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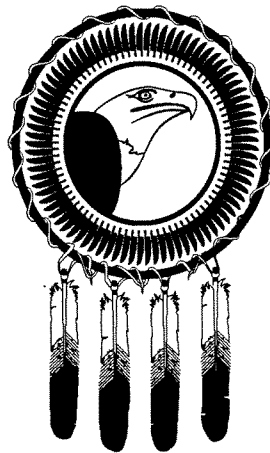
*Local Governance for the Oglala Sioux Tribe: A Return to Local Empowerment*

by

Christine Buchholz and Mark Gustafson

*PRS 00-6*

April 4, 2000

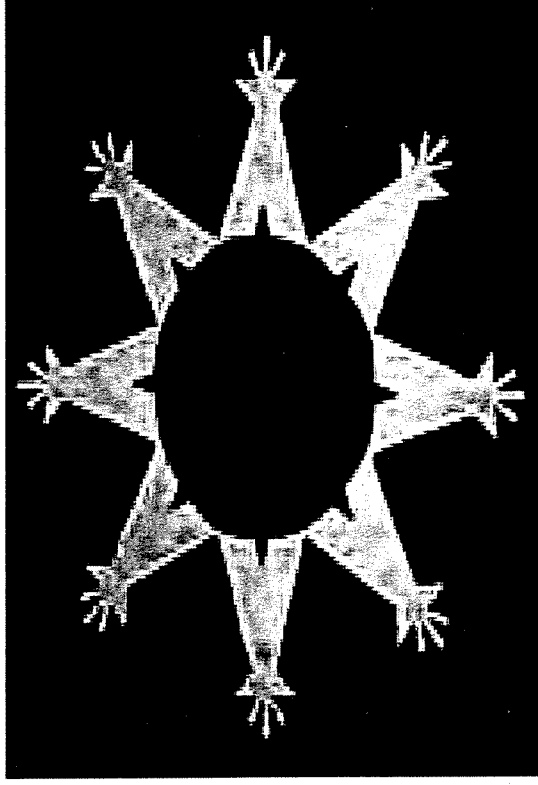


Harvard Project on  
American Indian Economic Development

John F. Kennedy School of Government  
Harvard University

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Local Governance for the Oglala Sioux Tribe:  
A Return to Local Empowerment



Submitted to: Michael Her Many Horses  
Oglala Sioux Tribal Council Member

Prepared by: Christine Buchholz and Mark Gustafson  
John F. Kennedy School of Government, Harvard University

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A Return to Local Empowerment:

## Two Key Policy Questions

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- ★ Is local governance culturally appropriate for the Oglala Sioux Tribe?
- ★ Will local governance work on the Pine Ridge Reservation?






Is local governance culturally appropriate for  
the Oglala Sioux Tribe?

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- \* Local Governance capitalizes on the Sioux tradition of band (*tiospaye*) level governance
  - \* Local governance will allow the government to more fully reflect the pre-IRA constitution, pre-reservation form of government
- 




Will local governance work on the  
Pine Ridge Reservation?

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Yes it can! It must be:

- ★ tailored to the needs of Pine Ridge
  - ★ supported by the community
- 



## Benefits of Local Governance for Pine Ridge

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- ★ Helps the Oglala Sioux Tribe realize economic development goals
  - ★ Strengthens Tribal Government and bolsters tribal sovereignty
  - ★ Increases tribal responsiveness to local community
- 



Navajo Nation's Local Governance Experiment:

## The Kayenta Township


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- ★ Established January 19, 1996 by the Navajo Nation Council
  - ★ First attempt at city governance in Indian Country
  - ★ Received honorable mention in Harvard University's Honoring Nations Competition
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## The Successes of the Kayenta Township


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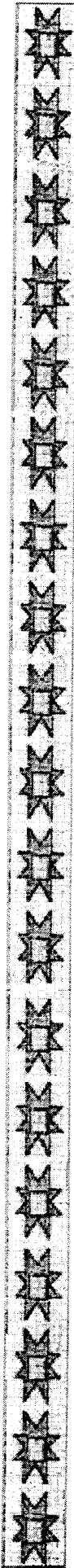
- ★ Reduced business lease process to six simple steps
  - ★ Developing a residential subdivision with 260 single family homes
  - ★ Generated over \$1 million in tax revenue to date
  - ★ Built a trash transfer station in cooperation with AmeriCorps
- 



## Should Local Governance be Pursued at Pine Ridge?


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- ★ Only the Oglala Sioux may answer this question for themselves
  - ★ If the OST decides to proceed, local governance may be implemented through a three step process
- 



## 3-Step Implementation Process

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- ★ Phase 1: Formation
  - ★ Phase 2: Consensus Building
  - ★ Phase 3: Implementation
- 



## Phase I: Formation

### Key Decisions

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Establish a Committee to determine:

- \* How will the District be organized?
  - \* Will the Council simply hire a professional staff?
  - \* Will the District Government be restructured?
  
- \* How will the District be financed?
  - \* Tribal Block Grant?
  - \* Leases?
  - \* Taxes?





## Phase 2: Consensus Building

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### Key Actions

Build widespread support for Local

Governance by:

- ★ Holding town meetings to educate community and gain feedback
- ★ Tailor the model to address community concerns






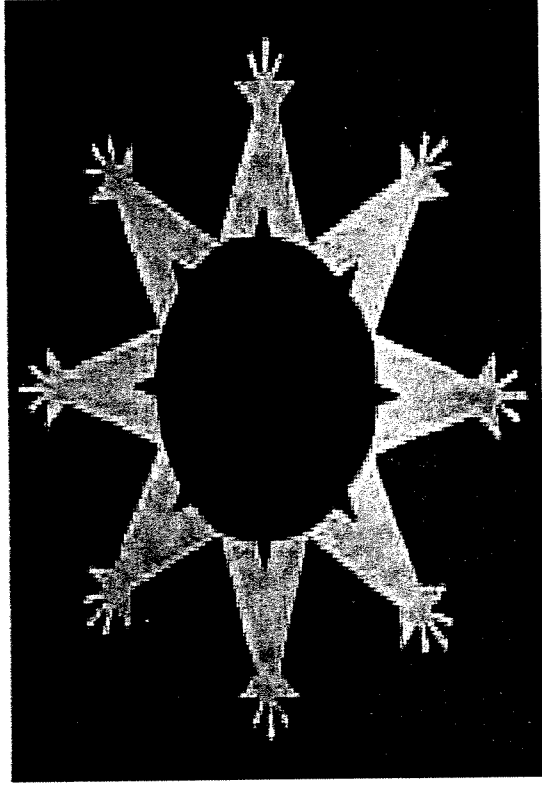
## Phase 3: Implementation

### Key Actions

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- \* Develop ordinances to govern the District
  - \* Hire staff to administer District programs
- 

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# PREFACE

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## Historical Context

For decades the Oglala Lakota have been working to build their Nation within the confines of a constitution born out of the Indian Reorganization Act of 1934 (IRA) which, in retrospect, has proven ill-suited for the culture of the Oglala. While remaining in a governance structure that is inconsistent with their traditional way of life, the Oglala Lakota have become heavily dependent on the United States Federal Government and struggle with persistent poverty.

The people of Pine Ridge are not alone in their battle to find an effective means of governance that encourages economic development under the IRA. Indian Nations throughout the United States face similar challenges. Their successful examples provide evidence that economic development is possible when built upon culturally appropriate political institutions.

## Why Focus on Local Governance

Form of governance is an important factor in the success of economic development efforts. A look at several prosperous American Indian tribes from a theocracy on the Cochiti Reservation in New Mexico to a township on the Navajo Nation in Arizona suggests that there are differing forms of effective governance in Indian Country. After thoughtful consideration of various models of governance for Pine Ridge, we would like to invite the Oglala Sioux Tribe to consider a

certain form of local governance. This form of governance would shift some of the authority of the tribal government to the nine districts of the Pine Ridge Reservation. We believe that a local governance structure in Pine Ridge would strengthen the Oglala Sioux Tribal Council by maximizing the districts' contributions to the Oglala Sioux Tribe (OST).

## How this Report was Developed

This report is the seventh in a series of studies commissioned by the Oglala Sioux through the Harvard Project on American Indian Economic Development. Our research has been shaped by those who have conducted earlier research as well as by the experiences of other American Indian tribes. We interviewed numerous members of the Oglala Sioux and dozens of members of the Navajo Nation.

## Purpose of the Report

The report is intended to provide the OST with a summary of what some other tribes are attempting with regard to local governance and to provide a guide for introducing local governance on the Pine Ridge Reservation.

## Acknowledgements

We would like to thank Mike HerManyHorses and the many people at Pine Ridge whom we came to know while researching and developing this project. This project could not have been

possible without the openness of the OST officials and Pine Ridge residents who shared their thoughts with us during meetings and phone calls.

Many thanks go to Peter Deswood and the Kayenta Township Commission for their invaluable time and thoughts on their experience with the establishment of the Kayenta Township.

Thanks also to Joe Kait and Manley Begay of the Harvard Project on American Indian Economic Development who provided us with incredible support and feedback during this process. We are grateful to Ryan, our families and friends, especially the Breakfast Club and the Kennedy School Christian Fellowship, for their input and support during this endeavor. Last and most importantly, we thank God and give all the glory to Him.

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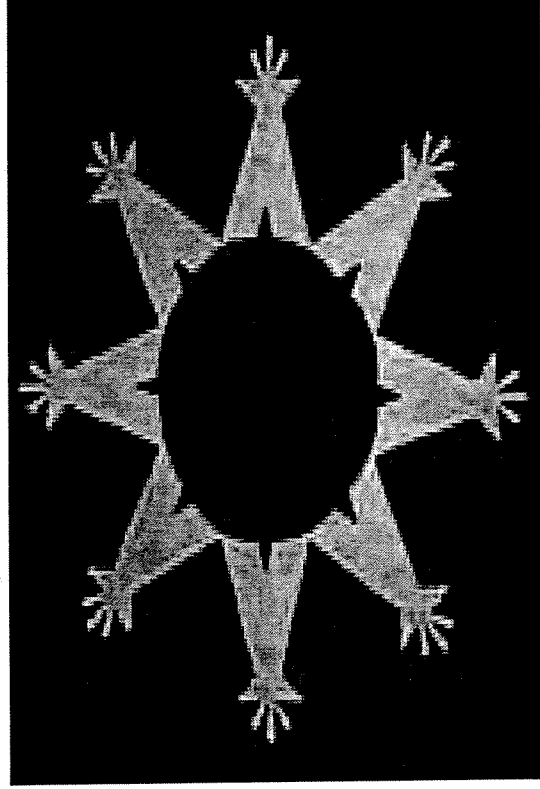
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A Look at the Kayenta Township Model



Local Governance for the Oglala Sioux Tribe:  
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# LESSONS FROM SUCCESS: A LOOK AT THE KAYENTA TOWNSHIP MODEL

The Kayenta Township of the Navajo Nation is a model of local governance for chapters of the Navajo Nation and other American Indian tribes. For reservations with a long history of bureaucratic processes within the central government that have inhibited economic development, this form of local governance may prove to be the innovation needed to jumpstart economic growth.

## BACKGROUND

### Timetable of Events for the Kayenta Township

- \* 1984: Kayenta Planning Board established
- \* 1985: Resolution passed for the Kayenta Township Pilot Project by the Navajo Nation Council
- \* 1990: "A Community Survey of Attitudes and Concepts about a Sales Tax and Township Government" administered
- \* 1991: "A Five Year Experience in Local Land Use Control and Governance:" report released
- \* 1996: Resolution passed for the Kayenta Township Pilot Tax Project by the Navajo Nation Council
- \* 1997: Kayenta Tax Ordinance exercised
- \* 2000: Kayenta Township continues to strengthen community and tribe

On November 5, 1985, the Navajo Nation Council passed a resolution to approve a five-year experimental township project called the Kayenta Township Pilot Program. Kayenta had long been recognized as having significant tourist traffic because of its proximity to Four Corners, Monument Valley and the Grand Canyon. Yet the chapter faced difficulty establishing new businesses in the community. In addition, as one of 110 chapters of the Navajo Nation, it was frequently at the mercy of the Navajo Nation Tribal Government to make key business development decisions for the community.

The greatest hindrance from the tribal government was the business lease approval process. Before opening a business, prospective developers needed to obtain a business license from the tribal government and Bureau of Indian Affairs (BIA). The process to obtain such a license consisted of 28 steps and required passage through multiple sub-committees within the Navajo Nation Council. Stories of taking up to two years to receive approval from the tribal government were not uncommon. Once approved by the tribal government, the application is then passed to the BIA for final approval and issuance. Another restriction on Kayenta's development was the lack of proper zoning ordinances for commercial development, basic facilities, housing and other infrastructure necessary to attract businesses.

In 1984, then council delegate for the Kayenta chapter, Albert Bailey, endorsed the establishment of the Kayenta Planning Board (KPB). The Board was charged with identifying alternatives to the existing process. Bailey had ascribed to the ideas of Keith Smith, a council delegate from Kayenta in the 1950's and 60's who championed local governance. Bailey invited Dr. Gerald Knowles to assist the KPB as a consultant and under his direction, the KPB developed a concept paper on local self-governance which would later become the basis for the Kayenta Township.

Kayenta Planning Board Concept Paper

Township Authorized to:

- \* Establish ordinances
- \* Develop comprehensive land use plan for leasing land, zoning and developing land allocations
- \* Incorporate the central part of the chapter as a town
- \* Attract, support and nurture economic development

Before the KPB approached the Navajo Nation Council with their proposal to establish a township, they had to gain community support. This was a challenge for the Board because establishing the township would require the suspension of grazing permits within the township boundaries -

no easy task when the Navajo culture is tied to the land and grazing rights have been passed down within families for generations.

The KPB appealed to those who would lose grazing rights by urging them to consider the future of the Navajo Nation. Young Navajo frequently left the reservation to seek job opportunities elsewhere because there simply were no jobs in Kayenta or on the reservation. The KPB wanted to ensure that the Navajo Nation could build a sustainable economic community and thus provide opportunities for the future generations of the Navajo people.

Navajo families in Kayenta generously sacrificed a total of 5.5 square miles for the establishment of the Kayenta Township. In November 1985, the Navajo Nation Council passed a resolution to approve a five year experimental township government in the allocated area.

Five years later, in 1990, a tax survey was administered in Kayenta which resulted in the report "A Community Survey of Attitudes and Concepts about a Sales Tax and Township Government." They found that a majority of the township would support a sales tax if tourists or tourist-related businesses were taxed.

### "Wish List" for the Kayenta Township

from "A Community Survey of Attitudes and Concepts about a Sales Tax and Township Government"

- \* Solid waste collection and transfer
- \* Utility planning and development
- \* Municipal airport
- \* Fire department
- \* Better transportation infrastructure
- \* Flood control
- \* Public Safety
- \* Parks and recreation facilities for youth

from taxes were to be spent on the public works wish list generated from the previously administered survey.

During the first 18 months of the tax (June, 1997 to December, 1998), \$718,732 were collected in tax revenues.

