MANAGING THE RELATIONSHIP OF FIRST NATION POLITICAL LEADERS AND THEIR STAFF

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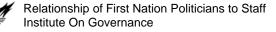
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EXECUTIVE SUMMARY

Purpose

This study speaks to an underlying issue relevant to all First Nation governments: what should be the relationship between political leaders and their staff. This issue is of course not unique to First Nation governments and organizations. Indeed the recent Sponsorship Program, which has been the focus of the Gomery Inquiry, raised important issues about the relationship of federal Ministers and their offices to public servants. Further, all democratic governments face similar challenges.

The purpose of the paper is fourfold:
- To analyze the relationship of political leaders and their staff in a First Nation context, with particular attention to some of the unique features that colour this relationship
- To present principles for how this relationship can be placed on a sound footing
- To illustrate various approaches that First Nations have taken in creating a sound relationship, and
- To develop an analytical tool that can help leaders and staff to analyze their current relationship and decide where modifications are required.

While the focus of this study is on First Nation governments operating on reserves, much of the paper will also be relevant to other First Nation (and more broadly Aboriginal) political and service delivery organizations, including those operating on a not for profit basis. A literature search, selected interviews followed by a workshop to discuss the tentative conclusions are the principal methodological elements that we have utilized in this study.

The Importance and Universal Nature of the Issue

In earlier publications[1] the Institute on Governance has argued that there are five universal principles to good governance: legitimacy and voice, accountability, fairness, performance and direction. The politician-staff relationship can affect each of these. For example, from a legitimacy and voice perspective, community members may not view as legitimate unelected officials or boards making important decisions that affect the community; similarly many may view decision-making based solely on political factors (favouring political allies and not the broad public interest) as equally illegitimate. With regards to accountability, unclear or blurred roles may render the holding of political leaders to account a difficult task for electors. The other good governance principles of performance, fairness and direction are equally affected by the state of this key relationship.

Unique Challenges faced by First Nations

It became clear from our interview program of First Nation leaders and administrators that the relationship issue is of critical importance to them but, at the same time, one with features unique

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[1] See, for example, John Graham, Bruce Amos and Tim Plumptre, "Principles for Good Governance in the 21st Century: Policy Brief No. 15", www.iog.ca/publications.

to their particular working environments. Weaknesses in financial, administrative and planning capacity; the tendency for a variety of reasons for political leaders to 'micro-manage'; the importance of culture, family and community relations; the *Indian Act* and the legacy of colonialism; and the manner in which First Nation leaders are remunerated – all of these factors colour the challenges faced by First Nations in dealing effectively with this issue.

Separating Politics from Administration – a Theory to Discard

Given the importance and universal nature of the relationship of political leaders to staff, it is not surprising that academics and practitioners have focused considerable attention on this issue. One of the must durable of doctrines is the politics-administration dichotomy – an attempt to create a clean split between political and administrator responsibilities. This doctrine is central to a recently published "First Nations Governance Handbook"[2] and appears to be one of the ideas behind the First Nations Governance Act, introduced by former Minister Nault.

The evidence, both theoretical and empirical, is unequivocal: this doctrine is far too simplistic and should be discarded. Politics and administration are "messily entwined" and for good reasons.

Partnership Based on Complementarity

A more promising approach, one that is attracting a growing consensus both in the academic, local government and not for profit worlds, calls for a partnership between political leaders and their staff based on complementarity. As one international study on local government involving 14 countries concluded:

> "This study of the role of administration in the political process establishes more clearly than do previous studies that top administrators are partners in leadership with the mayor and other leading politicians. Leadership in government arises from and is conditioned by a relationship that is generally characterized by interaction, interdependency, reciprocal influence and mutual respect between politicians and administrators. Although there are differences in authority between the two sets of officials, they have a complementary relationship in which each needs the other and each makes unique contributions to the other in conducting both shared and separate tasks."[3]

Rather than approaching public administration with a conceptual framework of dichotomy and looking for exceptions to it, it is more appropriate, according to many, to use a framework of complementarity and examine variations within it. Nonetheless, there will always be a "grey zone of accommodation" to manage.

