

Governance Workshop Presentation

Workshop Overview

Overall goals are to build knowledge and confidence in decision making, confirm roles and responsibilities, familiarize Council with tools of good governance, develop a united approach to governing the Nation that gets results. Also to take the skills and apply them to every governance situation Council participates in, such as Boards.

Workshop #1 – Good Governance Principles

Workshop #2 – Leadership

Workshop #3 – Strategic Planning

Where Governance Happens

Governance happens all around us:

- Federal, provincial and municipal government
- All of the bureaucracy that supports government
- First Nations Councils, partners and staff
- Boards for companies, schools, non-profits
- Ad-hoc groups of citizens or parents for causes
- Student councils

What Is Governance?

It consists of management and leadership processes. It is the physical exercise of management power & policy development and implementation.

"governance" is what a "government" does

Principles of good governance apply to every circumstance where governing exists and skills can be applied across all areas where you lead.

Sources of Authority to Govern in the First Nations Context

1. Cultural traditions and customs;
2. Membership, through elections;
3. Treaties, Agreements, other laws of Council;
4. *Indian Act* sections that delegate authority over specific issues (s.81 - Bylaws)

These are also referred to as the 'structures' of governance.

Legal Powers of Council

Council has the capacity to:

- enter into contracts and agreements;
- acquire, hold and dispose of rights and interests in personal property;
- raise, expend, invest and borrow money;
- sue or be sued,

And with this the comes the need for clear methods of governance and a strong understanding of the inter-relationships that Council has with stakeholders.

Challenges Specific to First Nations

Actions of Canada, through the creation of reserves and the *Indian Act* resulted in:

- C&C beholden to INAC instead of members
- Insufficient jurisdiction to effect change due to excessive INAC controls & requirements
- Inadequate financial resources, changing
- An atmosphere of imposed dependency

The challenge of leaders now is to take advantage of every opportunity and avenue to govern in a way that serves the best interests of membership despite roadblocks.

Governance vs. Good Governance

Governance

May operate in an organization of any size and it may function for any purpose, good or evil, for profit or not. A reasonable or rational purpose of governance might aim to assure, (sometimes on behalf of others) that an organization produces a worthwhile pattern of good results while avoiding an undesirable pattern of bad circumstances.

Good Governance

Depends on transparency, accountability and equality in ways that are responsive to the needs of people. It is composed of the mechanisms, processes and institutions through which citizens and groups can articulate their interests, exercise their legal rights, meet obligations & mediate their differences. (The Aust. Dev. Gat.)

5 Principles of Good Governance

1. Legitimacy & Voice
2. Accountability
3. Performance
4. Fairness
5. Direction

Institute on Governance (IOG)

Legitimacy & Voice

Voice speaks to the rights of members to be heard and to participate in governance; to lobby candidates and councillors about their concerns and interests. The successful councillor then carries out their promises in conjunction with skills, experience and reality. When the councillor carries out the mandate directed by the members it gives *legitimacy* to their actions while in power and real voice to the members who elected them. This is one reason it is imperative for candidates to consider what they are promising, whether the concerns of the members can be met & fit in with the goals of Nation.

Legitimacy & Voice cont.

Voice also addresses the responsibility that each councillor has to communicate the interests and concerns of members and their own ideas. Legitimacy also refers to the fairness of elections which can't be taken for granted. In order to maintain legitimacy, leadership must ensure that it is hearing the voices of membership and providing venues for them to be heard. When members have a chance to communicate their concerns their participation is reinforced and meetings and communication efforts will become more meaningful and productive over time. Trust is built.

Accountability: To Who?

- To Funders - INAC, program funders, non-profits
- To Members – to the people that voted for you and the people who didn't, staff
- To Business Partners – to companies that take risks to make money with the Nation
- To Council – to your team that you work with to bring your best effort, skills and ideas each meeting
- To Yourself – be true to your beliefs in making your decisions and make sure you voice them

Accountability: About What?

Financial - Primarily revolves around the management and reporting of money matters; showing the community and funders how money was spent and the value that was received. Transparency is key to being accountable; following rules and best practices when carrying out work and making financial information available when appropriate i.e AGM, community meetings, activity reports, policy on disclosure

Decisions - accountability includes being transparent about what and how decisions are made; ensuring that decisions are documented and procedures to minimize issues, such as conflicts of interest are followed. Also, that progress is being made, change is happening, over time; and opportunities are being sought after and capitalized on.

Performance

Making plans, providing services, meeting goals in an affordable, timely way. Working with other levels of government and the private sector to get things done; relationship building.

Clearly defined roles, who is responsible for what and how it is communicated and *measured* all increase performance.

How is the performance of a leader measured?