### What is Taxed by the Kayenta Township?

- \* all restaurants
- \* motels, rentals, including trailer parks and RV parks
- \* convenience stores and grocery stores--with certain food exemptions
- \* propane gas, services and products in retail establishments and gasoline stations--except gasoline
- \* services (laundromats and car washes, etc.)
- \* entertainment (movies, video) and tours
- \* construction contracting activities
- \* flea market dealers selling in Kayenta
- \* commercial office rentals, and other rentals for business operations
- \* agricultural materials sold as retail

### ORGANIZATIONAL STRUCTURE

The Kayenta Township was established as a sub-unit of the Tribal Government. The Township reports directly to the Tribal Government and is outside the jurisdiction of the Kayenta Chapter. The Chapter has no authority within the

Later in 1991, a comprehensive report called "A Five Year Experience in Local Land Use Control and Governance" was released. This report included the tax survey, a tax feasibility study, and a priority "wish list" identified by residents of the community. It was five years before this second report received any attention. Ultimately, in 1996, the Navajo Nation Council approved of the report and passed a resolution created the Kayenta Township Pilot Tax Project.

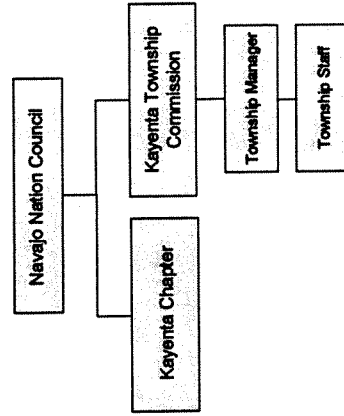
### Kayenta Tax Ordinance

In June 1997, the Kayenta Township Commission imposed its first tax, a 2.5% sales tax on select products purchased from businesses located within the Township. The monies collected

Township, nor does the Township have any authority within the District.

Legislative and executive authority within the Township is divided between the Township Commission and the Township staff, respectively. The Commission is responsible for creating and approving all ordinances and regulations that govern the Township, and the Commission's authority does not extend beyond policy-making into administration. The implementation of Commission ordinances is the responsibility of the Township Manager who is appointed by the Township Commission. To assist in administering the Township, the Manager oversees the Township staff who are hired by the Commission.

### Kayenta Township Organizational Structure



### COMMUNITY RESPONSE

It took 14 years for the Kayenta Township to be formally recognized by the tribe, but once it was established it has had very positive reactions from business leaders and other community members. However, Chapter Officials have expressed some concerns and there have been initial difficulties working with the BIA.

#### Reactions to Township from Kayenta Business Leaders

- \* appreciate the expedited business lease process
- \* do not view taxation as a disincentive to open new businesses
- \* feel assured that tax revenues benefit the local community
- \* believe that township should have been established a long time ago

The current relationship between the Township and the Kayenta Chapter is strained. There are several ongoing miscommunications between the two parties and each have significantly different expectations about the role of the Township. While some chapter officials recognize the Pilot Project, they do not acknowledge that Kayenta is a full fledged

township with ordinance making rights, especially with regard to taxation.

Some Chapter leaders also believe that the Township has overstepped the geographic boundaries that were initially established and they want the Township to share its tax revenues. They also expressed fears that business leaders may feel they are being taxed twice—once on the sale and again on the income.

The tension between the BIA and the township arose in part from the wording of the federal legislation that governs the BIA. Because the BIA is charged to deal with tribes on a government to government basis, they were initially unwilling to recognize the Kayenta Township because it was a sub-entity of the Navajo Nation's government and not the actual government. However, after a series of negotiations the Township, BIA, and the Navajo Nation have come to an agreement that meets the needs of all three parties.

## Myths and Misconceptions about Local Governance (1)

**Myth #1:** The Township may secede from the Tribe.

**Fact:** The Kayenta Township was more fully integrated into the Tribe and the Tribal Government. The fear of secession stems from a fundamental misunderstanding of the concept of local governance. A local government such as a township is established by the Tribe to allow township residents to oversee issues of local concern. The Tribe maintains sovereignty over the area and is responsible for all non-local decisions. For example, the Tribal Government continues to manage foreign affairs, inter-township/chapter relations, tribal police, and control over federal monetary transfers to the tribe.

## Myths and Misconceptions about Local Governance (2)

**Myth #2:** The Township will weaken the Tribal Government

**Fact:** The Township strengthened the Tribal Government and allowed it to be more effective. Establishing a second layer of government allowed the Kayenta Township and Tribal Governments to divide governing responsibilities based upon which was best able to provide the service. This allowed the Tribal Government to divest itself of local governance responsibilities that consumed a significant amount of resources to oversee and manage because the services provided were dispersed throughout the Reservation over 110 chapters. The result was better governance and a stronger Tribal Government focused on those issues that it is uniquely suited to pursue.

**RESULTS: 1996-2000**

The Township has only formally been in existence for four years, but in that time it has made great strides toward realizing the "wish list" established by the community.

**Results of the Kayenta Township: 1996-2000**

- \* Business lease process reduced to six simple steps
- \* Developing a residential subdivision with 260 single family homes
- \* Generated over \$1 million in tax revenue to date
- \* Built a trash transfer station in cooperation with AmeriCorps

One significant achievement has been the streamlining of the business lease approval process to six simple steps. Leases applications now receive approval at the local level within a month of submission and then are passed onto the Tribe for the President's signature and then to the BIA for final approval.

A second achievement of the Township is the development of a residential subdivision with 260 single-family homes. The first phase of 60 homes is under construction and the Township received nearly 300 inquires for 60 sites.

The 2.5% retail tax has been a success. All businesses have voluntarily complied with the tax, and on the whole business owners are supportive of the tax because they know the money will be spent meeting community needs. Because the tax is focused on goods often consumed by tourists, the tax has also brought new money into the community. In total, the township has received over \$1 million in tax revenues since the tax was levied.

**Strengthened Tribal Government and Overall Sovereignty**

Possibly the greatest contribution of the Kayenta Township is that it has proven the viability of local governance as a tool to strengthen the tribal government and overall tribal sovereignty. By creating a new level of government, local governance allowed the Township and Tribal Government to focus on those duties that each is best equipped to handle. The Township administers issues of purely local concern while the Tribal Government continues to administer larger tribal issues such as foreign relations, law-enforcement, and the regulation of inter-Chapter relations. Such specialization has led to better governance and has freed tribal officials from having to manage local affairs so they can focus on larger tribal issues.

The success of local governance at Kayenta and the resulting benefits to the Tribal Government have prompted the Navajo Nation to implement local governance on a wider scale on the Navajo Reservation. In the authorizing legislation for this change, the Navajo Council stated that the changes would "improve community decision making, allow communities to excel and flourish, enable Navajo leaders to lead towards a

prosperous future, and improve the strength and sovereignty of the Navajo Nation.”<sup>1</sup>

responsibilities are determined by the Council. The manager hires other Chapter employees as needed and authorized by the Chapter Council.

### **Wider Application within the Navajo Nation**

In 1998, the Navajo Nation Council passed the Local Governance Act (see Appendix A) granting all chapters in the Nation the authority to manage local issues. Under the Act, each chapter is granted the authority to “make decisions on local matters.”<sup>2</sup> The definition of local matters is extremely broad and includes the right to:

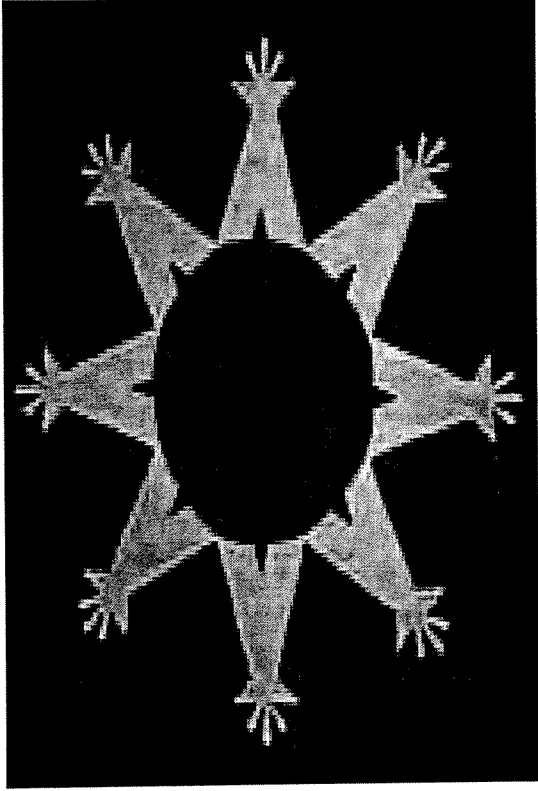
- Issue home and business site leases,
- Establish a peacemaking system to resolve Chapter level conflicts,
- Generate revenue,
- Develop a land use plan,
- Acquire land through eminent domain, and
- Enact regulatory ordinances to protect the health, safety and welfare of Chapter members.

A three-person council consisting of a president, vice-president, and secretary/treasurer hold the policy-making authority for the Chapter. These chapter officers are prohibited from “direct involvement in the management and operations of the Chapter administration” to ensure that there is a strong separation between policy making and administration. To further strengthen this distinction, officers are barred from being Chapter employees during their term of office.

The administration of the Chapter is conducted by the Chapter manager who is charged with carrying out the will of the council. As such the manager’s exact authority and

Chapter 2

Possible Implications of Local Governance for the  
Oglala Sioux Tribe



Local Governance for the Oglala Sioux Tribe:  
A Return to Local Empowerment

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# POSSIBLE IMPLICATIONS OF LOCAL GOVERNANCE FOR THE OGLALA SIOUX TRIBE

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At this point, it is critical to consider an important policy question: Will local governance work in Pine Ridge and is it culturally appropriate? Ultimately, only the Oglala Lakota people have the right to answer this question. In order to allow them to make an informed decision, this report applies the lessons of local governance from the Kayenta Township to Pine Ridge and presents a model applicable to Pine Ridge.

## THE NEED FOR LOCAL GOVERNANCE

Poverty remains a challenge for the people of Pine Ridge.

- Median household income on the Pine Ridge Reservation—comprised of Shannon County and parts of Bennett and Jackson Counties—was \$11,260, which is among the lowest incomes in the country.<sup>4</sup>
- 63% of all persons who lived on the reservation or adjacent trust lands had incomes below the federal poverty level and 40% of all households received some form of public assistance.<sup>5</sup>
- Approximately 95% of the monies that come onto the reservation are from federal funds and approximately 95% of that money is spent off of the reservation.<sup>6</sup>
- Annually, approximately \$74 million is spent off of the reservation within 72 hours of arriving.<sup>7</sup>

Recognizing that persistent poverty must be eliminated on the reservation, the Oglala Sioux Tribe has made economic development a priority.

### Satisfying Conditions for Economic Development

Steve Cornell and Joe Kalt identify four conditions for economic development on Reservations: (1) limits to governmental power, (2) cultural legitimacy of the government, (3) specialization in the economy and integration with the off-reservation economy, and (4) access to resources. Of the four conditions, the limits to governmental power and cultural legitimacy are the ones that the OST has the greatest ability to address by introducing a local governance system. By meeting these two conditions, the Pine Ridge reservation will position individual districts to exploit potential growth opportunities.

**Limits to Power** - One of the challenges currently facing Pine Ridge is the lack of separation between the legislative and judiciary branches. A second area needing improvement is the politicization of tribal administration. Local governance will not address the first issue, but by bringing decisions closer to the people affected, the risk of politicization is reduced as accountability is increased.

**Cultural Legitimacy** - The current government of Pine Ridge is based upon an IRA constitution and not on traditional Sioux

political structures. As a result, Oglala culture and social structures do not support the government. Local governance capitalizes on the Sioux tradition of making decisions at the band (*riyospaye*) level and thus brings the government into closer alignment with the political structures prevalent in pre-reservation times.

### LOCAL GOVERNANCE: A COMPARISON BETWEEN NAVAJO NATION AND THE OGLALA SIOUX TRIBE

The local governance model applied to Pine Ridge must be unique to the Oglala Lakota people. While there are many lessons that Pine Ridge can learn from the experience of the Kayenta Township model, there are enough differences between the two communities that a direct comparison is difficult. For example, because the Kayenta Township takes power away from the Kayenta Chapter (district) Council, a township may not be an appropriate form of governance for Pine Ridge where it is important to maintain the power of the district governments.

The similarities between the Navajo and Oglala Sioux, in terms of sharing a high value for individualism and having strong tribal councils that have little accountability at the local level, support the concept of having local governance on their respective reservations.

However, there are significant differences between the Navajo Nation and the Pine Ridge Reservation that should caution Pine Ridge from taking a township approach to local governance.

### Comparison of Navajo Nation to Oglala Sioux Tribe

- \* Both tribes value individualism
- \* Navajo Nation has 110 chapters compared to Pine Ridge's nine districts
- \* Navajo Nation is located on a popular tourist route compared to Pine Ridge's more isolated location
- \* Navajo Nation had a more developed business base when Kayenta was established than Pine Ridge does now.

One of the largest differences is the relative lack of tourist traffic at Pine Ridge. The high volume of traffic passing through Kayenta and thus spending money and paying taxes in Kayenta contributes significantly to township revenues. Without these funds the viability of the township would be in question. A second difference is that Kayenta had an established business/city base upon which to build when the township was established. The cities of Pine Ridge and Kyle are two possible sites within the Pine Ridge Reservation that could satisfy this prerequisite, but the model is not applicable to the rest of the reservation. However, the model may be adapted to serve the needs of all the districts on the reservation allowing everyone to enjoy the benefits of local governance and not just the residents of Pine Ridge or Kyle.

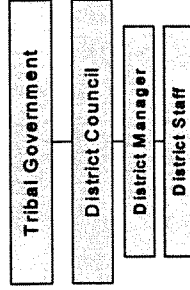
A third reason for not implementing the Kayenta model at Pine Ridge without tailoring it to the needs of the reservation is that it will create political tension and will reduce the power of the District. In the model, the Township is withdrawn from the District and the District has no authority over the Township. This will further fragment the authority structure on the reservation, and given the fragility of current institutions, making any changes that could further weaken governmental institutions would be unwise. By creating the Township outside the District there is also the potential for District-Township tension. When this occurs, both the District and the Township will be sidetracked from their efforts to govern as they spend time resolving conflict.

By taking the strengths of the township model and adapting them to Pine Ridge, the potential hazards may be avoided and instead of weakening the Districts, the change will enhance the Districts' ability to govern.

#### A MODEL FOR PINE RIDGE RESERVATION

In order to apply the Kayenta model to Pine Ridge, the District should be thought of as a large Township with the same powers, responsibilities and organization. Unlike the Kayenta Model, there is no sub-entity with local governance authority, but the entire District is granted these powers.

Proposed Organization Chart for Local Governance



The District Government would be organized with an elected District Council and a hired a professional staff; each with separate and distinct responsibilities. The Council would be responsible for deciding what issues to address, developing and passing legislation to govern the District, and how to best serve the needs of the District. The Council also selects a District Manager who hires and oversees the professional staff. The manager and the staff are charged with administering the legislation enacted by the Council and are not able to extend or alter the legislation. The separation of power between the Council and the Staff ensures that the governance of the District is impartial and reduces the probability that the government will cater to the needs of any constituent group.

The staff is organized around the roles needed to govern the District. The staff is led by the District Manager who is responsible for overseeing all aspects of District administration and acts as a liaison between the Council and the remainder of the staff. The Manager is also responsible for hiring and firing

all District staff. The other roles needed among the staff are an Accountant, an Administrative Assistant, and a Project Developer. The Accountant will oversee the use of all District monies and will be responsible for providing a detailed record of all transactions and for preparing periodic reports for the Manager and District Council. The Administrative Assistant will support other staff members and will serve as the District Government's contact person for inquiries by residents and interested third parties. The Project Developer will oversee specific projects that the Council directs the staff to pursue. Because the Council will determine the form of these projects at a later date, the exact responsibilities cannot be given and will be shaped by the legislation.