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[2] "First Nations Governance Handbook", published under the authority of the Minister of Indian Affairs and Northern Development, Ottawa, 2001, www.inca.gc.ca. While the Handbook has its flaws, it contains some excellent material.

[3] Poul Erik Mouritzen and James H. Svara, "Leadership at the Apex: Politicians and Administrators in Western Local Governments", University of Pittsburgh Press, 2002 P. 288- 290. The 14 countries were the United States, Australia, and 12 European countries including four in Scandinavian, England, Ireland, Belgium, France, Italy, Spain and the Netherlands.

Managing the Grey Zone of Accommodation

To better understand how some First Nations manage the relationship, we interviewed some 30 individuals and identified five broad approaches that First Nations and other governments have used. These are:

- the use of policies and codes
- structural and organizational approaches ranging from complaints and dispute resolution mechanisms to semi-independent boards
- nurturing the relationship through orientation, training and retreats
- encouraging the active involvement of citizens in community decision-making, and
- other tools and approaches including the use of information technology and certification regimes for organizations.

It is highly unlikely that any one tool or approach will adequately deal with the many issues posed by the relationship of politicians and their staff. Indeed, what is likely called for is a long term strategy, one that employs a variety of approaches.

A Five Step Analytical Tool

To help communities and organizations develop such a strategy, we have proposed a five step, analytical tool to help identify key problem areas and design appropriate approaches for dealing with them. This tool could be used in a stand-alone exercise or part of a larger planning initiative.

Step One: Map out the principal functions of the First Nation government that Council and the Manager must undertake either together or separately. There are a variety of ways of going about such a mapping exercise. We provide a list of functions as a useful starting point.

Step Two: Determine the current level of engagement for each of Chief, Council and staff, represented by the Manager, for each of the major functions. Similarly, this could be done for the community's citizens.

Step Three: Together, the Chief, Council and the Manager should determine the desired level of engagement of each with regards to the government's major functions.

Step Four: Determine the gap between the actual and desired level of engagement and identify what is the cause of the gap. The Chief, Council and the Manager should then determine how they can best realize this desired level of engagement for each function by applying some of the tools and approaches outlined in Section IV. For example in certain program areas is there a need for some structural change to curtail Council involvement in certain day to day operational decisions or will the development of a suite of program policies provide a more appropriate response? Should the First Nation institute a complaints procedure? Is there need for a code of conduct to deal with potential problems in the area of human resource and financial management? In short what is the best tool to realize the desired level of engagement in each functional area? It is likely that at the end of this Step, the participants will need to set priorities,

identifying those aspects of the relationship which deserve immediate attention and those that could wait for a second or third phase

*Step Five***:** Test the proposed approaches, tools and solutions for filling the gap using the five principles of good governance. We suggest examples of illustrative questions that these principles might engender.

This tool suggests that there are no easy short cuts. Such a comprehensive approach will take time to develop, will demand commitment on the part of both political leaders and senior staff, will require broad community support to be successful and will take considerable effort to effect. Even then difficulties will surely arise given the closeness of the relationship and these will need to be addressed**.** In short, like all important relationships in life, this one requires constant attention and nurturing. It is about a journey, not a destination.

Perhaps the other sobering thought is that many of the approaches for managing this relationship may well be people specific, that is, personalities and individual capabilities may be important, especially in small organizations or governments. Thus, one approach - say a particular program policy – may suit the leadership styles of one Chief and Council but not another. Consequently, the overall regime for managing the relationship will never stay constant. Similarly, new developments facing the community may demand the introduction of new approaches.

What should be constant, however, are the principles for sound governance. If solutions, tools approaches or changes meet the tests of legitimacy and voice, accountability, fairness, performance and direction, then leaders, their staff and their communities and organizations will know they are on the right track.

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INTRODUCTION

Purpose and Organization

"Native leaders should spend their time working on the "the big picture", not answering complaints about broken windows"[4]. This was the consensus of a number of participants attending one of the Banff Centre's programs on Aboriginal leadership. It speaks to an underlying issue relevant to all First Nation governments: what should be the relationship between political leaders and their staff.

