

Election Code in place:

Band council stops INAC move to go back under Indian Act

*By Lynda Powless
Editor*

Indian and Northern Affairs Canada (INAC) election officials say the Six Nations band council has asked not to be placed back under Indian Act election regulations despite claims by Chief Wellington Staats that INAC is to blame for holding up their request to return to the act.

As a result, a controversial elections code that threw a shadow of doubt over the "legality" of the local band council, will

now be used to hold another election here.

Band Council Chief Wellington Staats announced Friday the November elections will be held under the controversial elections code because, "we have been waiting for Indian and Northern Affairs Canada (INAC) to put us back under the Indian Act and they haven't done that yet."

But Gaetan Pilon, INAC manager of elections, told Turtle Island News, "as far as we know

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Elections set to go under 'old code'

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the council held discussions with the department and asked us to put it on ice, to hold off on it."

Pilon, said, Staats told them "as far as we (INAC) know this election will be held under the code they have now, the next one will be held under a new code. He said they were going to fix it for the election after this one. I'm not aware of them coming back under Indian Act."

Pilon said there was a request in the spring to return to the Indian Act for elections.

"But there were discussions and meetings. The understanding we have is to place it on the ice right now and that the community will hold it under their code and after the elections will review and develop their own code."

Pilon said there is no request to return to Indian Act regulations. "It's not my understanding anymore. Not at all. They are not going back under the Indian Act."

As a result, he said, the community cannot hold elections under Indian Act guidelines that exclude off reserve residents from voting and allow for two year terms.

The new election code, approved

without community consultation, calls for three year terms and allows off reserve residents, who can prove a history to a district to vote in that district.

Yet Staats told reporters, once the elections are over, and INAC has placed Six Nations back under the Indian Act, "a new election will have to be held. You can't have two election codes in place at the same time."

However, he would not guarantee a new election would be called. The November 14th elections are expected to cost about \$22,000. If a second election is called the community could end up spending as much as \$45,000 on elections.

Minister of Indian Affairs Jane Stewart did not return Turtle Island News phone calls.

Staats claimed the problem stemmed from INAC not having any process in place to return a community to the Indian Act, only to take them out.

"They said everyone is trying to get out and here we are trying to get back in. They have everything in place to take communities out, but nothing to put them back under because no one is going back."

Staats said he was disappointed

the community would eventually be holding its elections under Indian Act regulations.

"We have always, historically, chosen our leaders, by our own rules. This is just a different way of doing it. But it gives us authority over how we choose our leaders."

Staats said he feels the community is in favour of having its own election code. "It wasn't the election code idea people objected to. It was that, it wasn't done properly. The community consultation that was suppose to be done wasn't done. That's what the court case was all about."

Brian and Marilyn Maracle, a local brother and sister, challenged the legality of the election code claiming the community had not been properly consulted. The Maracles could not be reached for comment.

Out of 608 First Nations, 278 hold elections under the Indian Act, 314 select their councils according to a "community" electoral system with a written code or through unwritten rules and practices, nine elected their council under Cree-Naskapi (of Quebec) Act., six are elected by virtue of the Yukon First Nations Self Government Act, and one elects its council pursuant to Sechelt Self Government Act.

Since the department adopted a policy on "conversion from Indian Act to community electoral systems" in 1988 only two (both from Manitoba) have asked to come under the Indian Act Electoral System.

In order to move back under the Indian Act, Pilon said the "community, chief and council have to signify that's really what they want. That they have support to come back."

Pilon said coming back under the act, "involves the department, in every stage of the election, it's paternalism, it's not local control, we have been promoting the opposite, adopting their own system instead. It's a promotion that has been going on for years."

Communities need a ministerial order under Section 74, a Band Council Resolution and evidence of community support, showing meetings and votes and enough support. But I can tell you, it's a matter of policy, not law, the Indian Act gives authority to minister to sign the order, but she is not going to. It's not consistent with our policy."

He said a written request from the Six Nations Hodenosaunne Confederacy Council to meet with Minister of Indian Affairs Jane Stewart has been received. However, he could not provide details of when that meeting may take place.

The Minister did not return Turtle Island News phone calls.