### District Professional Staff and Responsibilities

- District Manager
  - \* Oversees District administration
  - \* Liaison between District Council and staff
  - \* Fire/fire District staff
- Accountant
  - \* Oversees use of District monies and record transactions
  - \* Prepares periodic financial reports
  - \* Districts
- Administrative Assistant/Public Relations
  - \* Answers community inquiries
  - \* Supports other staff as needed
- Project Developer
  - \* Administers District projects

### AUTHORITY OF LOCAL GOVERNMENTS

Both the Kayenta Township and Chapters within the Navajo Nation are granted the authority to manage issues of local concern. The Navajo Nation Local Governance Act governing Chapter governments then defines what is meant by local concern. However, the Kayenta authorizing legislation is much broader and leaves the definition open to interpretation. This allows the Township to address new issues as they become relevant. The latter option gives the local government greater authority and increases its ability to address local needs, but it also increases the possibility of tension between the local and tribal governments. Given this possibility, districts within Pine Ridge who pursue local governance should, with the approval of the Tribal Government, clearly define the extent of their authority.

### Possible Areas of Responsibility for District Governments

- \* Home and business site lease approval
- \* Generate revenue
- \* Develop a land use plan and pass zoning legislation
- \* Acquire land through eminent domain
- \* Enact regulatory ordinances to protect the health, safety and welfare of District members
- \* Local utilities
- \* Establish a peacemaking system to resolve District level conflicts
- \* Fire protection and flood control
- \* Road maintenance and street lights
- \* Trash collection

### Historical Context for Local Governance

Historically the Sioux were organized into *tiyospaye* or bands. It was to the *tiyospaye* that the Sioux owed their first allegiance and within these *tiyospaye* that governance decisions were made. The political structure within the *tiyospaye* was composed of a council, a chief, and a group responsible for maintaining order known as the *akicita*.<sup>8</sup> The council held the highest authority and was composed of all respected men from among the *tiyospaye*. This council was responsible for policy making within the *tiyospaye* and for the appointment of a chief and the *akicita*. The chief was charged with overseeing the day to day operation of the *tiyospaye* and served as long as he maintained the support of the *tiyospaye*. The *akicita* were the enforcers in the system and had the authority to use force if needed to maintain order.<sup>9</sup>

The local governance structure proposed is in essence a contemporary version of this structure. The District Council serves as the *tiyospaye* council and although it is not as inclusive as the traditional *tiyospaye* council, District officials do stand for election and thus are required to be sensitive to the needs of the District. As the traditional council appointed the chief, so the District Council appoints the District Manager to oversee the day to day administration of the District. The District Council's responsibility is to develop the policy by which the District will be governed and the District Manager is then charged with implementing the policy. The Manager has no authority to extend or deviate from the legislated will of the District Council.

The only difference between the traditional government and the proposed local governance structure is that the role of the *akicita* is fulfilled by the tribal police and not by a group appointed by the District Council. However, given the difficulty and high cost of setting up a police force, it is not feasible to devolve law enforcement to the District level.

### PROS AND CONS OF DISTRICT LOCAL GOVERNANCE MODEL

#### Pros

**Cultural Match** – The greatest benefit of the model is that it capitalizes on the Sioux tradition of *tiyospaye* level governance. Although the districts cannot be thought of as the current equivalent of *tiyospayes*, the principal of being governed at the local level is a Sioux tradition. The model the OST to design its government to more fully reflect its pre-IRA constitution, pre-reservation form of government.

**Responsiveness to Local Needs** – By placing the authority to address local issues at the district level, residents of Pine Ridge will be more able to make their desires known and thus receive more responsive governance. In addition, the actions taken by the district government will be more efficient because they will be tailored to the needs and unique characteristics of specific districts and not the Reservation as a whole.

<p><b>Pros of Local Governance on Pine Ridge Reservation</b></p>
<ul style="list-style-type: none"> <li>* Capitalizes on the traditional political structure of band (<i>tiospaye</i>) governance</li> <li>* Increase responsiveness to local needs</li> <li>* Not limited to a single area within District</li> </ul>

**Wide Applicability** – Direct application of the Kayenta model at Pine Ridge would only allow residents of Pine Ridge and possibly Kyle to benefit from the innovation because they are the areas most developed on the Reservation. By changing the focus from a specific geographic area to local governance at the district level, all the residents of Pine Ridge can benefit as their districts choose to assume the responsibility for local governance.

**Cons**

**Redundant** – Devolving power to the district level will require all districts to establish another layer of government to oversee the district, which will involve hiring more staff and establishing new rules in each district. The total administrative costs of all nine districts managing their affairs individually will be more expensive than if it was managed by the tribal government.

**Government Capacity** – Placing governance authority at the district level will greatly increase the responsibilities of district governments and will require the districts to recruit staff to work in the governments. If the pool of qualified staff is smaller than needed to meet the increased demand, the district governments will be unable to provide quality services and will fail to reach their full potential. One way to avoid this problem is to recruit staff from off the Reservation.

<p><b>Cons of Local Governance on Pine Ridge Reservation</b></p>
<ul style="list-style-type: none"> <li>* Redundant political institutions</li> <li>* Governance responsibility may exceed capacity</li> <li>* Potential for unfocused, “try everything” approach</li> <li>* Significant increase in District official’s oversight responsibilities</li> </ul>

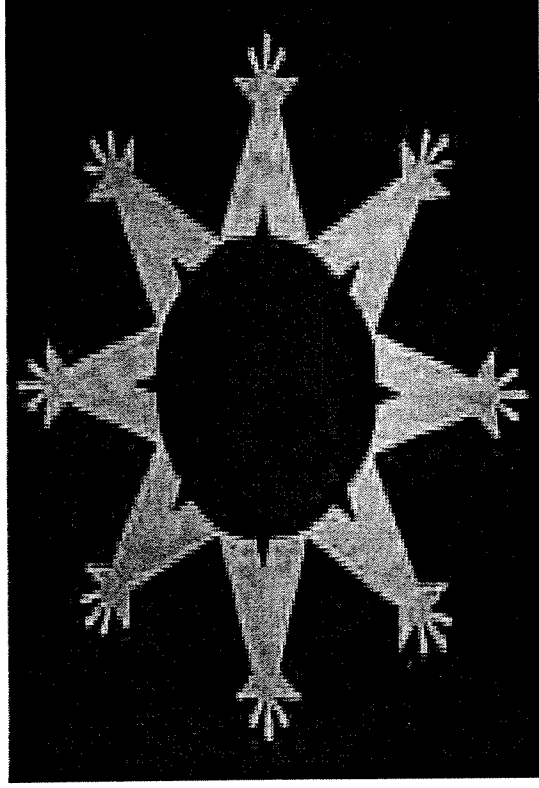
**Unfocused Approach** – Because the adapted model encompasses the district at large and not a small geographic area, there is the possibility that the district government may fall prey to the “try everything” economic development strategy. In reality not a strategy at all, this approach leads to development efforts that are unfocused and, because the

number of projects often outstrip capacity, under-supported. Instead of doing a few projects well, the “try everything” strategy leads to doing a lot of projects poorly.<sup>10</sup>

**Increase in Oversight Responsibilities** – The responsibilities of the district officials will be significantly increased under the new structure. If the officials are unable to make this adjustment, the reorganization will be unsuccessful. Alternatively, if the officials are able to invest time in the project the likelihood of its success will be increased.

Chapter 3

Why Local Governance Could Work for the  
Oglala Sioux Tribe



Local Governance for the Oglala Sioux Tribe:  
A Return to Local Empowerment

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# WHY LOCAL GOVERNANCE COULD WORK FOR OST

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## IRA CONSTITUTIONS

In response to the Indian Reorganization Act of 1934, the US Government pressured tribes across the United States to adopt constitutions based on a strong executive model. These "IRA constitutions," as they have come to be known, were not adapted to the needs or desires of individual reservations. They were, in essence, standardized templates varying only by tribal name.<sup>11</sup> As such, for some tribes the constitutions strengthened traditional political structures, and for other tribes the IRA governments conflicted with these structures.

In cases where the IRA government built on existing structures the tribes flourished. The White Mountain Apache, a tribe ruled traditionally by a strong chief, have benefited from the strong executive structure and been able to establish ten tribal businesses with annual revenues from \$80-100 million.<sup>12</sup> In contrast, the tribes in which the IRA constitutions worked against tradition have suffered from extended political crises and have experienced difficulty developing economically. The Sioux in general, and Pine Ridge Reservation in particular, provide a stark contrast to the Apache. Unlike the Apache, the Sioux were traditionally governed under a parliamentary system in which the chief was subordinated to the council. In addition, the Sioux placed a strong emphasis on local authority and the tribal government operated only intermittently when

individual bands joined together for ceremonies, large hunts, and war.<sup>13</sup> While the White Mountain Apache have an unemployment rate of 11%, the aggregate unemployment rate among Sioux reservations is 75% and efforts to establish tribal businesses have been disappointing.<sup>14</sup>

The lack of economic development on Sioux reservations has been influenced highly by the mismatch between present-day and traditional governmental structures, and does not result from an intrinsic difference between the Sioux and Apache. Cultural match and social support of the government are needed because they discipline the government and ensure that people who would exploit the government are constrained. Social pressure is also valuable because in its absence, there are no checks on the government and disputes often arise within the government and the tribe over who holds authority and within what boundaries the government has or should have control.

## Current Problems

The current tension at Pine Ridge between the Tribal Council, the President, the Tribal Treasurer, and the Grass Roots Oyate (GRO) illustrates the dangers of a mismatch between the tribal government and traditional structures. The GRO is currently engaged in a takeover of the tribal offices and claims that its members will not leave until their demands have been met. This takeover is clearly outside the bounds of the formal

government structure and indicates that the GRO does not recognize the authority of the tribal government. The attempt by the President to suspend the Treasurer, the subsequent reinstatement by the Judiciary, and the President's unwillingness to accept the decision demonstrate that there is significant disagreement over where power resides within the government. If the government was based on a socially accepted traditional structure, all parties would be forced to recognize the authority of the government or suffer social pressure. Disputes over the locus of power would also be eliminated since the traditional structure clearly delineates the constraints within which the government operates.

Altering the current Sioux governments to more fully reflect their historical roots would allow the Sioux to capitalize on the benefits of cultural match in order to strengthen the government and, in time, to experience development similar to that enjoyed by thriving Indian communities.

#### **MODELS OF GOVERNANCE FOR ECONOMIC DEVELOPMENT**

Since 1975, when the Indian Self-Determination and Education Assistance Act was passed, American Indian tribes have begun to exercise more control over their reservations. Many tribes have strengthened their political sovereignty by improving their legislative arms of government, upgrading criminal justice systems, and developing regulations to govern business activity and taxation.

#### **American Indian Tribes Have Restructured Their:**

- \* Courts
- \* Police Departments
- \* Civil and criminal procedures
- \* Legislatures
- \* Business and environmental codes
- \* Tax systems

As mentioned earlier in the case of the OST, the IRA of 1934 did not always lead to effective forms of governance on American Indian Reservations. In a study by Cornell and Kait (1995b), they emphasize the importance of "get[ting] the institutions right." They found that constitutional forms can explain differences in cross-tribal economic performance levels, holding variables such as human capital endowment, natural resource endowment, and marketplace opportunities constant. For example, having a separation of powers between a directly elected chief executive and the judiciary greatly increases the probability that a tribe will develop economically. Their research indicates that having an independent judiciary raised employment by 20 percentage points in comparison to tribes without a separation of powers. Moreover, tribes with a general council governance structure and no independent judiciary had the poorest economic performance in Indian Country.

In addition to governance structure, sociopolitical norms of location, scope and structure of political authority are critical to the economic viability of an American Indian community. As mentioned earlier, the White Mountain Apache and Pine Ridge Sioux have very different levels of unemployment on their respective reservations. Initially the explanation would not seem to be political since both reservations have similar governments organized around a strong chief executive without an independent judiciary. However, once a comparison between the current government and traditional political structures is made, the explanation for the difference is clear. Traditionally, the Apache had a strong chief executive whereas the Sioux did not. For the Apache the current government reinforces the traditional structure, but for the Sioux the current form of government conflicts with the culture.<sup>15</sup>

Based upon these and other findings, Cornell and Kalt suggest there are four necessary and sufficient conditions for economic development on American Indian Reservations.<sup>16</sup>

1. **Limits to Power:** A governmental structure that provides some mechanism of confining the government to the role of a third-party enforcer
2. **Cultural Legitimacy:** A match between the society's expectation of the government and the formal government institutions
3. **Specialization and Exchange:** A willingness to focus on businesses in which the tribe is skilled and to interact with the broader off-reservation economy
4. **Resources:** Access to at least one resource (e.g. human capital, natural resources)

All four conditions are necessary for the development of a tribe.

#### Four Necessary Conditions for Economic Development

- \* Limits to Power
- \* Cultural Legitimacy
- \* Specialization and Exchange
- \* Access to Resources

#### Two Case Studies of Successful Economic Development in Indian Country

The Salish and Kootenai Tribes of the Flathead Reservation and the Keres people of the Cochiti Pueblo are two economically stable American Indian communities. The Flathead Reservation and the Cochiti Reservation have lower unemployment rates, higher median household incomes, and lower poverty rates compared to American Indian Reservations at large. What is interesting to note is that both of the reservations meet the conditions for economic development.

## Social and Economic Conditions on Flathead and Cochiti

	Flathead	Cochiti	All Tribes
Indian Unemployment	17%	4%	45%
Indian Median Household Income	\$14,898	\$18,036	\$12,459
Indian Family Poverty Rate	32%	27%	47%

US Census 1990, US Department of the Interior, Bureau of Indian Affairs, *Indian Service Population and Labor Force Estimates*, selected volumes.

Whereas the Flathead Reservation adopted an IRA Constitution in 1935, the Cochiti avoided the IRA constitutions and instead is organized under a theocracy that has operated continuously for centuries. The Flathead Reservation has since amended their governance structure to a highly sophisticated parliamentary democracy. Both seem to be very effective forms of governance for their respective reservations.

### Flathead Reservation

Comprised of two people groups—the Salish and Kootenai—the Flathead reservation is located in rural western Montana and is well endowed with agricultural and forest resources. A number of firms run by tribal members are involved in the logging, construction and farming industries. Around the Flathead Lake, within the reservation boundaries, small

businesses have developed to support their economy, which is based primary in agriculture and tourism. The income growth and improvement in employment experienced by the Flathead Reservation are among the most impressive in Indian Country. Interestingly, tribal members are a minority on the reservation and civic culture is fairly removed from its pre-reservation roots as a result of transferring tribal lands to individuals and non-Indian during the first part of the 1900's.

The Flathead Reservation is an illustration of a reservation that has met the four conditions for economic development and has experienced economic growth.

**Limits to Power:** The Flathead Reservation employs a 3-branch parliamentary system with a highly developed, independent judiciary and a council that serve for staggered four year terms. They have built an explicit “checks and balances” structure into their parliamentary system.