This issue is of course not unique to First Nation governments and organizations. Indeed the recent Sponsorship Program, which has been the focus of the Gomery Inquiry, raised important issues about the relationship of federal Ministers and their offices to public servants. And recent publications have also highlighted the complexity of this relationship. Peter Aucoin, for example, one of Canada's leading experts in public administration, concluded in a 2005 study done for the Canada School of Public Service, that it is not simply a matter of public servants being accountable to Ministers through the departmental hierarchy at the top of which sits the Deputy Minister: "The matter is more complicated than that, however….the normal hierarchy in Canadian public administration today is complex with multiple lines of accountability."[5]

First Nation governments may not have the complexity of the federal government. Nonetheless, there is ample anecdotal evidence to suggest that the relationship between political leaders and their staff is not always a smooth one. Further, there are reasons to believe that this issue may be even more critical to First Nation communities, especially in comparison to non-Aboriginal communities of similar size. For one thing, First Nation governments are generally larger, both with respect to responsibilities and number of elected leaders and their staff. Unlike governments in non-Aboriginal communities of similar size (the average on reserve population is approximately 600 residents), First Nation governments administer an impressive array of programs ranging from the 'big three' – education, health and social assistance – to many others including public works, land and natural resource management, economic development and policing, to name a few. No where in the world can one find such large local governments relative to the size of the populations they serve[6].

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[4] Maurice Switzer, "Native Leaders need to look at big picture", *Anishinabek News*, December 2003.
[5] Peter Aucoin and Mark Jarvis, "Modernizing Government Accountability: A Framework for Reform", Canada School of Public Service, 2005, www.mySCHOOL-monECOLE.gc.ca/research/publications.

[6] A rough indicator of relative importance of First Nation governments is per capita expenditures. Average per capita expenditures of municipal governments across Canada was approximately $1,850 in 2004 (this estimate was provided by the Federation of Canadian Muncipalities.) The corresponding data for total per capita expenditures of First Nation governments is not available. Nonetheless, if just federal contributions are taken into account, average

Their large size also contributes to other important characteristics of First Nation governments. First they can be the important sources of employment - indeed in many communities they are the principal employers. And second, their operations are vital to the overall well being of their communities.

In short, the stakes are high in getting the relationship between politicians and administration right - much higher than in similar sized communities.

With this in mind this paper has four principal objectives:

- To analyze the relationship of political leaders and their staff in a First Nation context, with particular attention on some of the unique features that colour this relationship
- To present principles for how this relationship can be placed on a sound footing
- To illustrate various approaches that First Nations have taken in creating a sound relationship, and
- To develop an analytical tool that can help leaders and staff to analyze their current relationship and decide where modifications are required.

We have organized the paper around these four objectives. In the First section we address the importance and universal nature of the issue and then indicate some of the circumstances that lead to unique challenges in a First Nation context. In Section Two, we analyze the prevailing 'conventional wisdom' – that politicians should concern themselves only with big picture issues like policy and mission, leaving implementation (and the handling of complaints) to staff – and review the evidence for why this 'wisdom' is simplistic and, in the end, not very helpful. Then in Section Three, we propose what we believe is a more useful set of principles in which to structure the relationship. Section Four then focuses on a variety of practical tools and for managing the relationship, ranging from codes of conduct to the establishment of arms length organizations. Finally, in Section Five we present an analytical tool that might help communities critically examine their current relationships and develop some ideas for how to improve it. The study ends with a brief set of conclusions that sum up the principal arguments we have put forward.

Scope

The focus of this study is on First Nation governments operating on reserves. That said, much of the paper will also be relevant to other First Nation (and more broadly Aboriginal) political and service delivery organizations, including those operating on a not for profit basis. The reason for this is that the basic governance structure[7] is very similar – Chief and Council corresponds to other decision making bodies, such as the Chair and Board of not for profit organizations. Each has a professional staff headed by a manager, sometimes referred to as the Executive Director. While these similarities are important there are also key differences: for example, Chief and

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per capita expenditures for the First Nation on reserve population was just under $14,000 for the fiscal year 2004/2005.

