEO to all staff is being made through lines of authority (CEO to Directors/Managers to Staff). Some difficulties encountered include our Human Resources department working on Security Officer recruitment and employees working from home with no childcare.

Emergency Response Group Meeting - The Response group started out with Chief and management team largely responsible for the response efforts. Starting yesterday, this responsibility of the FWFN's emergency response efforts has shifted to the Community Control Group (mandated from the Emergency Response Plan) and the Pandemic Planning Group (mandated from the Pandemic Plan). These two groups form the Emergency Response Group in FWFN in response to COVID-19.

AGENDA ITEM – Food Distribution Program Proposal - CEO had conference call with Lori, Karen and Luanne to discuss the \$412,933 funding that is being received from Indigenous Community Support Fund. These funds are being provided from Indigenous Services Canada and can be used for items such as:

- Support for Elders - Food insecurity
- Educational and other support for children
- Financial assistance for those without work
- Mental health assistance and emergency response services.

Discussion: Councillors suggest having one pickup point in Thunder Bay North and another in Thunder Bay South with specific date for pickup or delivery. Emphasis to be put on the notice that the food distribution program must be by registration only. Chief notes to add donation of \$10,000 from Enbridge. Suggest that a priority list to those who lost their job and are not on social assistance or ODSP. Chief will purchase gloves for security officers. Suggestion by Councillor to have cars only open windows a couple of inches to encourage social distancing.

AGENDA ITEM – Security Officer Recruitment Update - The Director of Lands and Property, Ian Bannon has prepared an update on the Security Officer recruitment and readiness of these workers for the twenty-four hour security check point system the council wants to put into place.

Briefing note consisted of: 1. Security additional staff for coverage, 2. Accepted applicants from outside the community, 3. Move to barricades and one access point, 4. Few people no longer interested, 5. Additional plan to 24 hours will be developed, 6. Protocol to be used by staff and maintain a line of safety for themselves and community. They do not hold any line of authority, call APS if staff finds themselves in confrontation.

INCAMERA Meeting begins at 8:30 p.m.