**Cultural Legitimacy:** In their pre-reservation days, the tribes of the Flathead Reservation were governed by a strong chief executive system. When the Flathead Reservation was established as an amalgam of different tribes, they realized that having a strong chief executive could be biased towards one tribe. The tribes created cultural legitimacy on the reservation by implementing an effective parliamentary system that eliminated the possibility of bias.

**Specialization and Exchange:** The people of the Flathead Reservation have opened a major resort on the banks of Flathead Lake for interaction and exchange with people outside of the reservation.

**Resources:** As mentioned with regard to specialization and exchange, the Flathead Reservation is endowed with good agricultural land, harvestable forest resources and a good location for tourism.

### **Cochiti Reservation**

The Cochiti Pueblo, located 50 miles north of Albuquerque, New Mexico, has an economy based largely on tourism and recreation. This Pueblo tribe has capitalized on its moderate climate and the mystique of New Mexico to develop a large and growing retirement community within the reservation. The tribe provides public services and infrastructure to the community, such as swim and tennis facilities, a premier golf course, and marina facilities on Cochiti Lake. Off the reservation, many of the Cochiti Pueblo are employed in managerial and professional positions, sales, services and construction. In contrast to the Flathead Reservation, the Cochiti Pueblo have strongly retained their cultural and historical roots.

**Limits to Power:** Unlike on the Flathead Reservation, Cochiti officers are governed by a body of unwritten, common law that is adapted to the needs of the situation. There is no formal constitution but rather the government is a theocracy under the completed control of the Pueblo's religious leaders. While the theocrat has absolute power, his actions are checked by cultural expectations that ensure that the position of power is not abused.

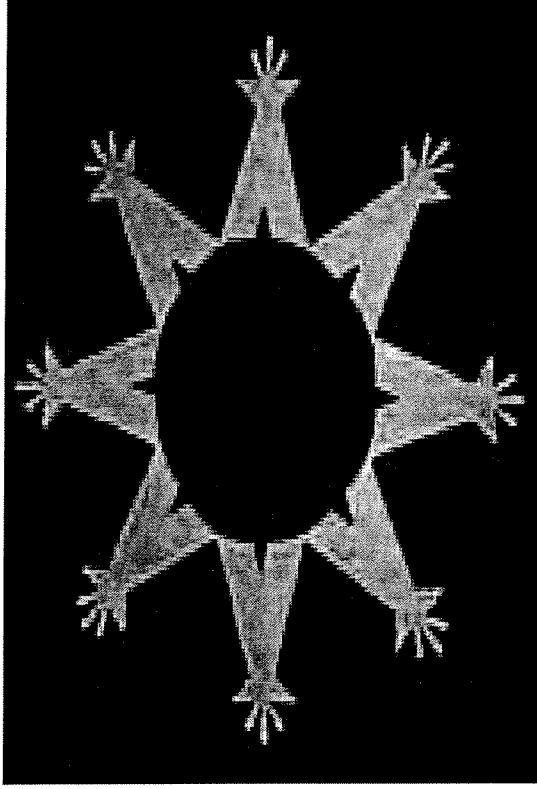
**Cultural Legitimacy:** For centuries the government of the Cochiti has been a theocracy identical to the one that now governs the reservation. The Cochiti government is

determined completely by the traditional culture of the Cochiti and thus has full cultural legitimacy.

**Specialization and Exchange:** Like the Salish and Kootenai people of the Flathead Reservation, the Cochiti Pueblo have succeeded in drawing people and thus money onto the reservation. In addition, there are many highly educated Cochiti who are employed in managerial and professional positions outside of the reservation in Albuquerque.

**Resources:** Located near the metropolitan of Albuquerque, the reservation is strategically positioned for recreational tourism opportunities. The reservation's moderate climate has also been an asset in developing the retirement community.

Chapter 4  
Implementing Local Governance on the  
Pine Ridge Reservation



Local Governance for the Oglala Sioux Tribe:  
A Return to Local Empowerment

# IMPLEMENTING LOCAL GOVERNANCE IN PINE RIDGE

Local governance is a goal for all districts within Pine Ridge. However, to demonstrate its value, the model should first be tested in one district. The lessons learned from the pilot project will allow for smoother implementation in other districts if the tribe chooses to move forward.

The effort to establish local governance should be split into three distinct phases, each contingent on the successful completion of the prior phase. The three phases may be broadly conceived of as (1) formation, (2) consensus building, and (3) implementation.

## FORMATION PHASE

The formation phase has three goals—to secure the support of formal and informal District and Tribal leaders and to determine the exact makeup of local governance within the District. Both goals may be achieved by establishing a Local Governance Committee to plan the implementation of the pilot project. The committee should consist of the District Representative to the Tribal Council, the District Chairperson, and at least three other respected members of the District. The District Representative and District Chair must be included to ensure that these two parties communicate throughout the process and the possibility for tension between them is reduced. The opposition of either the Representative or the Chair will compromise the process and thus every effort should

be made in the initial stages of the process to gain their input in designing the program structure in order to gain their support for its implementation.

### Members of the Local Governance Committee

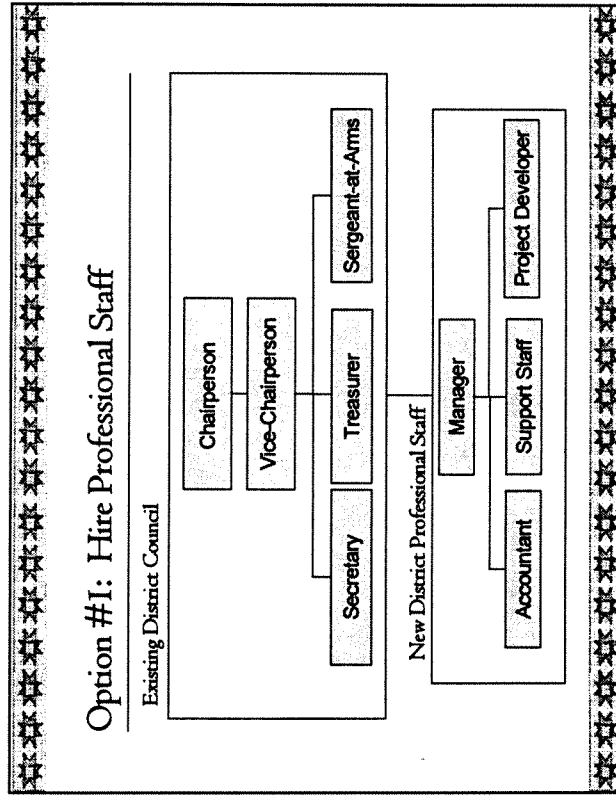
- 1) District Representative to the Tribal Government
- 2) District Chairperson
- 3) At least three other respected leaders from the District

The main purpose of the committee will be to determine the structure of local governance in the Pilot District. The two main questions to be answered are, (1) How will the District government be organized after the transition? and (2) How will the government be financed?

## Two Options for Restructuring

### *Hire Professional Staff*

The first option, adding a professional staff to the current structure, requires the least amount of work and may be easily undone if for some reason the District chooses to abandon the idea of local governance. In addition, current District officials may also be more supportive of this option since it does not threaten their positions.



The drawback to this plan is that the government is not designed around local governance, which may lead to redundancy between the council and staff levels. This is most clear in the repetition of the treasurer/accountant position. It is possible to eliminate the tension by making the Council

### Decisions to be made by Local Governance Committee

Establish a Committee to determine:

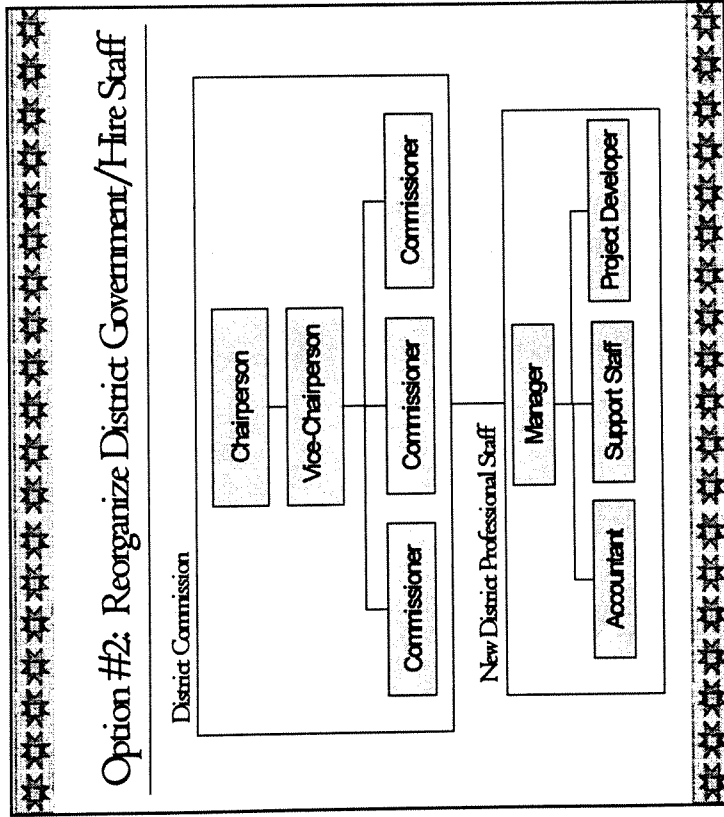
- \* How will the District be organized?
  - \* Will the Council simply hire a professional staff?
  - \* Will the District Government be restructured?
- \* How will the District be financed?
  - \* Tribal Block Grant?
  - \* Leases?
  - \* Taxes?

### Organization of the District Government

In answering the organizational question, the Committee must decide the extent to which the change will affect the structure of the District Government. There are two options to consider. The easier is to simply add a professional staff under the current District Government. The second and more complicated option is to reorganize the District Government along the lines of the Kayenta model.

Treasurer responsible for overseeing the staff Accountant and the overall financial state of the District while the Accountant conducts the day to day financial operations to keep the District running. Under this plan the council level officials would transfer the operational aspects of their jobs to the staff level officials and the Council would only play an oversight role.

*Restructure District Government*



A second option for organizing the District Government would be to change the current District Council into a District Commission and eliminate individual roles within the Commission except for the District Chair and Vice-Chair. The

other three positions would simply be Commissioners-at-Large and would not have unique responsibilities. The benefit of this method is that there is no overlap between the responsibilities of the Commission and the staff.

This method is more difficult to undo because the treasurer, secretary and sergeant-at-arms positions have been abolished and would thus have to be reestablished if the project was abolished. The high cost of abandoning the local governance model may be seen as both a benefit and a drawback. By making the cost of undoing the action higher, it forces the District to remain committed to project even if it becomes difficult and thus increases the probability of success. However, if the project does need to be abandoned it will be more difficult because the abolished offices will have to be recreated.

**Financial**

The committee must decide what method of financing will work best within Pine Ridge. There are three possible options: Tribal block grants, business lease revenues, and a tax. Each has its own benefits and costs and the committee must decide which choice or combination is best suited for the District and the Tribe as a whole.

*Tribal Block Grants*

Tribal block grants are not used at Kayenta, but given the situation at Pine Ridge they may be the best alternative. A block grant is a transfer of funds from one level of government to another to allow the recipient to spend the money at the local level. The rationale is that local governments have a better

understanding of the needs of the community they oversee and thus will make wiser choices about how to spend the money than will the more removed governing body. Grants may be either tied, in which case their use is restricted by the giver, or untied which allows the recipient to use it as they choose.

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### Block Grants—The US Experience

In 1993, the United States made 15 block grant for \$32 billion. In total this represented approximately 13% of the \$206 billion transferred to states by the federal government. The General Accounting Office has found that the transition to block grants went smoothly when the grants were made for existing state programs with already developed management and service delivery systems.

However concerns are emerging about the use of block grants. First, the information available to the grant-making authority regarding the use of the funds is reduced relative to program grants. Second, over time, flexibility is reduced as restrictions are imposed on previously untied grants.

These concerns should be taken into consideration as a tribal block grant model is considered for Pine Ridge.

Tribal Block Grants are a viable option because the Districts will be assuming responsibilities from the Tribal government and therefore expenditures will be transferred from the Tribal level to the District level. Since the Tribal government is

receiving money to meet the needs shifted to the local level, the Tribe may transfer the funds to the Districts without having to reduce the funding level of any other expenditures at the Tribal level.

### Business Leases

One source of revenue for Kayenta is business leases within the Township. The Township is the lessor on all leases within its jurisdiction and thus is guaranteed a steady revenue stream as the area develops. The benefit of lease revenue is that the total value of lease payments grows as the community develops. However, as the community grows there will be additional financial strains placed on the District government and thus the increase may be needed simply to cover these added operational expenses. At Kayenta, the Township receives the entire lease payment and the Tribal Government does not receive anything. An alternative method would be to split the revenue between the District and the Tribal Government recognizing that the Tribal Government does provide services to local businesses and deserves to receive compensation for these services. Splitting the revenue has the added benefit that it is more likely to be accepted by the Tribal Government who would have to voluntary give up a portion of the revenue.

### Tax

The Kayenta Township is financed mainly by a 2.5% retail tax on items that are frequently purchased by tourists. Since the tax was introduced it has brought in over \$1 million in revenue and more than fully supports the Township staff. The success of the tax is due mainly to the large number tourists that pass through Kayenta while going to the numerous natural

attractions in northern Arizona. Without such a large tourist base the revenue from the tax would be significantly smaller. In addition, the tax requires an already established formal sector and will not function in its absence.

Given the lack of a developed formal economy throughout most of the Reservation and the fact that the level of tourist traffic is not extensive, the tax option may not be a viable option for funding local governance until the business sector is more developed.

#### **Community Needs Assessment**

One of the main benefits of local governance is that it makes the government more responsive to local needs. In order to ensure that the proposed government in fact meets the District's needs, it is imperative that community input is included from the start. In order to learn what the community feels is important, all District residents should participate in a needs survey. The survey (see Appendix B) is designed to learn what the community needs, what problems people confront on a daily basis, and how these problems may be best overcome.

After completing the survey, the Local Governance Committee should incorporate the results into the local governance proposal. The model should be designed to concretely address community needs and include specific plans for how they will be addressed. Once the proposal is ready, the Formation phase will be completed and the Consensus Building phase may begin.

### **CONSENSUS BUILDING PHASE**

The Consensus Building phase is intended to gain community support for the project in order to ensure its success. Previous attempts at development attempts have been tried without such support and lasted no longer than the next election because they only had the support of a few key officials. By gaining broad-based support, the committee can guarantee that the project will continue regardless of who is in power and it will be able to draw on the resources of the whole community because the project will truly be a group effort.

#### **Goals of Consensus Building Phase**

- 1) Obtain community input on how Local Governance should be organized
- 2) Tailor the model to incorporate community input
- 3) Build community support for Local Governance in the District

Support will be rallied by holding a series of community meetings throughout the District to educate people about local governance and how it will benefit them and to obtain feedback about how the proposal can be improved. The meeting should

begin by introducing the project to people and showing them how local governance will address the concerns they voiced in the community survey (see Appendix C for a sample meeting agenda). The next step is to learn from the participants if there are ways the program can be changed to better address their needs. It is important that people have real input in the process to ensure that they will support the project and not view it as a structure imposed upon them. Otherwise, local governance will have failed even before it began.