[7] While the governance parallels are strong, there are profound differences in the legal and constitutional standing of a First Nation government compared to a First Nation or Aboriginal controlled NGO.

Council face real political competition, whereas this is often not the case in the non-profit world. The interface between citizens and Chief and Council is usually more immediate; and Chief and Council may spend more time at their jobs than their non-profit counterparts, who are often acting in a voluntary capacity. These differences mean that our conclusions need to be tempered somewhat for the non-profit world.

Methodology and Assumptions

A literature search, selected interviews and a workshop to discuss the tentative conclusions are the principal methodological elements that we have utilized in this study. All three of these elements deserve further elaboration.

In selecting interviewees, we focused on the leaders and staff of First Nations which have adopted or developed their own approaches to managing the relationship between politicians and staff. In addition, our sample reflects Canada's regional geography, as well as different demographic, socio-economic and governance characteristics of First Nation communities. We also conducted interviews with officials from the Department of Indian Affairs, academics with experience in matters related to First Nation governance and public administration, and others whose knowledge of the issues were considered relevant. In total, we interviewed some 30 individuals using an interview guide distributed to interviewees in advance of a scheduled interview. Annex A provides a list of interviewees.

The workshop, which considered an earlier draft of this paper, consisted of some 12 individuals drawn from First Nation governments and organizations, academia and the federal government (see Annex B for a list of participants.)

As for the literature search, there is very little written in an Aboriginal context on this topic (one notable exception, the "First Nations Governance Handbook", will be discussed in the next section.) As a result, our literature review focused principally on research concerned with non-Aboriginal, local governments and to a lesser extent on a growing amount of research and "how to" material related to not for profit governance.

A legitimate question is "how relevant is this literature to the First Nation context?", especially in light of well-reasoned arguments that First Nations are not simply "municipalities" but are collectivities with special constitutional rights, and which, under self-government agreements, will exercise local, provincial-like and even federal-like powers and responsibilities. We believe that this literature is relevant, given that the governance model for First Nations is very similar, if not identical to, many found in North America at the local level. In essence the structure of Chief and Council working with a professional manager corresponds closely to that of a Mayor and Council with a professional Chief Executive Officer. This model is also very similar to the model of a Board headed by a Chair with professional staff reporting to it.

It is important to note that local governments across the western democracies have adopted a number of different structural models. Academic studies identify at least four types. These are briefly summarized in Annex C. The most widespread model in non-Aboriginal Canada is the council-manager format. This also is the prevalent model that appears to be adopted as a

governance structure across First Nations[8] as well and is partially embedded in the *Indian Act* – for example, the Council as a whole must approve by-laws; there are no special powers for the Chief[9].

With these introductory comments as background, we turn now to the first Section of the paper, which addresses two questions: 1) why is the relationship of politicians to staff so important for democratic societies; and 2) are there aspects to this issue in First Nation communities that render challenges more acute than those faced by other governments.

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[8] There are of course variations within this Council-manager model. For example, members of Council in some jurisdictions are elected at large but in others they represent districts or wards. Another variation derives from how the Mayor is chosen. In some cases it is by direct election; in others, the Council members choose the mayor from among their own members. The *Indian Act* (Section 74) provides for both of these variations. Another important variation is the role of the Chief and Mayor. At a minimum, they preside at council meetings, serve as the spokesperson for their communities, facilitate communication between Council and staff, act as a catalyst to bring important issues before council and serve as a promoter and defender of their communities. In addition, in some communities they actually appear to direct staff.

[9] That power rests with Council as opposed to the Chief may also reflect traditional governance systems for many Aboriginal groups in Canada. Speaking of his knowledge of his own community of Nipissing, Perry McLeod writing in the December 2003 edition of the *Anishinabek News* notes: "The power of decision-making was always held by the Council as a whole (not solely with Chi-Ogima [Chief]) and was kept in check by the clan people themselves through the voice of the Clan Mothers. Any decision could be challenged".

