



# CANNABIS & NFN

## Community Consultations

### **Notes from the Sessions on December 11 & 12, 2018**

Community consultation sessions were held in Duchesnay and Garden Village to listen to feedback from our citizens about legal cannabis and how NFN should manage it.

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# Cannabis & NFN

Notes from the Community Consultations on December 11 & 12, 2018

## Purpose of the Sessions

The purpose of the consultation meetings was to provide an update to our Debendaagziwaad (citizens) about the recent legalization of cannabis on October 17, 2018, and to listen to their feedback about how NFN should manage a number of related issues going forward, specifically: retail stores (dispensaries), economic development opportunities (production/processing), and developing an NFN Cannabis Law.

## Community Consultation Process

The consultation format gives citizens an opportunity to ask questions and provide feedback to help guide the decisions that will be made by Chief and Council regarding managing legal cannabis on NFN.

The key principles of this process are public participation, nation benefits, good judgement, fairness, feasibility and accountability. We are guided by our Gichi-Naaknigewin and strive to balance growth and opportunity with responsible decisions that are in the best interests of all our nation's citizens.

## Attendance

**December 11<sup>th</sup> - Duchesnay:** 27 people were in attendance\*

\* This includes Chief Scott McLeod, Deputy Chief Muriel Sawyer, Councillors Jane Commanda, June Commanda, Brian Couchie, Corey Goulais, Michael Sawyer and Rick Stevens, as well as three (3) staff members (Dwayne Nashkawa - CEO, Gen Couchie - Communications Officer & Kim Salvaneschi - Executive Assistant).

**December 12<sup>th</sup> - Garden Village:** 17 people were in attendance \*

\* This includes Chief Scott McLeod, Councillors Jane Commanda, Brian Couchie, Corey Goulais, Michael Sawyer and Rick Stevens, as well as three (3) staff members (Dwayne Nashkawa - CEO, Gen Couchie - Communications Officer & Kim Salvaneschi - Executive Assistant).

Both meetings began at approximately 6:15 p.m. and ended at 8:00 p.m.

## Presentation

Chief Scott McLeod provided a short presentation at both sessions and answered questions from Debendaagziwaad throughout. The presentation consisted of an overview of federal legislation, Ontario's Cannabis Act and related regulations, and an update on the discussions that Chief McLeod and our Senior Administrative staff have had with various provincial ministry officials to date.

This background information provided important context to better understand how Ontario plans to manage legal cannabis, and NFN's options for working with Ontario's law and/or through our own Cannabis Law to manage cannabis within our jurisdiction according to the community's wishes.

The presentation was followed by an Open Discussion about areas of both opportunity and concern for the community as a whole. The presentation is available at [www.nfn.ca](http://www.nfn.ca), or can be mailed or emailed by request to Gen Couchie at 705-753-2050 ext. 1270 or [genc@nfn.ca](mailto:genc@nfn.ca).

## Survey

A survey form was available at the meeting for participants to provide feedback. The survey was mailed to all members (on and off-reserve) in mid-December, and an electronic version has been posted to [www.nfn.ca](http://www.nfn.ca) and to the Nipissing First Nation Administration Facebook page. Survey responses will be accepted until Monday, January 7, 2019 at 8:00 a.m.

Chief and Council attended both sessions to hear citizens' feedback directly, and will review a report on the survey results at their next regular meeting on Tuesday, January 8, 2019.

## Background & Current Status

The biggest challenge in discussing what legal cannabis may look like for NFN is understanding how our laws can co-exist with federal and provincial laws. First Nations fall under federal legislation, but the federal government has left regulation up to the provinces, and frankly, many details are still up in the air.

We still have many questions about how Ontario plans to regulate and control cannabis, and how NFN can manage legal cannabis within our jurisdiction using either Ontario's laws, our own Cannabis Law created under our Gichi-Naaknigewin, or a blend of the two (possibly through a Memorandum of Understanding with Ontario that upholds NFN's law and provides resources to enforce it).

We continue to receive new information about how the province plans to manage cannabis, which means that some of the content in this report, or that we've previously communicated, may already be outdated.

For example, on Thursday, December 13<sup>th</sup> – the day after the consultation meeting in Garden Village – Ontario issued a news release announcing that the province now plans to take a phased approach to cannabis retail licensing due to national supply shortages.