Once the people of the District support the project, the committee should then prepare a proposal for the Tribal Government including legislation authorizing the District to implement the local governance model (see Appendix D for the Kayenta Township Authorizing Legislation). The legislation should delineate the responsibilities and authority of the Tribal Government and the District Government and grant the District a degree of freedom and authority needed to address the concerns voiced by local residents. For the model to succeed, the District must have full and complete authority in the areas that it oversees and must not be required to gain the approval of the Tribal Government. Failure to meet this requirement will slow the response of the District Government and cripple its ability to quickly address local issues.

The other required component of the authorizing legislation is providing the District with a financing mechanism. The exact form of the legislation will vary based upon the decisions made by the Local Governance Committee in the Formation Phase, but regardless of the form the District must receive enough funding to fulfill the responsibilities it has been given.

## Required Components of the Authorizing Legislation

- 1) Clearly delineates District and Tribal responsibilities and authority
- 2) Grant the District complete authority over area for which it is responsible
- 3) Ensure the District is adequately funded

## IMPLEMENTATION PHASE

Once authorization has been granted, the Implementation Phase may begin. The steps in this phase are highly dependent on the results of the earlier phases and thus it is not possible to give specific instruction. However, broad guidelines may be prescribed.

The District Council should begin by developing ordinances to govern the programs it will pursue. Concurrent with these decisions, the Council should begin recruiting staff to implement the programs. Ideally, the staff will begin work once the legislation has been approved because if the staff are on the payroll before the ordinances are approved there will be little for the staff to do since their work is dictated by the ordinances passed by the council. Appendix E contains basic

job descriptions for a Manager, an Accountant, an Administrative Assistant, and Project Developer. The descriptions are not for individual positions, but for roles. The roles may be combined as needed to form fulltime positions.

**District Professional Staff**

- \* District Manager
- \* Accountant
- \* Administrative Assistant/Public Relations
- \* Project Developer

**FINAL THOUGHTS ON LOCAL GOVERNANCE**

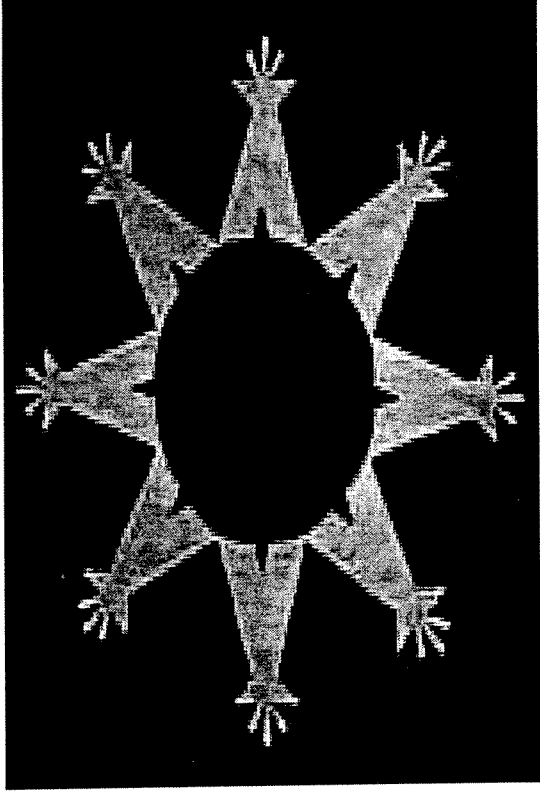
The decision to introduce local governance on the Reservation and what such a government would look like is of great importance to the OST. If the tribe chooses to adopt a form of local governance, it is imperative that the structure be unique to the Oglala Lakota people and consistent with their rich history. While implementing an appropriate model of local governance would involve significant change, it is our belief that this form of governance would strengthen the OST.

The OST has long carried a vision for economic development to break the cycle of persistent poverty that grips the Reservation. Through years of harsh economic conditions and failed development efforts, the Oglala Lakota people have demonstrated incredible strength and resilience. It is these qualities, and the vision of a better tomorrow that will allow the OST to make a successful transition to local governance.

## Endnotes

- <sup>1</sup> Navajo Nation Code 26, p. 2.
- <sup>2</sup> Navajo Nation Code 26, p. 2.
- <sup>3</sup> Navajo Nation Code 26, p. 5-6.
- <sup>4</sup> Empowerment Zone Application Volume 1, Section 4, page 5.
- <sup>5</sup> Ibid.
- <sup>6</sup> Conversation with Mike HerManyHorses in October 1999 and Sherman Report.
- <sup>7</sup> Empowerment Zone Application Volume 1, Section 4, page 6.
- <sup>8</sup> Cornell and Kalt. (1993) p. 22.
- <sup>9</sup> Cornell and Kalt,(1993) p. 21-24.
- <sup>10</sup> Aoki and Chatman, Book 2, p. 20.
- <sup>11</sup> Biolsi, p. 98-99.
- <sup>12</sup> Cornell and Kalt, p. 15-16, 34-37.
- <sup>13</sup> De Mallie, p. 248.
- <sup>14</sup> Cornell and Kalt, p. 11.
- <sup>15</sup> Cornell and Kalt: Successful Economic Development and Heterogeneity of Governmental Form on American Indian Reservations.
- <sup>16</sup> Cornell, S. and J. Kalt, "Where is the Glue? Institutional Bases of American Indian Economic Development" (forthcoming, *Festschrift for George J. Stigler*, ed. M. Zupan, 1995b).
- <sup>17</sup> GAO Report on Block Grants: Characteristics, Experience and Lessons Learned. February 1995.

Appendices



Local Governance for the Oglala Sioux Tribe:  
A Return to Local Empowerment



Appendix A

**Navajo Nation Local Governance Act**

**26 NAVAJO NATION CODE**  
**Navajo Nation Local Governance Act**

**Chapter 1**  
**NAVAJO NATION CHAPTERS**

*Subchapter 1. Generally*

Section 1	Title; Purpose; Authorization; Prior Inconsistent Law Superseded; Amendment
Section 2	Definition
Section 3	Chapter Certification

*Subchapter 3. Navajo Nation Chapter Governance*

Section 101	Chapter Government Requirements
Section 102	Governance Procedure Requirements
Section 103	Chapter Authority

**Chapter 2**  
**CHAPTER GOVERNMENT**

*Subchapter 5. Navajo Nation Chapters, Officials and Administration - Generally*

Section 1001	Duties and Responsibilities of Chapter Officials
Section 1002	Meetings; Meeting Notice Requirement; Compensation of Chapter Officials
Section 1003	Order of Business
Section 1004	Chapter Administration

*Subchapter 7. Navajo Nation Chapter Regulations and Procedure*

Section 2001	Chapter Ordinance Procedure
Section 2002	Chapter Contract Requirements
Section 2003	Chapter Finance; Budget Process; Chapter Insurance
Section 2004	Zoning; Comprehensive Plan; Land Use Variations
Section 2005	Eminent Domain Requirements
Section 2006	[Reserved]
Section 2007	[Reserved]
Section 2008	[Reserved]

*Subchapter 9. [Reserved]*

*Subchapter 11. [Reserved]*

*Subchapter 13. [Reserved]*

26 Navajo Nation Code  
Navajo Nation Local Governance Act

Chapter 1  
NAVAJO NATION CHAPTERS

*Subchapter 1. Generally*

**Section 1. Title; Purpose; Authorization;**

**Prior Inconsistent Law Superseded;**

**Amendment**

**A. Title**

This Act shall be cited as the "Navajo Nation Local Governance Act" and herein codified in Title Twenty Six (26) of the Navajo Nation Code.

**B. Purpose**

1. The purpose of the Local Governance Act is to recognize governance at the local level. Through adoption of this Act, the Navajo Nation Council delegates to Chapters governmental authority with respect to local matters consistent with Navajo law, including custom and tradition. This Act clearly defines the executive and legislative functions of the Chapter as well as the duties and responsibilities of Chapter officials and administrators consistent with the Navajo Nation's policy of "separation of powers" and "checks and balances."

2. Enactment of the Local Governance Act allows Chapters to make decisions over local matters. This authority, in the long run, will improve community decision making, allow communities to excel and flourish, enable Navajo leaders to lead towards a prosperous future, and improve the strength and sovereignty of the Navajo Nation. Through adoption of this Act, Chapters are compelled to govern with responsibility and accountability to the local citizens.

**C. Authorization**

The Navajo Nation Council, by Resolution CAP-34-98, hereby approves the Navajo Nation Local Governance Act.

**D. Prior Inconsistent Law Superseded**

Upon the effective date of the Navajo Nation Local Governance Act, all inconsistent enactments, laws, rules, policies, ordinances and regulations of the Navajo Nation and all branches, divisions, departments, offices and political subdivisions thereof are superseded hereby and/or amended to comply herewith.

**E. Amendment**

This Act may be amended by the Navajo Nation Council subject to approval of a majority of all Chapters of the Navajo Nation; or this Act may be amended by referendum vote of a majority of all Chapters as set forth in 11 N.N.C., Navajo Nation Election Code.

**Section 2. Definitions**

The language contained in this Section applies generally to all Chapters except as otherwise provided in this Act.

1. "Accounting system" means the methods and records established and maintained to identify, assemble, analyze, classify, record and report a Chapter's financial transactions and to maintain accountability, in accordance with generally accepted governmental accounting principles (GAGAP), of such transactions and for the related assets and liabilities.

2. "Administrative functions" are those activities of the Chapter government which are non-legislative, and involve the conduct of programs.

3. "Allotment" means a parcel of land either owned by the United States in trust for an Indian (trust allotment) or owned by an Indian subject to restriction imposed by the United States against alienation (restricted fee allotment).

4. "Alternative form of Chapter governance" means to give a new design, function or organization to the existing Chapter government.

5. "Attendance" means to be present.

6. "Chapters" are units of local government which are political subdivisions of the Navajo Nation.

7. "Chapter Certification" means the process required of a community group, pursuant to Section 3, seeking to establish a certified Chapter of the Navajo Nation Government.

8. "Chapter employee" means any person or entity working for, or rendering or exchanging any services or performing any act for or on behalf of the Chapter in return for any form of payment or other compensation or thing of value received or to be received at any time temporarily, permanently or indefinitely, in any capacity; whether as agent, servant, representative, consultant, advisor, independent contractor or otherwise.

9. "Chapter meeting minutes" means the record of all action taken at a duly called meeting of the Chapter.

10. "Chapter membership" means:

a. for voting purposes and participation in the Chapter government, all registered voters of the Chapter.

b. for purposes of services and benefits, all tribal members, young and old, who either reside within or are registered in the Chapter. An individual may not be a member of more than one Chapter.

11. "Chapter official" means the following public officials elected by the Chapter membership: Chapter President, Chapter Vice President, and Chapter Secretary/Treasurer.

12. "Chapter ordinance referendum" means the official vote of a Chapter's registered voters on a proposed ordinance pursuant to Section 2001(H) et seq. of this Act.

13. "Chapter resident" means one who dwells permanently or continuously within the boundaries of a Chapter.

14. "Chapter resolution" means

the document recording the official action taken by the Chapter membership at a duly call Chapter meeting.

15. "Community Based Land Use Plan" means a document adopted by Chapter resolution setting forth current and proposed uses of land within Chapter boundaries, illustrating such uses by map or plat.

16. "Contracting" means the act of entering into written agreements which impose legal obligations on the parties who are signatories to the agreement.

17. "Custodian" means having day to day charge of official books, records, documents, equipment, property and funds of the Chapter.

18. "Eminent domain" means the taking of land used by an individual, or legal person or entity, in which an individual, or legal person or entity, has an interest for a governmental purpose. "Just compensation" must be paid to the user for taking of such as prescribed by Navajo law.

19. "Filing System" means the system by which all Chapter documents are maintained.

20. "Five Management System" means a management system which includes: accounting, procurement, filing, personnel and property management.

21. "Governance Procedure Requirements" means the process Chapters must complete pursuant to Section 102 to begin exercising authorities pursuant to this Act.

22. "Governmental purposes" means activities carried out by the Chapter for the general health, safety and welfare of the Chapter membership.

23. "Local governance" means governance by and through Chapter governmental bodies as set forth by this Act.

24. "Manager" means the individual who is responsible for administering the Five Management System and the administration of the Chapter.

25. "Navajo Nation law" means Navajo statutes, administrative regulations and Navajo common law.

26. "Ordinance" means a local law, rule or regulation enacted by a Chapter pursuant to this Act.

27. "Oversight" means the general supervision of administrative functions by the Chapter officials and/or the manager to ensure accountability.

28. "Personal property" is all supplies, materials, equipment and other property, including expendable and nonexpendable property, capitalized and non-capitalized, but does not include real property or fixtures. Capitalized property is nonexpendable property having acquisition value of \$1,000.00 or more.

29. "Personnel management" means the system by which recruitment, retention and termination of employees is administered at the Chapter.

30. "Property management" means the system by which the Chapter administers accounts for real and personal property obtained or controlled as a result of past transactions, events or circumstances.

31. "Real property" is any interest in land, together with the improvements, structures and fixtures located thereon.

32. "Registered voter" means having one's name officially placed on a list of eligible voters.

33. "Sub-contract" means the act of entering into a written agreement between a Navajo Nation Chapter and a Navajo Nation division, program or entity.

34. "Technical assistance" means services rendered by the central Navajo Nation government with respect to the authority to be exercised by Chapters as described herein.

### Section 3. Chapter Certification

A. There shall be certified at least one Chapter organization in each Chapter precinct which elects delegates to the Navajo Nation Council. The list of certified Chapters is at 11 N.N.C. Part 1 Section 10.

B. Until increased by certification by the Navajo Nation Council, the number of certified Chapters shall not exceed one hundred and ten (110).

C. Additional Chapters may be certified only if all of the following are met:

1. Upon presentation of evidence to the Navajo Nation Council that the proposed Chapter represents a community group which has existed and functioned as a community for four (4) continuous years.

2. Upon presentation of evidence that the population of the area exceeds 1,000 persons for each of the existing Chapters and that there is a need to establish others.

3. Upon presentation of evidence that the topography or the unique demography of the Chapter area makes it necessary to have more than one Chapter to allow residents access to Chapter meetings.

### *Subchapter 3. Navajo Nation Chapter Governance*

#### Section 101. Chapter Government Requirements

A. To ensure accountability, all Chapters are required to adopt and operate under a Five Management System. Chapters shall develop policies and procedures for the Five Management System consistent with applicable Navajo Nation law.

B. Chapters wanting to administer land, pursuant to this Act, are required to develop a community based land use plan based upon results of a community assessment.

#### Section 102. Governance Procedure Requirements

A. The Navajo Nation Auditor General's office shall review the Chapter's Five Management

System policies and procedures and recommend governance certification of the policies and procedures to the Transportation and Community Development Committee.

B. Upon review and recommendation by the Auditor General's office, the Transportation and Community Development Committee of the Navajo Nation Council shall certify the Five Management System policies and procedures. Also, the committee shall review, if applicable, the Chapter's community based land use plan. Upon governance certification by the Transportation and Community Development Committee, the Chapter may exercise authorities pursuant to Section 103 of this Act.

C. Chapters subsequently approving a community based land use plan must receive certification from the Transportation and Community Development Committee. Certification by the Transportation and Community Development Committee authorizes Chapters to administer land pursuant to Section 103(D)(1).

### Section 103. Chapter Authority

A. The members of each Chapter, at a duly called meeting, are authorized to oversee the authority delegated to the Chapter pursuant to this Act.

B. All authority exercised by a Chapter shall be consistent with Navajo Nation law.

C. All authority exercised by a Chapter, pursuant to this Act, may be preempted by Navajo Nation Council statutes and/or resolutions.

