



**TO:** BLUEBERRY RIVER FIRST NATIONS CHIEF & COUNCIL

**FROM:** JOHN RICH

**DATE:** 2021-06-30

**FILE:** 21-0775 (BRFN GOVERNANCE)

**RE:** SUMMARY OF JUNE 28<sup>TH</sup> COUNCIL MEETING AND PETITION PROCESS

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## Introduction/Overview

Further to a request made by Councillor Ewaskow by email on June 29, 2021, I am providing the following summary of the Council Meeting held on June 28<sup>th</sup>, 2021 in compliance with the Federal Court's May 14<sup>th</sup> judgment to consider the July 2020 section 188 report and petition.

This summary can be distributed to Blueberry membership.

## Discussion

On June 28, 2021 a virtual meeting of Chief and Council was held with the sole purpose of addressing the July 2020 s. 188 report and petition. Chief Yahey recused himself at the outset of the meeting (prior to the video stream going live to the Blueberry members) because the petition dealt with his removal and put him in a conflict of interest.

Councillors Dominic, Ewaskow, Wolf, Gauthier, and W. Yahey were all present at the meeting along with the Chief Operating Officer/Band Manager, Ms. De Guzman. The lawyers for Chief and Council from Ratcliff LLP and the lawyer assisting the Chief Operating Officer from Mandell Pinder LLP were also present at the meeting.

Blueberry members were provided with a link through which they could watch a live stream of the virtual meeting online. There was a delay in starting the livestream because some of the Councillors had difficulty signing into the meeting.

The process for contacting petition signatories started at around 11:00 am and concluded at about 8:45 pm. There were a number of ways that petitioners were contacted to confirm that they had signed the petition and still sought the removal of Chief Yahey. These included calling people on the phone and verifying their petition verbally, reviewing emails sent by members, and reviewing videos sent by members. These methods were used to allow for the broad participation of Blueberry members given the ongoing limitations on holding in-person meetings due to the COVID-19 pandemic.

The primary way signatures were verified by Council was by having the Band Manager call people who had signed petitions and verbally confirming the information required by Blueberry's Custom Election Code, 2017 for removal petitions by asking (a) whether the person

had signed a petition for the purpose of removing Chief Yahey, and (b) whether the person now seeks to remove Chief Yahey from office. Phone calls were made more than once if the number appeared to be valid and additional information provided by Councillors during the meeting was used to make sure contact information was as up to date as possible. If no one answered the phone, voice mails were left where possible. Return calls by people who signed the petition were accepted on both the Band Manager and Councillors' phones to allow as many signatories as possible to provide their information at the meeting.

The telephone phase of working through the list of 217 petition signatories resulted in 12 individuals who were identified as people who had signed a petition confirming that they were **not** seeking to remove Chief Yahey. Also, 2 people who had signed a petition were now deceased. As a result, these 14 of the 217 petition signatories could not be counted.

Next, Council reviewed emails from individuals who had signed a petition that were sent in to either confirm or retract their consent with the removal of Chief Yahey. Where the individuals had provided the required information and their intent to remove the Chief was clearly indicated the emails were accepted as confirming positive signatures. Where information or the intent of the person sending the email was unclear the email was marked uncertain.

Finally, Council reviewed video files that were provided by individuals as verbal confirmation of their petition signature and their intent to remove the Chief. Where the required information was provided and the intent of the signatory to remove the Chief was indicated clearly, a video was accepted as confirming a positive signature. Where the information provided or the intent of the person sending the video was unclear the video was marked as uncertain.

Based on the Band Manager's calculation of the number of confirmed signatures required for the petition to be successful at the time it was received by Council in July 2020, the petition required 209 valid and confirmed signatures to remove Chief Yahey. Two hundred and nine valid and confirmed signatures is 60% of 347 Blueberry electors (see, Blueberry Custom Code, 2017, s. 185(a)(i)). As noted above, 14 signatures were clearly excluded during Council's verbal confirmation process. This meant that there was only a maximum of 203 possible petition signatories who could be counted ( $217 - 14 = 203$ ). The potential 203 maximum signatories assumes that all the uncertain signatures would be counted (of which there appeared to be 3) and that all of those people who could not be reached (8 people) would confirm their petitions.

Because it was only possible for, at most, 203 confirmed petitions in favour of removing Chief Yahey the required threshold of 209 confirmed petitions was not met and the petition for removal failed.

On June 27, 2021 15 people provided new petitions to the Band Manger. Two of these petitions were dated from August 2020, and 13 from April 2021 to June 27, 2021. These additional petitions were not included in the petition process because Council was required by both the Blueberry Election Code, 2017 and the Federal Court's May 14<sup>th</sup> order to consider the Report and Petition submitted in July 2020. Councillors Gauthier, Ewaskow, and Wolf registered their objection to not including these 15 new petitions.

Following the confirmation that the petition had failed, Councillors Dominic and W. Yahey left the meeting. Because only three members of Council remained in the meeting Council no longer had a quorum and the Council meeting could not continue. A quorum of Council is defined in the Blueberry Election Code, 2017 section 2 as "a majority of the whole of Council" and therefore

requires at least 4 members of Council to be present. Councillors Gauthier, Ewaskow, and Wolf disagreed with this conclusion and requested that be made clear in the meeting minutes. Additionally, Councillor Wolf requested that the minutes reflected that he believed additional time should be provided for people who had signed petitions but had yet not contacted Council to do so.

The Council meeting then ended.