In the initial phase, Ontario will issue up to 25 licenses for the targeted operational date of April 1, 2019. "To ensure a fair and transparent process, the Alcohol and Gaming Commission of Ontario (AGCO) will implement a lottery system to determine who is eligible for the initial licenses to legally operate a store in Ontario." Expressions of interest will be accepted online to the AGCO from January 7 to 9, 2019, and put into a lottery pool for a draw that will be conducted on January 11, 2019.

The release also states that the supply shortages have restricted online sales in many jurisdictions, and that other provinces who have already issued retail cannabis licenses, such as Alberta, stopped doing so after only receiving 20 per cent of the stock they ordered from federally licensed producers. On average, the federal government is only able to meet about 40 per cent of the demand for legal cannabis.

Ontario is calling on the federal government to address the supply shortages to provide a viable alternative to the illegal market by ensuring there is sufficient supply to meet consumer demand. Until the supply issue is resolved, Ontario will be holding off on issuing private retail store licenses in order to ensure the viability of the businesses who do obtain licenses.

Under the current model, the federal government is responsible for overseeing cannabis production, while the provincial government is the exclusive wholesaler through the Ontario Cannabis Retail Corporation. There will be opportunities for private enterprises to become federally licensed suppliers.

This is a time-sensitive issue, especially from a business perspective, but Chief and Council did not want to rush the process or proceed without consulting the community first. Whatever is decided as a result of the community's input, NFN will be cautious and keep the best interests of all Debendaagziwaad at the heart of all decisions because the health and safety of our community is always our first priority.

## Community Concerns & Considerations

All questions and input from both consultation meetings were recorded and are compiled below.

Feedback has been grouped into the three main categories that guided our Open Discussions: Retail Stores (dispensaries), Economic Development opportunities (production and/or processing), and developing an NFN Cannabis Law, as well as some other common themes and areas of concern.

Additional feedback provided through hard copy and online surveys will be compiled for Council's review at their next regular meeting on Tuesday, January 8, 2019.

### Recreational Cannabis Retail Stores (Dispensaries)

#### General Comments

- It's hard to get a real sense of how people feel about this issue as a lot of people are on the fence. You can be opposed to cannabis use, but still agree with free enterprise and seeing the economic opportunity. Just as you can support cannabis use and have concerns about dispensaries in our communities.
- Cannabis will be available no matter what – why not move on it and get some benefits for NFN?
- I have no issues with people using cannabis, but they should not be getting it in the community. They can go to town to purchase cannabis as they would beer and liquor.

#### IF retail stores are allowed:

- We need to do it right. People come first, not business, not economics.
- We need to have the right rules to manage it, as well as education, prevention and awareness initiatives. Part of the profits from dispensaries should fund harm reduction initiatives.
- How many dispensaries will be allowed? Will the market be saturated with stores?
- We need to think about businesses having staff who are of age to sell cannabis.
- There should be stand-alone cannabis stores and an age requirement to go into them.
- Stand-alone stores would allow NFN to enforce our own rules and regulations.
- The process for stand-alone stores could be more stringent and require prospective store owners to have a background showing due diligence to be approved. Jumping through policy/regulatory hoops will determine who can open a store. Policy will be part of the law, and will evolve.
- Cannabis products need to be out of children's sight completely (not mixed with groceries, etc. in a convenience store).
- Many concerns were expressed over edible cannabis products (re: child safety), but these are currently not legal for sale or purchase.
- There needs to be consideration given to what areas stores will be permitted in (i.e. not in residential areas, perhaps just commercial/industrial areas along the highway).
- Council will use zoning laws to determine where these stores go if they are permitted. They won't regulate WHO can open a store, but they will determine the AREAS they are permitted in.
- Security should be a huge concern (i.e. break-ins) and store owners should be required to invest in security to keep the community safe.

## Zoning

- NFN is still working through zoning issues to avoid repeating past mistakes (i.e. when cigarette sales were allowed on-reserve, the horses came flooding out of the gates resulting in stores being located in the middle of residential areas. Future zoning provisions will help with this issue.)
- Many people expressed that they don't want to see dispensaries in residential areas or near schools and parks.
- There is already too much traffic, speeding and safety concerns in our communities (from people coming to our smoke shops).
- Rules have to be fair and set parameters as to what will be allowed (i.e. no sales out of private residences, zoning restrictions to limit areas where cannabis stores can be located).
- Council will use zoning laws to determine where these stores go if they are permitted.