D. All Chapters, by Chapter resolution, may exercise the following authorities, including, but not limited to:

1. Issue home and business site leases or permits. The issuance of leases and permits shall be done in accordance with uniform rules and regulations promulgated by the Resources Committee and the Economic Development Committee of the Navajo Nation Council. This provision shall not apply to allotments.

2. Acquire, sell or lease property

of the Chapter.

3. Enter into agreements for the provision of goods and services.

4. Enter into agreements with other Chapters to undertake a common goal or interest which will benefit the Chapters.

5. Enter into intergovernmental agreements with federal, state, tribal entities and/or their agencies, subject to the approval of the Intergovernmental Relations Committee of the Navajo Nation Council.

6. Enter into contracts or sub-contracts with the Navajo Nation for federal, state, county and other funds, subject to the approval of the Intergovernmental Relations Committee. This provision is not intended to alter federal contracts between Chapters and the United States which pre-date the enactment of this Act.

7. Enter into contracts or sub-contracts for Navajo Nation general funds, with appropriate Navajo Nation divisions, programs or agencies for service delivery programs.

8. Appropriate funds, according to conditions set forth by the Navajo Nation Council, divisions, departments or other funding sources, including Chapter claims funds and Chapter scholarship funds.

9. Reallocate funds, subject to existing funding or contract requirements, provided that 30% percent of the registered members of the Chapter approve the reallocation.

10. Retain legal counsel.

11. Establish a peacemaking system or administrative procedure for resolving disputes arising from Chapter resolutions, ordinances, or administrative action; including matters arising from personal disputes. The peacemaking system should emphasize Navajo custom for resolving disputes not otherwise contrary to Navajo law and/or custom.

12. Generate revenue through means established by the Chapter consistent with this

Act.

E. Chapters may adopt the following ordinances pursuant to Section 2001 of this Act.

1. Amend the land use plan to meet the changing needs of the community.
2. Acquire property by eminent domain, pursuant to Section 2005 of this Act. This provision shall not apply to allotments.
3. Acquire and administer capital improvement project funds.
4. Zoning ordinances consistent with the Chapter's community based land use plan.
5. Regulatory ordinances for governmental purposes, enforcement of which shall be by the Chapter, for the general health, safety and welfare of the Chapter membership, consistent with Navajo Nation law.

6. An alternative form of Chapter governance based upon models provided by the Transportation and Community Development Committee of the Navajo Nation Council.

7. A municipal form of government or Chapter sub-units based upon models provided by the Transportation and Community Development Committee of the Navajo Nation Council.

8. Local taxes pursuant to a local tax code developed by the Navajo Tax Commission and approved by the Navajo Nation Council.

9. Local fees based upon guidelines established by the Navajo Nation Council.

10. Issue community bonds.

11. Compensate the Chapter President, the Vice President, and the Secretary/Treasurer.

12. Others, subject to the approval of the Transportation and Community Development Committee of the Navajo Nation Council.

F. Chapter members may delegate the

resolution authority to the Chapter administration through the Chapter ordinance process. The delegation of authority specifically applies to: the issuance of home, business and other site leases, contracting, the authority to acquire, sell or lease personal property of the Chapter, and to appropriate funds.

G. The Chapter Officials and/or the Chapter membership are prohibited from granting monetary loans and approving per capita distribution of Chapter funds to the Chapter membership.

H. All residents of the Chapter, whether registered voters or not, are subject to the jurisdiction of the Chapter pursuant to this Section.

## Chapter 2 CHAPTER GOVERNMENT

### *Subchapter 5. Navajo Nation Chapters, Officials and Administration - Generally*

#### Section 1001. Duties and Responsibilities of Chapter Officials

A. Chapter officials are elected by the Chapter membership to facilitate the conduct of Chapter meetings and guide policy making within the Chapter. The administrative functions of the Chapter government are to be left to the Chapter employees. An individual may not serve as both a Chapter official and Chapter employee at the same time.

B. The duties and responsibilities of the Chapter officials are as follows:

1. The Chapter President shall:

a. Consult with the Chapter Vice President, Secretary/Treasurer, Council Delegate(s), and Chapter staff in preparation of the agenda for each Chapter meeting. If applicable, the President shall also consider proposed agenda items from the planning meeting.

b. Preside and maintain order over Chapter meetings. All Chapter meetings shall be conducted according to the standard order of business pursuant to Section 1003 of this Act.

c. Provide all residents of the community with equal opportunity to speak on issues before the Chapter.

d. Recommend the establishment of and appointment to the standing and special committees of the Chapter to the membership for approval.

e. Adjourn or postpone a Chapter meeting in the event of:

1. A lack of quorum;

2. Disorder at the meeting;

3. Unforeseen emergency;

4. When a Chapter meeting is adjourned or postponed, the Chapter President shall provide notice to the Chapter members as to the time and place of the next or continued Chapter meeting.

f. Vote in case of a tie.

g. Call emergency or special Chapter meetings.

h. Coordinate, plan and organize to improve Chapter functions and activities.

i. Ensure that the duties and responsibilities of the Vice President and the Secretary/Treasurer are carried out in the best interest of the Chapter community.

j. Work closely with the Vice President, and Secretary/Treasurer, to ensure that the Chapter administration is adequately meeting the Chapter's directives and expending funds according to conditions of the Navajo Nation Council and/or the Chapter's annual budgetary objectives; and shall report to the Chapter membership.

k. Follow-up with Tribal, Federal and State governments or their agencies

on resolutions, ordinances, recommendations, proposals and projects of the Chapter.

l. Take action to protect the life and property of the members of the Chapter in case of an emergency or other crisis.

m. Carry out the decisions of the Chapter and not frustrate those decisions in any way.

n. Work closely with Council members, Chapter elected officials, committees and other concerned groups or agencies.

o. Encourage and promote community participation in planning and development.

p. Mediate disputes, if appropriate, of families residing within the Chapter and/or refer such family disputes to appropriate social service or law enforcement authorities, as the circumstances may require.

q. Represent the Chapter at meetings which the Chapter has interest.

r. Keep informed of all Chapter related activities and acts to advance the interests of the community in all matters.

s. Have authority to sign all contracts, leases and all other official documents of the Chapter, unless otherwise stated.

t. Delegate to the Vice President certain duties and responsibilities of the presidency, when the President is otherwise incapacitated or is unavailable to perform his duties.

2. The Chapter Vice President shall:

a. Automatically assume the duties and responsibilities of the Chapter President, in the absence of the President during Chapter meetings.

b. In the event of an unforeseen situation, assume delegated duties and responsibilities of the Chapter President for a reasonable

time period.

c. Assist the President and Secretary/Treasurer with their duties and responsibilities.

d. Work closely with Chapter elected officials, committees and other concerned groups or agencies.

e. Monitor community projects.

f. Represent the Chapter at meetings of which the Chapter has interest.

g. Support and assist the President and Secretary/Treasurer in carrying out the decisions of the Chapter and not act to frustrate those decisions.

3. The Chapter Secretary/  
Treasurer shall:

a. Maintain complete and accurate records of all Chapter activities and provide written information when called upon.

b. Assist the President and Vice President in preparing the agenda.

c. Prepare and finalize all resolutions, proposals, letters and other important documents for distribution to appropriate agencies.

d. Take the minutes of Chapter meetings and record in detail all resolutions, votes and other official actions of the Chapter. Discussion of all action items shall be recorded with a tape recording machine.

e. Follow up with the Chapter President and Vice President on all referrals of resolutions, proposals, correspondence and other related matters.

f. Represent the Chapter at meetings of which the Chapter has an interest.

g. Work closely with

the Chapter President, Vice President, and other Chapter committees.

h. Monitor the maintenance of an adequate accounting system to ensure accountability of all funds and expenditures; and shall report to the Chapter President and membership.

i. Shall, in consultation with the Chapter President and Vice President, ensure that the administration prepares monthly financial reports of all transactions and expenditures of the Chapter by categories. The Secretary/Treasurer is responsible for providing all financial reports to the Chapter membership at duly called Chapter meetings.

j. Keep records of meeting claims, attendance and payment of Chapter officials.

k. Turn over, to the Chapter manager, within 10 working days of the official action, all resolutions, minutes and other official documents finalized by the Secretary/Treasurer.

l. Co-sign all Chapter checks along with the Chapter manager. In the event that the Secretary/Treasurer is unavailable, the Chapter President or the Vice President may co-sign Chapter checks.

C. Elected officials of the Navajo Nation Chapters shall serve for a term of four (4) years and shall not be limited to the number of terms he or she may serve.

D. Elected officials of the Navajo Nation Chapters shall take the oath of office before assuming official duties.

E. Elected officials are prohibited from direct involvement in the management and operations of the Chapter administration.

F. Elected officials, immediately upon resignation, removal or expiration of the term of office, shall turn over to the duly certified successor, all books, records, and property in his/her possession belonging to the Chapter.

G. Elected officials are prohibited from conducting financial transactions three (3) months prior to the general election for Chapter officials, except for general operating costs.

H. Elected officials shall comply with all Navajo Nation laws, Chapter ordinances and resolutions. These officials shall perform the duties enumerated above, and such other duties as may be consistent with Navajo law, including this Act and applicable plans of operation enacted by the Chapter membership.

I. Elected officials of the Navajo Nation Chapters shall attend, upon taking the oath of office, a training session on Ethics in Government sponsored by the Ethics and Rules Office of the Navajo Nation. Chapter officials shall maintain a high standard of conduct in all Chapter business consistent with Navajo law, including this law, and the Navajo Nation Ethics and Government law. Chapter officials are prohibited from rendering opinions, directions or decisions contrary to the sound practice of leadership or contrary to the best interest of the Chapter.

#### **Section 1002. Meetings; Meeting Notice Requirement; Compensation of Chapter Officials**

A. Number of meetings. Each Chapter shall determine the number of meetings to be held each month and the time and place for such meetings (subject to the right of the Chapter President to call special or emergency meetings when necessary).

B. Meeting Notice. The Chapter officials shall post all Chapter meeting agendas within the Chapter boundaries at least 48 hours prior to the meeting.

#### **C. Compensation of Chapter Officials**

1. Chapter officials shall be compensated for only the number of meetings provided for in the Navajo Nation approved budget. It is nonetheless the obligation of Chapter officials to be present at all Chapter meetings.

2. A Chapter meeting claim form signed only by the claimant shall be attached to each of the regularly scheduled Chapter meeting reports

filed by the Chapter Secretary/Treasurer with the Chapter Government Development Department, Division of Community Development, or if applicable, by the Chapter administration.

a. Each regularly scheduled Chapter meeting report and claim form shall be correctly filled out before it will be accepted and processed for payment by the Chapter Government Development Department, Division of Community Development, or if applicable, by the Chapter administration;

b. Each Chapter President, Vice President, Secretary/Treasurer (the appointed acting Secretary and/or the Chapter President Pro-Tempore) shall be paid in accordance with the approved fiscal year budget;

c. No Chapter official shall be compensated for a Chapter meeting unless he or she was in official attendance at that meeting; and

d. Reports will be furnished for all Chapter meetings, regular or special, and state whether or not Chapter officials are to be compensated for attendance at such meetings.

#### **Section 1003. Order of Business**

A. The Chapter President or in the absence of the President, the Vice President shall chair all regular or special Chapter meetings. In the absence of the President and Vice President, the Chapter members present may select a Chairperson Pro Tempore for that meeting only.

B. All Chapter meetings require a quorum of 25 registered Chapter members to conduct official Chapter business. Chapters may amend the quorum requirement, based upon models adopted by the Transportation and Community Development Committee of the Navajo Nation Council, pursuant to a Chapter ordinance referendum.

C. Chapters may adopt standard rules for conducting Chapter meetings.

#### **D. Procedural Rules for Motions.**

1. The approval or amendments

to the agenda, minutes, report(s) and resolution(s) under old and new business of the agenda shall be done in the following manner:

a. Upon presenting the agenda, minutes, report(s), resolution(s) and/or issue(s) of the agenda, the Chapter President shall request a motion to accept the matter before the Chapter membership and recognize a second to the main motion.

b. Upon receiving a motion and a second to the main motion, the Chapter President shall provide an opportunity to members of the Chapter to address the matter before the Chapter membership.

c. Any member of the Chapter may propose an amendment to the main motion which would require a second. The Chapter membership shall vote on the proposed amendment motion. If the amendment motion passes, it shall take precedence over the part of the main motion subject to a proposed amendment. Only one motion to amend the main motion shall be on the floor.

d. Any member of the Chapter may propose a substitute motion and if it passes, it shall take the place of the main motion. The substitute motion shall be seconded and voted on.

e. Any member of the Chapter may propose to table the legislation or issue before the Chapter. The motion to table the matter shall be seconded and voted on. If the tabling motion passes, it shall take precedence over other motions.

2. The Chapter President, Vice President, and Secretary/Treasurer, at a duly called Chapter meeting, are prohibited from making main motions and second motions on substantive and administrative matters. They may make motions and second motions during planning meetings.

#### Section 1004. Chapter Administration.

A. The Chapter shall enact, by resolution, plans of operation for all executive functions and administrative policies of the Chapter, including but not limited to: record-keeping, accounting, personnel, payroll, property management, contracting procurement

and program management. The Five Management system shall be the basis of enacting the plans of operation and administrative policies. The Chapter administration shall follow the duties and responsibilities prescribed in the plans of operation and shall comply with all administrative policies and procedures enacted by the Chapter.

B. The Chapter manager shall co-sign all Chapter checks.

C. The Chapter manager shall be the custodian of all official books, records, documents, and funds of the Chapter. Failure of the manager to safeguard these items is cause for removal and assessment of applicable penalties pursuant to Navajo Nation law.

D. Members of the Chapter, individually, are prohibited from direct involvement in the management and operations of the government or administration.

#### *Subchapter 7. Navajo Nation Chapter Regulations and Procedure*

#### Section 2001. Chapter Ordinance Procedure

A. All proposed ordinance(s) shall contain the following:

1. an ordinance number;
2. a title which indicates the nature of the subject matter of the ordinance;
3. a preamble which states the intent, need or reason for the ordinance;
4. the subject of the ordinance;
5. rules and regulations governing the enforcement of the ordinance, budgetary information, and where applicable, a statement indicating the penalty for violation of the ordinance;
6. a statement indicating the date when the ordinance shall become effective;

7. the signature of the Chapter President to make an official recording of the transaction or writing.

B. The proposed ordinance shall be read into the record at two consecutive Chapter meetings, of which one may be designated a special meeting, to provide information and an opportunity to discuss and comment on the proposed ordinance(s).

C. All proposed ordinances shall be read in both English and Navajo.

D. After the final reading, the proposed ordinance shall be posted at public places within the Chapter boundaries a minimum of fourteen (14) days prior to the vote. The date of the vote shall be decided upon at this time.

E. Passage of ordinance(s) by the Chapter requires a majority of the registered votes cast, by the Chapter membership during a special election.

F. All ordinances shall be compiled and maintained at the Chapter for public information. Copies of ordinances shall be filed with the central Records Management Department of the Navajo Nation.

G. Ordinances shall be amended or rescinded by the process provided in this Section. All ordinances proposing amendments shall clearly indicate new language by underscoring and deletions by overstriking.