I. THE IMPORTANCE OF THE RELATIONSHIP AND SPECIAL CHALLENGES FACED BY FIRST NATIONS

Getting the relationship right between politicians and their staff has profound implications for democratic governance. As the recent sponsorship scandal demonstrates, things can go demonstrably wrong should these relationships be improperly structured in the first instance, or allowed to stray from formal or even informal standards established for the conduct of government business. Indeed, it is no exaggeration to assert that these problems and the resulting publicity surrounding them had a significant effect on the results of the recent federal election.

In earlier publications[10] the Institute on Governance has argued that there are five universal principles to good governance: legitimacy and voice, accountability, fairness, performance and direction. These principles are based on a larger set developed by the United Nations Development Program and some rest on an extensive body of international human rights law (see Annex D for details). As the box below illustrates the politician-staff relationship can affect each of these.

Good Governance & the Relationship

- **Legitimacy and Voice** – community members may not view as legitimate unelected officials or boards making important decisions that affect the community; similarly many may view decision-making based solely on political factors (favouring political allies and not the broad public interest) as equally illegitimate

- **Accountability** – blurred role definitions between political leaders and staff may make holding leaders accountable a difficult task for electors

- **Performance –** many experts have long maintained that political considerations should not drive day to day business decisions - it may be the surest way to sink a business; in addition, the firing of staff for political reasons might lead to law suits; staff who perceive that political leaders are doing their jobs will be poorly motivated to perform; the relationship between the First Nation Manager (the senior staff executive) and Council is critical for effective delivery of programs.

- **Fairness –** allocating program benefits (e.g. access to housing, post secondary education assistance, economic development assistance) on the basis of partisan political considerations will not meet the fairness test in the eyes of many community members.

- **Direction** – Political leaders who spend too much time on administrative issues may not pay sufficient attention to crafting a long term direction or vision for their community

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[10] See, for example, John Graham, Bruce Amos and Tim Plumptre, "Principles for Good Governance in the 21st Century: Policy Brief No. 15", www.iog.ca/publications.

Aboriginal communities and organizations struggling with this relationship can take some comfort in the fact that all governments - and most not for profit organizations - face similar dilemmas and challenges. That said, there are special aspects to these challenges that are unique to First Nations, a subject to which we now turn.

The Relationship in First Nation Contexts

It became clear from our interview program of First Nation leaders and administrators that the relationship issue is of critical importance but at the same time one with features unique to their particular working environments. As one interviewee noted, "size does matter", and for smaller governments, including First Nation governments, the overlap between politicians and their officials is both inevitable and possibly more difficult to manage. In the words of one leader, "Some of our nations are successful in managing those overlaps between Council and staff, in managing what appears to be blatant conflicts of interest because of their size and the few skilled people they have in those communities. They manage those things very well against a backdrop of academic criteria that says they breach good governance."

We begin, therefore, with a brief survey of some of the critical factors that underlie and shape these overlapping relationships in a First Nation context and some common challenges First Nation governments face when attempting to manage this issue.

Financial, Administrative and Planning Capacity

For many First Nations, primary factors contributing to overlap in the relationship between Council and administration are funding relationships and associated administrative capacity. First Nations point to the fact they are unable to hire the staff they need, particularly at senior and middle management levels. In the absence of managerial or supervisory staff, staff with responsibilities for program and service delivery or administration may turn to elected leaders for direction or, without prompting, receive such direction from leaders.

A related issue concerns the hiring of qualified staff. First Nations are unable to offer salaries and benefits at levels competitive or commensurate with other employers off reserve. As a result, First Nations have difficulty recruiting and retaining qualified candidates, even from among their own membership. When individuals are employed in positions for which they are either poorly trained or qualified, or in which they lack confidence, they will naturally seek both direction and validation of their actions from political leaders. They may also demonstrate a greater reluctance to make administrative decisions for fear of offending members or out of a concern that Council will sanction them. On the other hand, the confidence of staff may be undermined by the belief that leaders might arbitrarily overturn or reverse their decisions in any event, even if this is contrary to policy or rules.

The issue then is not so much a question of human resource management. Rather, it is a question of under funding that has significant implications concerning the overall administrative capacity of First Nations to carry out an extensive and diverse set of duties and responsibilities, many of which in the non-Aboriginal mainstream are not fulfilled by small, local governments.