## Health & Safety

- Council's concern first and foremost is community safety, and ensuring product safety if dispensaries are permitted. The products need to come from a reliable source (federally inspected & approved) and regulations need to be enforced to ensure that vendors aren't selling products from other sources as well (i.e. getting it cheaper on the illegal market and selling in stores to make bigger profits).
- Regulations will need to be strict to keep cannabis out of the hands of kids.
- Medical cannabis has been legal for some time, and operates under a different set of rules.
- Opioids are a huge concern - marijuana can have positive medical benefits (i.e. as a methadone substitute, for anxiety, etc.). From a harm reduction perspective, it's not good for you, but it's better than some of the alternatives.
- Band should get benefits for allowing dispensaries – and a percentage of retail store sales need to be allocated to health and social programs. For example, Alderville FN charges a permit fee that goes to opioid prevention initiatives. Several people echoed this sentiment that money needs to go back into health services.
- Like it or not, cannabis is here and I would like to see people getting safe cannabis instead of getting it off the street. Also need a lot of awareness to discourage use by youth.
- How do you make sure what someone is getting is safe? If dispensaries open, how do we make sure we don't have unregulated products being sold?
- Strength of the product is a concern (levels of THC) and will be regulated by the province (wholesaler of all cannabis available in retail stores). We could incorporate this consideration in our regulations.
- Product safety is of utmost importance (government supplied, inspected, packaged).
- We have to teach our kids about healthy choices.
- I'm totally against a recreational dispensary on reserve, just as I would be against a beer or liquor store. I follow traditional teachings and don't want my kids and grandkids exposed to this in their communities.
- No matter how you look at it, kids will be subjected to it – even if they're waiting in the car, they see their parents going into a store and know what's going on. Will it be kept under lock & key at home? We can't control what happens after the product leaves the store.
- Psychosis is a very real side effect for young men based on my 15+ years of experience working in a psychiatric facility.

- There's no conclusive evidence that there's a co-relation between heavy cannabis use and the onset of psychosis or schizophrenia, but there's also no conclusive evidence that there *isn't*.
- We've heard plenty of anecdotal evidence from nurses and people who work in the psychiatric field to know there are real concerns over the link between psychosis and heavy cannabis use.
- Is the government investing any money into research into this issue? (not that we are aware of)
- If we go through with this, we need to implement programs to promote our cultural way of life and to help educate and provide supports. Need to make sure it's not in kids' faces (i.e. zoning, age restrictions).
- Prevention is a lot less expensive than treatment (i.e. NFN gets cigarette sales money from quota cigarettes that then goes to Hospital Foundation, One Kids Place)

### Small Business / Private Enterprise

- This issue is time-sensitive because we want our businesses to have the same opportunities as off-reserve businesses if our community agrees to allow dispensaries.
- In the past 20-30 years, a shift has happened from government (Band Office) being the biggest employer on reserve to small business being the economic driver for NFN. We need to encourage and foster more business.
- If NFN decides to allow dispensaries, Chief and Council will not impose a limit on the number of dispensaries permitted. The market regulates competition, and Chief and Council doesn't interfere with the number of similar businesses. Council can't govern competition or decide who gets the opportunity. Free enterprise is one of the biggest aspects of business. This doesn't just relate to cannabis stores, but also to gas stations, convenience stores, etc.
- Who will decide who can open a store? This depends on the approach taken – if we adopt the provincial law, prospective retail store operators will need to go through Ontario's licensing process (but no licenses would be issued without being approved by NFN through a Band Council Resolution). NFN's business licensing process will remain unchanged – with a notice of application posted to the membership for awareness and input if there are legitimate concerns.
- Why doesn't NFN operate its own store and create employment? Chief and Council don't believe the band should be in the business of being in business – that is best left to private enterprise and still results in job creation.
- Will we have the economic advantage of taxation? i.e. HST exemption (need the economic advantage to draw people from other markets). This hasn't been confirmed yet, but the Chief has provided this feedback directly to the Minister of Finance, Vic Fedeli, who hasn't ruled it out.
- There needs to be an economic edge (such as no HST) to entice people to come to NFN to buy cannabis if we allow stores. Even if we charge HST, the dollars won't come back to us anyway.
- Based on what we know now, the money generated from cannabis sales goes to the federal and provincial governments. Without HST exemption, we're just tax collectors for the government.
- The Province will facilitate the relationship between producers and wholesalers (like the LCBO).