H. The Chapter ordinance referendum shall be used for the adoption of an alternative form of Chapter governance, a municipal form of government, Chapter sub-units, local taxes and fees, issuance of community bonds and compensation of Chapter officials and shall require approval subject to the procedural requirements set forth in this Section including the following:

1. The Chapter shall be responsible for the funding and administration of referendum elections concerning such ordinances. The Navajo Nation Election Administration shall provide the necessary assistance.

2. The votes cast shall be by secret ballot prepared by the Chapter administration.

3. Ordinances by referendum require passage by majority of the registered voters.

I. Challenges to ordinances shall be pursuant to 1 N.N.C., Chapter 5, Subchapter 1, section 501 et seq.

#### Section 2002. Chapter Contract Requirements

A. Except as otherwise provided in this Act, all contracts authorized to be executed on behalf of a Chapter, and utilizing Navajo Nation funds shall:

1. expressly state the liability of the Chapter under the contract;

2. be approved by the Chapter membership, before being executed on behalf of the Chapter;

3. have sufficient funds appropriated and available;

4. comply with the Business Procurement Act, 12 N.N.C. Section 1501 et seq., the Employment Preference Act, 15 N.N.C. Section 601 et seq., the Business Preference Act, 5 N.N.C. Section 201 et seq., and rules and regulations promulgated thereto;

5. be awarded only after public advertisement and bidding;

6. not waive the sovereign immunity of the Navajo Nation;

7. provide access to all contracts or papers to the public; and, if applicable

8. not exceed 10% of the accepted bid. If the 10% cap is exceeded by change orders, modifications or amendments, such change orders, modifications or amendments shall be subject to the provisions of Section 2002(A)(5) above.

B. All executed contracts and papers, and any modifications thereof, shall be filed at the Chapter.

**Section 2003. Chapter Finance; Budget Process; Chapter Insurance**

A. The Chapter shall adopt an accounting system deemed acceptable by the Auditor General.

**B. Budget Process**

1. At least one month before the end of the Navajo Nation fiscal year, the manager, in consultation with the Chapter officials, shall prepare, schedule and explain the annual Chapter budget to the membership. Chapters are required to follow the annual budget instruction of the Navajo Nation Office of Management and Budget when formulating the annual Chapter budget and when the budget concerns Navajo general funds. At a duly called planning meeting, the manager shall present a proposed annual budget for the ensuing fiscal year. The manager shall, to the extent allowed by law, include the objectives of the membership in the proposed budget.

2. The budget shall consist of financial information, including but not limited to: a statement on prior financial expenditures; capital improvement funds; debts; encumbrances, lapses of appropriation; and budget objectives from the current year and the status of those objectives.

3. The manager, in consultation with the Chapter officials, shall finalize the budget for approval by the Chapter membership. The Chapter membership shall vote upon the budget at a duly called Chapter meeting in which reasonable notice has been given to the Chapter membership that said meeting will include approval of the annual budget. The budget expenditures shall not exceed the total of the estimated income for the fiscal year. No payments shall be made or obligated except in accordance with the appropriation duly enacted by the Chapter or adopted by the Navajo Nation Council.

C. To protect the interests of the Chapter, the Chapter shall participate in the Navajo Nation's insurance and employee benefit programs, subject to the terms and conditions of such programs. In the event that a Chapter elects not to participate in the Navajo Nation's programs, the Chapter shall establish adequate coverage through the creation of a self-insurance program or the procurement of appropriate policies.

D. Chapter funds shall not be used for personal, business or other forms of loans. Per capita distribution of funds by the Chapter is prohibited. No financial transaction or expenditures of funds shall be made three months before or after the general election of Chapter officials, except for general operating costs.

E. Any person, agent, or Chapter official misappropriating or misusing Chapter funds or property shall be subject to prosecution under the applicable laws of the Navajo Nation, and, if appropriate, under the laws of the United States federal government.

**Section 2004. Zoning; Comprehensive Plan; Land Use Variations**

**A. Zoning**

1. Chapters may enact zoning ordinances provided that the membership adopt and implement a comprehensive community based land use plan pursuant to Section 2004(B).

2. Adoption of all local zoning ordinances shall be done pursuant to Section 103(E)(4) of this Act.

3. The Chapter shall be responsible for the enforcement of all zoning ordinances adopted by the membership. The Chapter shall provide and maintain information relative to all matters arising from adopted zoning ordinances.

4. All proposed amendments to zoning ordinances shall first be reviewed by the Local Planning Board, and shall require approval by the Chapter membership before becoming effective.

**B. Comprehensive Plan**

1. The Chapter, at a meeting called for that purpose, shall by resolution, vote to implement a comprehensive community based land use plan, after the Chapter Planning Board has educated the community on the concepts, needs, and process for planning and implementing a land use plan. The comprehensive community plan shall designate future land use based on the guiding principles and vision as articulated by the community; along with information revealed in inventories and assessments of the natural,

cultural, human resources, and community infrastructure; and, finally with the consideration for the land-carrying capacity. Such a plan shall include, but not be limited to the following:

2. An open space plan which preserves for the people certain areas to be retained in their natural state or developed for recreational purposes.

3. A land use plan which projects future community land needs, shown by location and extent, areas to be used for residential, commercial, industrial, and public purposes.

4. A thoroughfare plan which provides a system of and design for major streets, existing and proposed, distinguishing between limited access, primary, and secondary thoroughfares, and relating major thoroughfares to the road network and land use of the surrounding area.

5. A community facilities plan which shows the location, type, capacity, and area served, of present and projected or required community facilities including, but not limited to, recreation areas, schools, libraries, and other public buildings. It will also show related public utilities and services and indicate how these services are associated with future land use.

#### C. Presentation of Comprehensive Plan

1. Upon approval and passage of a Chapter resolution stating the Chapter's desire to develop and implement a comprehensive community based land use plan, the Chapter shall establish a Community Land Use Planning Committee (CLUP) to approve the processes for planning and to oversee planning activities. The committee shall work closely with the designated planner and the community residents as planning progresses. The CLUP committee shall be comprised of voting members of the Chapter that have expertise to provide valuable contributions to the overall land planning process. Subcommittees such as technical, and public advisory committees, comprising of voting and non-voting members may be established to assist the CLUP committee.

2. The CLUP committee may hire a planner to be responsible for preparing the CLUP. At a minimum, the planner shall exhibit leadership qualities and organization abilities along with experience

or education in the discipline of land planning.

3. The planner shall work under the supervision of the CLUP committee and with the community residents. The duties and responsibilities of the planner shall include, but are not limited to the following:

a) Coordinating all land planning activities.

b) Developing a community education and participation plan describing methods that will foster public education participation through public hearing, newspaper and radio. Chapter members will be periodically informed on the progress of the land planning activities. All information pertaining to the plan shall be available to the public. The committee shall approve the community participation plan.

c) Developing and implementing a community assessment ascertaining the goals, priorities, and vision for the future of the community.

d) Inventorying and assessing pertinent data. The planner shall request data and seek technical assistance when necessary for compilation of all available data from tribal, federal, and state agencies for inventorying and assessing natural, cultural, and human resources, as well as community infrastructure. In addition, Chapters may hire consultants to assist with the inventory and assessments.

#### D. Presentation and Approval of Comprehensive Plan

Upon completion of resource inventories and assessments, community assessment, the planning board shall prepare a land use plan as described in Section 101. Local planning and zoning ordinances may also be presented at this time. The plan shall be presented to the local residents in one or more public meetings and through the various multimedia. The community members shall have 60 days to comment in writing or in testimony at a final public hearing. The CLUP committee, after consideration for public input shall make necessary adjustments, finalize the plan, and submit the plan to the Transportation and Community Development Committee of the Navajo Nation Council.

The committee by committee resolution shall approve the land use plan. Every five years the plan shall be reevaluated and readjusted to meet the needs of the changing community.

#### E. Land Use Variations

The utilization of all withdrawn lands of the community as defined by the adopted Comprehensive Community Plan shall be in accordance with the provisions of said plan; variations to said plan must be consistent with Section 103(E)(4).

### Section 2005. Eminent Domain Requirements

#### A. Damages to Improvements of Individual Navajo Indians

1. Whenever a Navajo Nation Chapter disposes of land containing any improvement belonging to a Navajo Indian who will not donate the same, whether the disposition is made by surface lease, permit, consent to grant of right-of-way or consent to commencement of construction on a proposed right-of-way, or in any other manner that gives the grantee or proposed grantee exclusive use of the surface of the land containing such improvement, or authorizes the grantee or proposed grantee to use the surface of the land in such manner that said improvement or improvements must be removed, damaged, or destroyed, the Chapter will pay damages to the rightful claimant of such improvement or improvements.

2. As used in this Section "improvement" means house, hogans, sunshade, stables, storage sheds, dugouts, and sweathouses; sheep and horse corrals, and pens, and fences lawfully maintained; irrigation ditches, dams, development work on springs, and other water supply developments; any and all structures used for lawful purposes and other things having economic value. Where any improvement of a Navajo Indian is readily removable and such person has an opportunity to remove the same, damages payable on account of said improvement shall be limited to the reasonable cost of removal, if any, even though the claimant thereof may have failed to remove such improvement and it may have been destroyed or damaged in the authorized course of use of the land on which it is located.

3. No damages shall be paid to any person for any improvement, when such person at the time of building or acquiring said improvement knew or with reasonable diligence ought to have known that the area in which it was located was proposed to be disposed of by the Chapter adversely to such person's interest.

4. Damages to be paid to individual Navajo Indians under this Section shall be fixed by negotiation and consent between the Chapter President of the Chapter or his or her authorized representative and the individual involved. If no agreement satisfactory to the Chapter President or his or her representative can be reached within a reasonable time, the Chapter President shall appoint one appraiser, the individual shall appoint one appraiser, and the two appraisers so appointed shall appoint a third appraiser; but if they cannot agree upon the third appraiser within 10 days, the Chapter President may appoint him or her. The three appraisers shall examine the improvement alleged to be damaged and shall appraise and determine the damages. Their determination shall be submitted to the Natural Resources Committee of the Navajo Nation Council and when, if, and as approved by said Committee the amount thereof shall be final. The Chapter shall pay the fees of said appraisers, except where they are regular Navajo Nation employees, in which case they shall not be entitled to any fees. In addition the Chapter shall pay the reasonable and necessary expenses of said appraisers, whether or not such appraisers are Navajo Nation employees.

#### B. Economic Damage to Intangible Interests of Navajo Indians

1. Whenever as a result of a Navajo Nation Chapter granting any lease or permit embracing Navajo Nation land, or granting permission by the Chapter for the use of Navajo Nation land, or as a result of the use of Navajo Nation land under such lease, permit or permission, the value of any part of such land for its customary use by any Navajo Indian formally lawfully using the same is destroyed or diminished, the Chapter will compensate the former Navajo Indian user in the manner hereinafter specified.

2. When the livelihood of the former Navajo Indian user is gravely affected by the new use, such user shall have first priority in resettling on

other lands acquired by the Navajo Nation, except the area acquired pursuant to the Act of September 2, 1958 (72 Stat. 1686); and the Chapter shall pay the expense of removing said person, his or her family, and property to any new land made available for his or her use, and such shall constitute full compensation to such Navajo.

3. In all other cases involving damages under this paragraph, the amount thereof shall be fixed and determined in the manner specified in 26 N.N.C. Section 2005(A)(4) above.

4. Whereby reseeded, irrigation, or otherwise, the remaining land in the customary use area of any individual damaged by the governmental exercise of eminent domain is within a reasonable time made able to provide the same economic return as his or her former entire customary use area, no damages shall be payable to such person, except for the period, if any, between adverse disposition of the land in the customary use area and the time when the productivity of the remaining land achieves equality with the entire former customary use area.

5. Only lawful and authorized use shall be compensated under this Section. Thus, no person shall be compensated for loss of use of land for grazing animals in excess of his or her permitted number, or without a permit.

6. Every person otherwise entitled to damages under subsection (3) of this Section shall not be entitled to receive any payment thereof until that person has surrendered for cancellation that person's grazing permit as to all animal units in excess of the carrying capacity of the land remaining in that person's customary use area. Persons so surrendering their grazing permits shall be entitled to an immediate lump sum payment based on the current market value for each sheep unit canceled.

C. Adverse Disposition of Navajo Nation Land Not to be Made Until Individual Damages are Estimated

Neither lessee, permittee, or the grantee of a right-of-way or other interest in or right to use Navajo Nation lands shall commence any construction thereon, nor make any change in the grade or contour thereof or remove any surface vegetation thereon until the damages to the improvements thereon

or the customary use rights of all the individuals affected thereby have been estimated by the Office of Navajo Land Administration of the Navajo Nation. Unless the Chapter membership has previously authorized the payment of such damages from nonreimbursable funds of the Chapter, the Chapter President shall require the applicant for such lease, permit or grant of a right-of-way or other interest in or right to use Navajo Nation lands to deposit with the Chapter Secretary/Treasurer an amount equal to at least double the estimate of damage made by the Office of Navajo Land Administration. After the lease, permit, or grant of right-of-way or user has become final and the damages have been determined, either by appraisal, estimate or by consent as hereinbefore provided, the Chapter President shall cause the Secretary/Treasurer to pay, from and out of this deposit, to the person or persons damaged thereby such sum as he, she or they may be entitled to under the terms of this Section, and to return to the applicant the excess thereof, except that where the individual damaged has not consented to the determination of the amount thereof, it shall be withheld in order to satisfy the excess amount, if any, determined under 26 N.N.C. Section 2005(A)(4). Such disbursements shall be made without further appropriation of the Navajo Nation Chapter membership. All sums held by the Secretary/Treasurer of the Navajo Nation Chapter, pursuant to the terms of this Section, for a period of more than 30 days shall be deposited in a Federal Savings and Loan Association or invested in the bonds of the United States until needed for disbursement.

Section 2006. [Reserved]

Section 2007. [Reserved]

Section 2008. [Reserved]

Subchapter 9. [Reserved]

Subchapter 11. [Reserved]

Subchapter 13. [Reserved]

ONGD: 9/4/97; Revised 4/28/98; As amended by the NNC on 4/20/98

**Appendix B  
Community Needs Survey**

**Community Needs**

1. What are the concerns or issues that you see as most important within the district?

- 1) \_\_\_\_\_ 3) \_\_\_\_\_  
2) \_\_\_\_\_ 4) \_\_\_\_\_

2. a) Please rank the following issues from 1 to 10 based upon importance. (1 is most important, 10 least important)

b) Mark the quality of the service currently received for each issue. (Poor, Below Average, Adequate, Above Average, Excellent)

Rank (1-10)	Service	Service Quality				
		Poor	Below Average	Adequate	Above Average	Excellent
	Trash collection					
	Water					
	Electricity					
	Housing					
	Fire Protection					
	Road Condition					
	Street Lights					
	Ease of obtaining business lease					
	Ease of obtaining personal lease					
	Airport					

**Government Responsiveness—Tribal Government**

3. In what ways is the Tribal government meeting your needs?

4. In what ways can service be improved?

5. What needs are not being addressed?

**Government Responsiveness—District Government**

6. In what ways is the District government meeting your needs?

7. In what ways can service be improved?

8. What needs are not being addressed?

**Appendix C**  
**Town Meeting Agenda**

- I. Opening**
  
- II. Presentation of Local Governance Project**
  - A. Review Community Concerns Identified in Survey
  - B. Introduce Idea of Local Governance
  - C. Local Governance within Pine Ridge
  - D. How will it address local needs?
  