For many First Nations, foreshortened planning and funding cycles can also be detrimental to the political-staff relationship. This is more often a problem for First Nations that operate under annual financial contribution agreements and/or have a two-year term of office under *Indian Act* election rules. An inability to plan according to longer time horizons results in decision making in a more narrow context and in a manner that may be more politically "coloured" or motivated.

The federal government may be moving forward with an initiative that addresses, in part, these issues. The Department of Indian Affairs and Northern Development is considering a proposal that would link funding with longer term plans that encompass community development, capital plans and managerial capacity building. Responsibility for the development of such plans would rest with the First Nation's political leadership.

Micro-Management

One of the biggest challenges for First Nation leaders today is to avoid the temptations of "micro-management" – a situation in which leaders become "doers", often to the detriment of the overall effectiveness of their leadership, and their individual well-being. This phenomenon often follows the election of those who either have direct experience working in the First Nation's administration or have limited previous experience on Council.

One elected leader suggested to us that when leaders are newly elected they face a steep learning curve and, particularly in this era of accountability, transparency and balanced budgets, feel tremendous pressure to ensure their First Nation is in compliance with the terms, conditions and reporting requirements associated with contribution and other financial agreements with governments. In the words of one interviewee, "it's like facing a tennis ball machine at full throttle with a hockey stick". Leaders often take on a direct and interventionist role in matters more properly left to staff as a way to gain understanding of how things work, to ensure First Nation compliance, and to gain peace of mind that the First Nation has fulfilled its obligations and will not be penalized.

Culture, Family and Community Relationships

Tensions that exist around political and staff decision making in First Nation communities often stem from close familial and community relationships, and the high degree of familiarity between First Nation leaders, staff and clients. Following and enforcing rules and policies is difficult in small governments, and may be especially so in First Nation contexts where members, leaders and staff are frequently on a first name basis or are directly related. As pointed out by one interviewee: "We have a very unique situation in our communities because of family and blood relationships. It is the exception in the non-Aboriginal community; it is the rule in the Aboriginal community. It makes a very big difference in how we can govern and one that is rarely ever considered in the models and standards we are asked to look at or use."

As noted by one interviewee, within small governments such as First Nations, much depends on reciprocal, interdependent and balanced relationships. As a result, there may be hesitancy on the part of leaders or staff to act in a way that may upset or detract from such relationships. This

introduces greater tension into decisions especially when they are about allocating limited resources or conferring benefits. There is less room for conflict and dissension, and greater potential for this, when it emerges, to be highly disruptive, both socially and politically. As a result, decisions are sometimes made outside established policy, or appear to have been unfairly or even improperly made.

Another interviewee suggested that the culture of First Nation communities has a primary influence on the environment of First Nation governments, and in particular, on the relationships between leaders, staff and the expectations of members. In some communities, for example, there may be an emphasis on responsibility and obligations to clan, family and extended family. Translated into the context of contemporary First Nation governance, this establishes a cultural basis for intervention by leaders in administrative matters, an intervention driven by the underlying cultural or familial obligation to ensure that everyone is looked after. This is often in contradiction with western norms of public administration. However, as noted by this observer: "The culture of some communities simply does not allow for a neat fit with western practices of public administration. Family, relationships, obligations and expectations all play a role in influencing and shaping the administrative responses of political leaders to inquiries and requests".

Similarly, education and training that focuses on western concepts of good governance, management and administrative practices in some instances may be ineffective because it often goes against the grain of culture and is unable to address the fundamental realities of the First Nation government environment. Nonetheless, an interviewee suggested that it is now important for First Nations to begin a discussion of how to blend systems in a way that is appropriate, ethical and in sync with the particular culture of the nation or community. "Each community will need to find the unique blend that works for them. They will need to ask: what is good governance, accountability and transparency for this community?"