### Economic Development / Community Benefits

- The Indian Act does not allow provisions for liquor stores, but the Cannabis Act was written to reflect awareness that FNs would be interested in business opportunities.
- NFN has already been approached several times with investment opportunities in large scale production/processing plants.

- As a community, we're hamstrung between government funding and our trust fund. We need alternative sources of revenue – that's why we've bought Hydro One shares and invested in solar projects.
- We are a progressive community and we can do this. But we need to have good relations with business people - we need their input and knowledge, and they need NFN to help regulate and protect them.
- As far as potential investments and economic development initiatives related to the production and/or processing of cannabis for the legal market, that is something NFN will look into if there is community support to pursuing these potential economic benefits.
- If NFN is to pursue business/investment opportunities, we need to be equal partners and we need to have "skin in the game" by investing capital.
- "Skin in the game" doesn't just refer to dollars, but also to the partnership structure. If it's not a good deal for NFN, we won't get into it.
- This could be a good opportunity for NFN to have alternate revenue sources. The wave is flowing now – it's time to jump on it. If we don't do it, someone else will.
- It's a lucrative business that could create a lot of jobs.
- Good investments will create jobs, but we have to get in early. We could be talking 30-50 jobs for a processing facility – and these facilities are very heavily regulated and secure.
- Need to look into production and processing opportunities - not to sell the products to the community, but to produce it for the legal market (federally regulated).
- If we have a facility that can supply cannabis products for the legal market (inspected/approved by federal government), maybe we can also sell to our own retailers at a reduced price? Could potentially sell to other First Nations as well.
- There are also a lot of by-products we could look into (hemp, cannabis oil, etc.)
- Need to consider possible environmental impacts of production/processing facilities if they are permitted (i.e. odour, water and electricity consumption) and work to minimize impacts. (NFN is currently working on Environmental Laws).
- Consider having a Board of Directors to help manage potential business partnerships. Why not use the business expertise of NFN's existing business owners?

## NFN Cannabis Law

- Why not follow the government's framework (i.e. quota on number of stores)?
- Ontario law will need to be a starting point. We know Ontario is willing to work with us (as long as our laws match their laws) – and this would maintain NFN's jurisdiction on our lands.
- Our law could mirror or be stronger than Ontario's law, but we don't want to make it weaker than a federal law (because those are usually the baseline laws).
- Working with the government on agreements will allow us to get the resources needed to effectively manage cannabis (enforcement, regulation, prevention, awareness).
- Similar to the Fisheries Memorandum of Understanding, the idea is that if you don't follow the community's law then you are subject to Ontario's law.
- If we enter into an agreement with the province, our law should provide opportunities to revisit and tweak the agreement (i.e. every 6 months).
- The Chief and CEO need to go back to the government to find out what kinds of scenarios are available to ensure the community's values are reflected.



- Provincially regulated dispensaries will be monitored by special constables and there will be high fines (and licenses yanked) for non-compliance.
- Our laws can be stricter than provincial and federal laws, but they can't be looser.
- Concern about “anything goes” mentality on reserve and stores popping up despite whatever decisions are made. This can't be the case with either our own law or the provincial law.
- Fear that once stores open off-reserve on April 1st, stores will start popping up on-reserve. The fail safe is that any illegal stores would be referred to OPP. But, the OPP doesn't know how they will enforce the law yet, and APS was among the last to be briefed.
- Several people agreed with a minimum age of 21, while one person expressed concern with this type of regulation limiting business. He said, we need to reflect what other communities are doing or people will just go to other stores.
- Business isn't the only consideration here. The way you control cannabis should be the same as any other product that has a minimum age (cigarettes, lottery).
- Ontario's law specifies areas where cannabis can be smoked (including public parks), but NFN will likely limit the use to private residential properties. Cannabis use has already been prohibited on all NFN administrative properties.
- Some people consider cannabis a traditional medicine – what about using it on traditional lands? Some felt it should be treated the same as smoking and allowed in designated areas, away from the main grounds.
- We need to ensure adequate enforcement capabilities - we need resources because if we're going to have laws for dispensaries, we need to follow up to make sure people are following them.