Fairness

- Implemented policies, procedures and practices that are adopted that ensure that people are dealt with in a similar way when dealing with a similar issue; consistency.
- Discretion and fairness are incompatible in most cases; the use of discretion should be rare, not the rule when policies are in place
- Commitment to fairness builds trust that rules will be followed and members treated in an equitable manner; reduces need for intervention

Direction

- Embracing a common goal and purpose, i.e “getting on the same page”
- Growing and nurturing a feeling of being in control of your own future
- Living a united front, sense of cohesion and loyalty to Council and membership
- Abandoning self-interest that has existed
- Including staff who have been trusted to carry out the vision of Council on what the direction is

Role at the Council Table

Roles are interwoven across principles of good governance and apply to all of the interactions that Councillors have with other stakeholders, and the membership:

- Listen to, consult and represent the concerns and goals of the members to Council;
- Acknowledge and respect the customs and history of the Nation;
- Be informed of all policies, By-laws and important documents of the First Nation, including relevant sections of the *Indian Act*;
- Keep informed about the activities of the First Nation and the neighboring communities, to identify opportunities and interests;
- Comply with the Oath of Office;
- Contribute from personal, work and life experience to the work of the Council;

Role at the Council Table

- Offer personal perspectives and opinions on issues that are the subject of the Council discussion and decision;
- Ask the Council to review a decision, if he or she has reasonable grounds to believe that the Council has acted without full information or in a manner inconsistent with its fiduciary obligations;
- If he or she disagrees with a motion, the Chief and Councilor shall provide reasons for their dissent vote;
- Not act individually on any matter unless authorized by Council to do so; and
- Maintain solidarity with fellow Councilor's in support of a decision that has been made in good faith in a duly convened meeting, by the Chief and Councilor's in reasonably full possession of the facts.

Councillors as Fiduciaries

The phrase fiduciary duty has appeared in many legal cases and has become a part of the First Nations experience. It applies to decisions made by people or governments in a position of trust.

An individual in whom another has placed the utmost trust and confidence to manage and protect property or money. The relationship where one person has an obligation to act for another's benefit.

Just like Canada has a fiduciary obligation to First Nations when acting on their behalf or in their best interests, First Nations councils have a fiduciary obligation to their membership when they make decisions or take action regarding communally owned property or resources. As a result Council can be held liable for those decisions. Discussion

Leadership: In Motion

Leadership is the pin-point that links all of the principles of good governance. It addresses another layer to the role of a leader.

Leadership includes:

- Providing guidance;
- Establishing direction;
- Aligning people; and
- Motivating and inspiring people to take action.

Leadership Duties

In their capacity as a Council, each Councillor has the responsibility to:

- Communications
- Communicate and consult with members to understand their needs and concerns before making decisions;
- Provide information membership relating to Council activities and affairs of the First Nation;
- Communicate Band Council Resolutions of Council to membership;

- Representation
- Liaison and negotiate with all levels of government for the benefit of the First Nation;
- Represent the First Nation at all First Nations organization meetings;
- Act as a representative of the First Nation to the provincial and federal governments, organizations and interest groups;
- Represent the First Nation at all community and special events;

Leadership Duties

- Policies & Decision-making
- Set policy and make decisions for the administration of programs and services;
- Monitor the administration of First Nation policy;
- approve annual budgets and operating plans;
- Approve and enforce by-laws;

- Management of Programs & Services
- Ensure all programs, services and projects are managed in accordance with all applicable laws, regulations and contractual requirements;
- Select, supervise and support the administrator, manager and staff;
- Supervise all employees to ensure they are fulfilling their job duties;
- Approve and periodically review personnel policies;

Leadership Duties cont.

- Planning
- Oversee development and approval of a long-term plan;
- Define and safeguard the organizational goals, plans, values and operating principles within which it expects the First Nation to be administered, and to review these periodically;
- Govern the First Nation through broad policies and planning objectives approved by the Council, formulated with staff and members, and reviewed periodically;
- Seek and secure sufficient resources for the First Nation to finance its programs and services adequately;
- Regularly review the First Nation's programs and services to ensure that they are consistent with the mandate and purpose of the First Nation and that its programs and services are effective and relevant to membership needs;
- Accountability
- Account to the membership and funders for the programs and services of the First Nation and expenditures of funds; and
- Ensure prudent and proper management of the First Nation's resources.

Inter-relationships

Council has many relationships to manage, including those with:

- Membership;
- Staff;
- Nation Companies;
- Business Partners and project funders;
- Boards and service delivery societies;
- AANDC;
- Media, including the news media, and any outside organization, like the municipality

Understanding what role each party has and what the relationship is between Council and that stakeholder, will assist in achieving goals, maintaining clear communication and forging effective partnerships.

Council Relationships