The Indian Act and the Legacy of Colonialism

One factor underlying the relationship between leaders and administration may be the underlying impacts of colonialism and the relatively recent experience of colonial administration in First Nation communities. Many leaders and staff today still remember the era of the Indian agent. There is some argument to be made that both leaders and staff, particularly of an older generation, may have developed learned behaviours that either emulate or view as "normal" a strongly interventionist and directive role on the part of persons holding positions of authority and real power in the community. Many staff and leaders learn 'on the job' and as a result may have absorbed practices and ways of doing business engrained during the period of colonial administration of First Nations. Most First Nation staff have had little or no exposure to theory, instruction, training and education on the relationship between political leaders and non-elected staff. As a result, they may have no basis upon which to even raise questions about practices that they may observe, or to develop solutions that have an appropriate cultural fit, as noted in the section above.

In the words of one leader: "Who was the first chief councillor? It was the Indian Agent. The conduct of our Chief Councillors did not come from our history, it was imposed and it was learned from them".

On the other hand, many First Nations experience internal divisions between citizens who follow traditional laws and culture and those who choose to support more contemporary governance or the *Indian Act* model of government. This too places considerable pressure on the leadership and citizens in the community over the entire notion of elected or traditional governance.

One community successfully bridged that divide by beating the accusation of doing it the "white man's way" by simply taking direction from the community. "We have contemporary systems of management in our community so we were constantly being accused of following the so called "white mans way", but the instructions to do that come from our people and they are the ones that govern and instruct us what to do which in our minds is a pretty "Indian way" of doing things".

Another interviewee was quite blunt about the impact of the colonial legacy on First Nations. "We've been sucked in to the body politic of Canada. We need to get back to strong government. We don't want politics in our community. We want good government responses and services." She also added, "In a political environment you pit yourself against something, a different value set for example. Our nation has worked very hard to establish with its citizens a common shared value. As a result, we don't elect people to represent a different value. We already have that. Instead, we elect our politicians on the basis of their ability to implement our values, our vision. If they stray, they get booted out."

Remuneration of Leaders

The way in which First Nation leaders are compensated or remunerated may also encourage a more entangled relationship between leaders and staff. Most First Nations (and indeed small governments) are unable to provide their leaders with a compensation package that matches their duties and responsibilities. As a result, leaders may try to string together a decent wage or salary through various means, but in a way that allows them to engage fully with their political duties.

In some cases, for example, leaders are paid for their attendance at meetings held external to the community. This may result in their attending meetings that are more appropriately attended by staff.   One First Nation administrator interviewed for this study noted that for their First Nation, it became a costly problem when a Councillor with portfolio responsibility consistently accompanied a competent, qualified program manager to technical meetings or "staff" meetings. The consequence was not only a drain on the First Nation's administration and program budget, but also direct engagement by this leader in matters generally acknowledged to be within the purview of the duties of program and administrative staff.

Conclusions

To conclude, the challenges of putting the relationship between political leaders and their staff on a sound footing are universal. Every democratic government - and indeed most not for profit

organizations – face them. Further the getting the relationship 'right' is critical to good democratic governance. And finally, from a First Nation perspective, there are a number of factors – historical, cultural, size to name a few – that create unique aspects to the issue.

These conclusions suggest that this relationship issue has been the subject of significant academic and practical inquiry. And so it has. In the next section and the one that follows, we look at two broad approaches for shaping solutions to this issue.

II. ONE APPROACH TO MANAGING THE RELATIONSHIP: THE SEPARATION OF POLITICS FROM ADMINISTRATION

Given the importance of the relationship of politicians to staff to sound governance, it is not surprising that there is a long history of attempts to develop principles or models for approaching this issue. One idea that has such a long history and shown remarkable durability is that politics can and should be separated from administration. First introduced in 1887 by Woodrow Wilson[11] (who later became President of the United States), the doctrine, despite repeated critiques[12] from academics and practitioners, never seems to die.

It appears to have affected thinking within the federal government on how First Nations should be governed. The politics-administration dichotomy is central to a recently published "First Nations Governance Handbook"[13] and appears to be one of the ideas behind the First Nations Governance Act, introduced by former Minister Nault. In explaining the bill's rationale, the government's web site indicated that, among its many deficiencies, the *Indian Act* is silent on such key areas as "the separation of council and administration"[14]. Not surprisingly, one of the requirements of the proposed Governance Act was for First Nations to adopt an "Administration of Government Code", which would have included, among other things, rules "setting out the roles and authorities of the band administration and its relationship to the council".