### Other First Nation Examples

- NFN will be looking to other communities for expertise and examples of how they are dealing with cannabis, especially in the development of their own laws and regulations.
- Six Nations has a native law organization working with them, and NFN will be doing the same.
- Is Six Nations working with the government on HST? Have they set a precedent?
- Mississauga First Nation issued a statement on Friday, December 14, 2018 advising that their Chief and Council have approved cannabis sales in the community to be restricted to a single retail operation that will be band-run and band controlled. Additional operations will not be considered legitimate, but community members will be eligible to apply for business licenses and permits to develop and run cultivation operations so they may enter and compete in the market as a legal cannabis producer.

Note - This release also alludes to the number of legal questions about jurisdiction of provincial laws vs. federal laws on reserve, and states that Mississauga First Nation as a governing entity is better positioned to deal with these bigger political and legal questions (but doesn't specify how – just that more information will be released as they move forward).

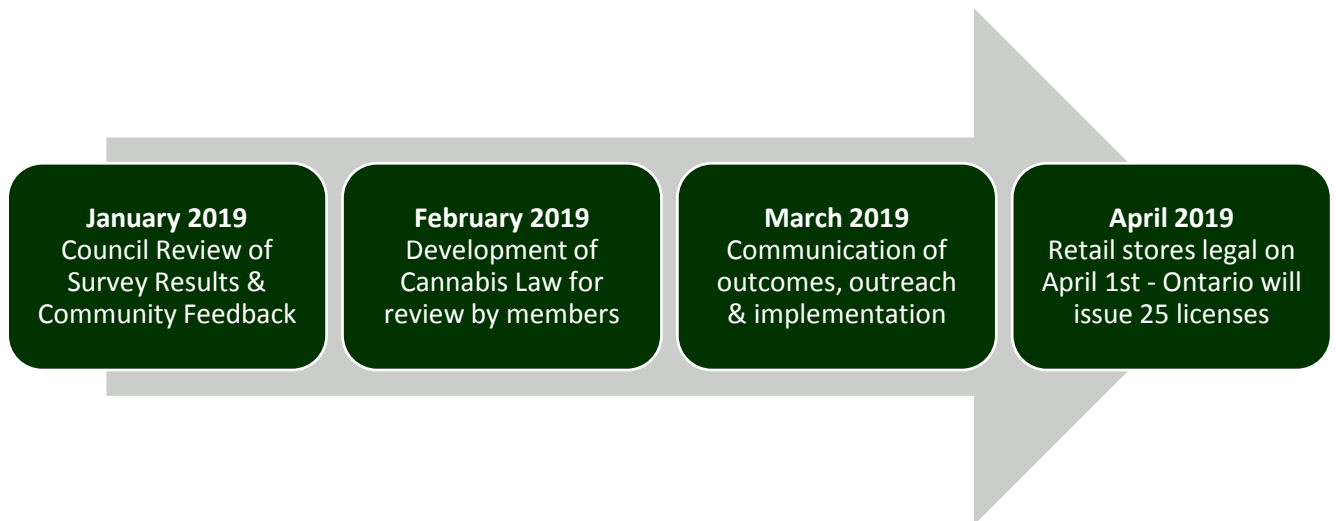
## Next Steps & Timelines

The timelines for making decisions are fairly aggressive because both NFN and the Ontario government are reacting to the federal government's decision to legalize cannabis on October 17, 2018, and we need to respond to the Ontario government's decision to allow retail stores effective April 1, 2019.

As noted earlier in this report, the retail store model will be phased and will begin with only 25 stores across Ontario receiving licenses to operate for April 1, 2019, however it remains important for NFN to determine our stance on this issue to inform the development of a Cannabis Law that will reflect the interests of the community in dealing with legal cannabis within our jurisdiction.

If the community decides to allow retail stores, then we want to be in a position to give prospective store owners an equal opportunity to access that market as soon as possible. We now know that the initial 25 retail store permitted by the province will be selected via a lottery pool draw that will occur on January 11, 2019.

We anticipate the following timelines for the review of the feedback received from Debendaagziwaad by Council, the development of our Cannabis Law, and subsequent review and implementation of the law.



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*Miigwech to everyone who provided valuable input to help inform Council's decision-making process.*

**If you have any questions about the contents of this report, please contact:**

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