

Injunction threat hangs over elections

By Lynda Powless
Editor

Unless a political resolution can be quickly found a brother and sister team are threatening to seek an injunction to stop next month's Band Council elections.

The move could put Six Nations governing structure in limbo if a court orders its "custom" election code invalid. The current "custom" council, elected under that code, sits only until November 30th.

Brian Maracle, and his sister Marilyn, said they will seek an injunction in federal court, proba-

bly next week, unless Six Nations Band council does not use its controversial "custom" election code to hold next month's elections.

Brian Maracle said the "code" is "illegal." He said it was put in place at Six Nations without proper community consultation, "the band council agrees that it was not

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Question of legality in Six Nations Elections

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done properly. It is illegal."

Marilyn Maracle said the code "was improperly and illegally instituted and it is still improper and illegal."

She said, she thought she as dealing with "honourable people."

"We dealt with them as though they were people of honour and integrity. I'm sorry, they're not."

She said "if INAC (Indian and Northern Affairs Canada) can be so quick to provide approval for a code that was never approved by the community, and despite objections, it seems they should be just as willing to do the same, in the reverse."

Brian Maracle said the "1995 election is illegal and so is this one. We have a renegade band council that was elected without popular support, by rules that were never approved by the community, that holds all of its important discussions behind closed doors. It's time that the band council becomes answerable to the entire community."

Band Council Chief Wellington Staats was not available for comment.

Brian Maracle said the move is an attempt to force INAC to "respect this council's request and move Six Nations back under Indian Act election guidelines."

Maracle said he hopes to see Band Council joining their action. "They should be joining us and launching their own injunction. I hope council comes on side and the community stands up to join us in dealing with this bogus move by INAC."

Six Nations Band Council has sent two band council resolutions to INAC asking to be placed back under Indian Act election guidelines. Six Nations was taken out of the act's guidelines three years ago when a new "custom" band council election code was developed and used to operate the 1995 elections.

The current "custom" band council agreed with the Maracles, (who had sought legal action against the code) that the code had not been widely accepted by the community and agreed to ask INAC to place Six Nations back under the Indian Act for its elections.

However, at recent meetings with INAC, band councillors said INAC has been reluctant to make the move. Councillor Dave Hill said INAC officials even walked out of one meeting with band council. Band Council Chief Wellington Staats said the

November 14th elections were being held under the custom code because the council's term is coming to an end and INAC had not moved on the resolutions.

He said as a result band council had no alternative but to use the election guidelines.

INAC election officials told Turtle Island News they had placed Six Nations request "on the ice." Gatean Pilon, elections manager said meetings were held with Six Nations council and the decision to put the request on hold was agreed to.

However, Six Nations Band Council says it never agreed to place the request on hold. Instead, band councillor Les Sowden said, "we told them a deal's a deal. I don't know what they're pulling now but that's not what council told them to do."

Maracle said the code is "intolerable" He said there were several items in the code that needed to be changed. The "custom" election code, he says, only allows people who voted in a particular election to impeach or remove a chief or councillor for wrongdoing, and makes the elections subject to the Charter of Rights and Freedoms.

"This means that 86 per cent of the population is barred from removing a corrupt chief or councillor. The only people who can impeach him or her are the friends and family members who voted for them in the first place."

The code also allowed off-reserve residents to vote for both chief and councillors and changed the term of office from two years to three.

Government regulations require a band to provide evidence that the band's membership supports the election changes by way of a "public band meeting, by petition, by plebiscite or by other means within the custom of the band."

The Maracles maintained the council did not get community approval but the federal government approved the new code just two days before the advance poll in October 1995.

In early 1996 the Maracle sued the band council and Minister of Indian Affairs in Federal Court to have the election nullified. The lawsuit dragged on through 1996 and 1997 and in April of this year, Brian Maracle, said the Maracles proposed an out-of-court settlement that included reversion to the previous election rules and a public statement that if council wouldn't try to install another elections code without first getting the community's approval.

In April the band council accept

the terms of the settlement and passed a resolution asking the Department of Indian Affairs to reinstate the old election rules by placing the band back under Section 74 of the Indian Act.

But the settlement was never finalized. Band council has been waiting for INAC to make the necessary changes and INAC claims to be studying the issue.

Maracle said as a result they have

decided to launch the injunction and will hold a public meeting tonight (Wednesday) at 7 p.m. at the community hall to discuss the council plans.