- III. Community Feedback**
  - A. Question and Answer
  - B. Community Suggestions
  
- IV. Closing**

Appendix D

**Kayenta Township Authorizing Legislation**

**RESOLUTION OF THE  
NAVAJO NATION COUNCIL**

**Amending Resolution CJA-3-96 Plan of Operation for the  
Kayenta Pilot Project To Include Sales Tax Project**

**WHEREAS:**

1. Pursuant to 2 N.N.C. §102 (A), the Navajo Nation Council is the governing body of the Navajo Nation; and
2. By Resolution CN-86-85, the Navajo Nation Council authorized the Kayenta Township Pilot Project to be carried out and to make recommendations to the Navajo Nation Council through a Five Year Report of the Kayenta Township Pilot Project. The Report was provided to the Navajo Nation Council on January 19, 1996; and
3. By Resolution CJA-3-96, the Navajo Nation Council approved a Plan of Operation for the Kayenta Tribal Pilot Sales Tax Project and designated the Kayenta Township Commission as the authority to carry out the Plan of Operation and the Kayenta Tribal Pilot Sales Tax Project; and
4. The Kayenta Township Commission proposed to amend the Plan of Operation of the Kayenta Tribal Pilot Sales Tax Project in order to include Navajo Board of Election Supervisors through the Navajo Nation Election Code; and
5. By Resolution GSCJN-38-96, the Government Services Committee of the Navajo Nation Council reviewed and recommended the proposed amendments to the Plan of Operation for the Kayenta Tribal Pilot Sales Tax Project to the Navajo Nation Council, attached hereto as Exhibit "A".

**NOW THEREFORE BE IT RESOLVED THAT:**

The Navajo Nation Council hereby amends the Plan of Operation for the Kayenta Pilot Project to include Sales Tax Project, attached hereto as Exhibit "A".

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 66 in favor, 0 opposed and 0 abstained, this 1st day of November 1996.

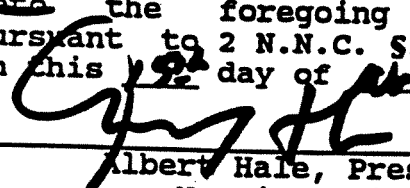
  
\_\_\_\_\_  
Kelsey A. Begaye, Speaker  
Navajo Nation Council

NOV 5 1996

Motion: Lorenzo Bedonie  
Second: Walter Atene

**ACTION BY THE NAVAJO NATION PRESIDENT:**

1. I hereby ~~give notice that I will not~~ <sup>give into law</sup> veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), on this 9<sup>th</sup> day of March 1996.

  
\_\_\_\_\_  
Albert Hale, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), this \_\_\_ day of \_\_\_\_\_, 1996 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Albert Hale, President  
Navajo Nation

## PLAN OF OPERATION

### KAYENTA TRIBAL PILOT TAX PROJECT

#### SECTION I. ESTABLISHMENT

There is hereby established the Kayenta Tribal Pilot Tax Project (KTPTP) to be administered by the Kayenta Township Commission (KTC).

#### SECTION II. PURPOSES/GOALS

A. The Navajo Nation recognizes that the Chapters of the Navajo Nation represent the foundation of the Navajo Government. Certain growth centers located within various chapters in the Navajo Nation are experiencing the first stages of rapid and accelerated development.

The strong desire and capacity of the Navajo people to determine their own destiny and attain local self-sufficiency now require that the local chapters plan, execute and evaluate the development of growth centers within their boundary in partnership with the Navajo Government.

B. The Kayenta Chapter has undertaken an effort to develop a Land Use Plan with the goal of gaining local self-government through planning, executing and evaluating an improved system of local government. The Navajo Nation fully supports this effort and will further assist the Chapter in developing a local government system which could be adopted and implemented by the Navajo Nation. The five year experiment with the Kayenta Township Project has indicated the need for local revenue and governance (Five Year Report, KTPP 1991).

C. The establishment of the KTPTP is to provide the Navajo Nation and the local Kayenta Chapter with the means:

1. To review and recommend changes and reforms to the Navajo Nation Government which would further the policy of decentralization;
2. To plan, implement and control the use of land within the Kayenta growth center so as to reflect the needs and desires of the Kayenta people and to insure that the policies of the people and their future expectations and hopes for the future will be followed and realized;
3. To enable the Kayenta Chapter to elect members of their own community to act and speak for them;

4. To prevent the development of Chapter lands without coordination, comprehensive planning and long-range input and understanding on the part of the people of Kayenta Chapter; and
5. To demonstrate the generation and use of local development and maintain growth centers of the Navajo Nation.

D. The KTPTP shall carry out a pilot plan and feasibility study to assess the practicality and means whereby the Navajo Nation and the Kayenta Chapter may attain the following goals:

1. Initial input concerning the most effective use of land within the Kayenta township area to develop infrastructure;
2. Original jurisdiction over the withdrawal of land within the Kayenta township area and the governance of the use of such land by zoning and any other laws approved by the Commission, including but not limited to, the formation of categorical budgets for projects to improve the infrastructure of Kayenta to attract business development;
3. Assurance of a sustained and predictable financial resource base (taxes, royalties, etc.) which will support the management and the development of the infrastructure needed for a township operation; and
4. A local township commission type government which will govern all domains of activity growth as permitted by Federal and Navajo law as related to the use of review to oversee, develop and maintain infrastructure development.

### SECTION III. JURISDICTION

A. The KTPP shall be fully administered by the Kayenta Township Commission (KTC).

B. The KTC shall have jurisdiction over all planning and control of that area authorized and designated by the Navajo Nation Council in November 1985 (Resolution CN-86-85), and the official Survey Plat filed with Navajo County and submitted to the Bureau of Indian Affairs (incorporated by reference herein) hereinafter referred to as the township area.

C. The authority of the KTC shall prevail over all other authority contingent upon its consistency and compliance with existing policies and regulatory statutes of the Federal Government and the Navajo Nation.

D. The authority of the KTC shall be to formulate development plans and projects and monitor the implementation for the following areas:

1. Solid Waste
2. Airport
3. Recreation
4. Drainage
5. Fire Protection
6. Streets
7. Management & Enforcement

**SECTION IV. DUTIES, AUTHORITIES AND RESPONSIBILITIES OF THE KAYENTA TOWNSHIP COMMISSION**

**A. DUTIES**

1. The KTC shall have the duty to provide and to inform the chapter residents of any proposed major policy and regulatory principles that would impact the land use of the Kayenta township.
2. The KTC, for each three-year phase of planning beginning in ~~1994~~ 1996, shall provide to the Chapter and the Navajo Nation a five-year infrastructure development plan representing a current compilation of data and a reflection of future goals and growth expectations. Said plan shall be acceptable according to the modern acumen of land use planning.
3. The KTC shall provide quarterly reports to the Chapter Officials at a duly called public meeting of the actions and activities of the KTC; said reports shall also be submitted to the Navajo Tax Commission and Government Services Committee of the Navajo Nation Council.

**B. RESPONSIBILITIES.**

1. The KTC shall be responsible for gathering information for Kayenta regarding solid waste, drainage, airport, fire protection, streets, recreation and planning and zoning ordinances and the enforcement, and any such information from agencies that bear upon the development of the Kayenta township.

2. The KTC will meet at least once a month to consider plans, review developments and to adjudicate individual requests, complaints and specific actions relevant to the implementation of the Kayenta Tribal Pilot Tax Project and any accompanying codes and zoning laws.
3. The KTC shall develop a Kayenta Infrastructure Development Plan by September ~~1994~~ and update ~~said plan in 1995 and 1996~~ 1996 and update said plan in 1997 and 1998.
4. The KTC shall be responsible for implementing and enforcing adherence to all the specifications, mandates, ordinances and laws of the KTC and shall notify all relevant agencies and members of township ordinance.
5. The KTC shall implement the Chapter policies and regulations and shall act upon all land use proposals within the Kayenta township area.

C. AUTHORITIES.

1. The KTC shall have authority to request information from agencies within and outside the Navajo Nation government which have direct bearing upon the execution of duties and responsibilities.
2. The KTC shall have the authority to initiate and carry out actions against an individual who violate any applicable provisions of the Kayenta Infrastructure Development Plan.
3. The KTC shall have the authority to be recognized and accepted as the official representative agent for the Navajo Nation as issues arise in relation to carrying out the KTPTP Plan of Operation and specifics of the Kayenta Infrastructure Development as it relates to the Kayenta Township area.
4. The KTC shall have the authority to request direct technical assistance from the Navajo Nation and the right to seek and accept technical assistance from outside agencies.

D. MEMBERSHIP AND ELECTION OF KAYENTA TOWNSHIP COUNCIL PERSONS.

- ~~1. The KTC shall consist of five members at large who reside within and are elected by residents within the borders of the Kayenta Township (Navajo County Register Survey).~~

The membership of the KTC shall consist of five members who reside within the Kayenta Township borders and meet qualifications as candidates for election to the Kayenta Township Commission.

- ~~2. Elections shall be carried out under the authority of the Navajo Election Code Title 11 of 1990 (incorporated by reference).~~

Elections shall be carried out consistent with and guided by the principles of the Navajo Election Code, Title 11 of 1990.

- ~~3. The Navajo Board of Election Supervisors is authorized to set up additional regulations governing the election of Kayenta Township Commissioners.~~

E. QUALIFICATIONS FOR CANDIDACY AND ELECTION TO THE KAYENTA TOWNSHIP COMMISSION.

1. Qualifications for candidacy for election to the Kayenta Township Commission shall be the same as that of qualifications to be elected as a Chapter Officer (Subchapter I, Section 8-C) with the following exceptions:

12. Must be a resident within the Kayenta Township Borders. (Subchapter 15, Section 281, Subsection B shall be applicable for determining residency within the Kayenta Township Borders).

F. ELIGIBILITY TO VOTE IN THE KAYENTA TOWNSHIP COMMISSION ELECTION.

1. Eligibility to vote in the Kayenta Township Commission Election will be the same as that of eligibility to vote in the Navajo Nation elections with the following exception:

a. No one who resides outside the borders of the Kayenta Township shall be eligible to vote in the Kayenta Township Commission Elections. (Subchapter 15, Section 281, Subsection B shall be applicable for determining residency within the Kayenta Township Borders).

**G. FILING FEES.**

- 1. A filing fee, consistent with the Election Code, will be charged to each candidate who declares candidacy for election to the Kayenta Township Commission.**

**H. ORGANIZATION.**

The KTC shall be organized according to and be governed by its duly approved bylaws as it may be amended from time to time as deemed necessary by KTC. ~~Attached hereto and incorporated herein is the proposed bylaws of the KTC. (Attachment B).~~

**SECTION V. CODE OF ETHICS.**

A. Officers and members of the KTC shall maintain a high standard of conduct in all of its dealings. This standard of conduct shall include but not be limited to conducting all KTC business in a truthful and honest manner, conducting all business openly without taint of impropriety, serving the KTC, Kayenta Chapter, and the Navajo Nation to the very best of its ability in full compliance with the Navajo Code of Ethics.

**SECTION VI. AMENDMENT AND REVISIONS.**

This Plan of Operation may from time to time be amended as necessary and appropriate by the Government Services Committee of the Navajo Nation Council with recommendations from the Office of Navajo Tax Commission and the KTC.

## Appendix E Job Descriptions

### DISTRICT MANAGER

#### Responsibilities

- Responsible for administering all policies passed by the District Commission
- Accountable for all aspects of District administration

#### Authority Level

- Report to District Commission
- Hire/fire and supervise District staff
- Approve expenditures submitted by staff that are in line with approved District budget
- Commission approval required for expenditures in excess of the approved budget

#### Required Skills/Experience

- Able to manage staff
  - Familiarity with financial reports and analysis
  - Solid communication and public relations skills
  - Ability to gain and maintain public support
- 

### ACCOUNTANT

#### Responsibilities

- Manage and account for District funds in accordance with the District budget as approved by the District commission
- Prepare monthly financial reports for District Manager and District Commission

#### Authority Level

- Report to the District Manager
- May not approve expenditures, except those for the District Manager

#### Required Skills/Experience

- Training in accounting methodology
  - At least 1 year of professional experience as an accountant
-

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**SUPPORT STAFF—ADMINISTRATIVE ASSISTANT**

**Responsibilities**

- Responsible for communication with third parties
- Handle information request and serve as a liaison between the District government and the community
- Support District Manager and other staff as determined by the District Manager

**Authority Level**

- Report to the District Manager

**Required Skills/Experience**

- Strong communication skills
  - Ability to work on numerous project simultaneously
- 

**PROGRAM DEVELOPER**

**Responsibilities**

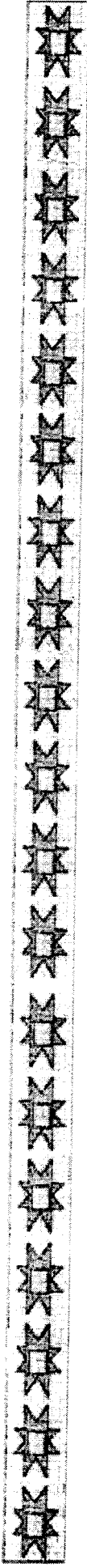
- Oversee the administration of specific District program

**Authority Level**

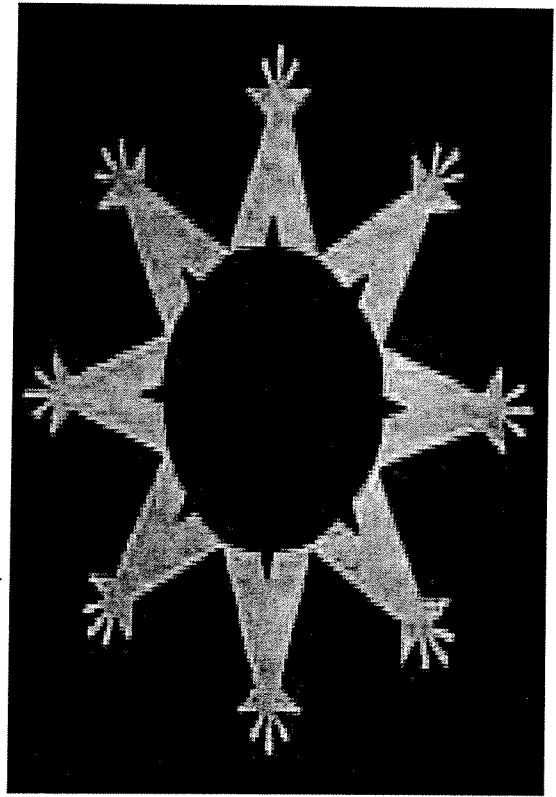
- Report to the District Manager
- Approve project related expenses

**Required Skills/Experience**

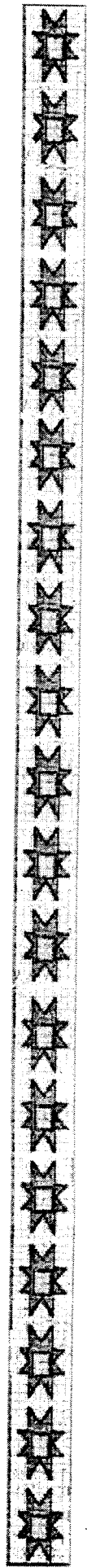
- Strong communication skills
  - Managerial skills
  - Ability to work on multiple tasks simultaneously
-



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