The Commission of Inquiry into the Sponsorship Program and Advertising Activities (the Gomery Inquiry) is the latest Canadian advocate for separating politics from administration. In its final report published in February of this year, it had this to say about this vexing topic:

> "The responsibilities and accountabilities of the public service should not, however, be the subject of partisan debate. Parliament has explicitly and unequivocally assigned broad powers for administration to the public service. Its intention in so doing is to ensure that the administration of government and of government programs is conducted in a non-partisan manner under laws, rules and regulations. Parliament has two legitimate and essential concerns in the field of administration. First, it is entitled to assure itself, and through this the people of Canada, that Ministers do not interfere in these areas of administration where responsibility belongs to public servants. Second, it is entitled to assure itself that, within these areas, public servants perform their work in accordance with the prescribed standards, including neutrality, probity, economy and efficiency."[15]

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[11] Woodrow Wilson, "The Study of Administration", *Political Science Quarterly*, 1887

[12] See, for example, Herbert Simon, "Administrative Behaviour", (The Free Press, New York, 1976)

[13] "First Nations Governance Handbook", published under the authority of the Minister of Indian Affairs and Northern Development, Ottawa, 2001, www.inca.gc.ca. While the Handbook has its flaws, it contains some excellent material.

[14] "Backgrounder First Nations Governance Act", www.fng-gpn.gc.ca. The irony here is that federal Ministers and their offices, as any federal public servant knows, are constantly involved in 'administrative' matters.

[15] Commission of Inquiry into the Sponsorship Program and Advertising Activities, "Restoring Accountability: Recommendations", Public Works and Government Services Canada, 2006, P.71-72

Applying the Politics-Administration Doctrine: the Carver Model

To John Carver, a Canadian, goes the prize for the clearest and most comprehensive outline[16] of the politics-administration doctrine or using his language, the governance-management dichotomy. Since Carver was a major inspiration to the authors of the "First Nations Governance Handbook", his ideas applied in the context of a First Nation are worth summarizing:

1. The role of Chief and Council is to govern, that of staff, to manage. Neither should cross over and dabble in the other's work.
2. Governing comes down to three activities: linking with the First Nation members; developing governing policies; and ensuring that the Director of Operations (or the First Nation Manager) is doing his or her job.
3. There are four kinds of governing policies;
  - those that determine the 'ends' sought by the First Nation through its overall strategy and through its specific programs e.g. the provision of safe drinking water comparable in quality to a neighbouring municipalities
  - those that determine how Chief and Council will conduct their meetings and relate to one another e.g. a conflict of interest policy
  - those that place limitations on the Director of Operations in determining the means to implement Council's policies (an example of a limitation, always expressed in the negative, is the Director must not permit "accounting and reporting systems to operate outside generally accepted accounting principles"[17] and
  - those that describe how Council will control staff - through limiting discretion (e.g. do not discriminate on the basis of gender) rather than proscribing behaviour so as to encourage creativity, among other things, in crafting means to implement policies
4. Council speaks with one voice. Only Council as a whole can direct the Director of Operations and only the Director can hire, direct and evaluate other staff.
5. The job of the Director of Operations is to implement the 'ends' policies established by Council. He or she determines the means to do so but in a manner that doesn't transgress the limitations established by Council through its policies
6. The role of committees established by Council must relate to Council's work, that is governance, not that of staff.

The underlying assumptions behind this "Carver model" are similar to other expressions of the politics-administration doctrine - that is, politics or governance is all about deciding and is a value-laden exercise. Administration, on the other hand, is about doing and is a factual or value-free activity.

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[16] John Carver and Miriam Mayhem, "A New Vision of Board Leadership: Governing the Community College" (The Association of Community College Trustees, Washington, 1994)
[17] "First Nations Governance Handbook", op. cit. P. 83

No doubt part of the durability of this doctrine lies with the range of benefits it promises[18]. First among these is the claim that politicians will concentrate their efforts on what is really important. They determine policies and overall strategies for the benefit of their citizens and don't waste time embroiled in unimportant, administrative matters. Furthermore, the doctrine 'de-politicizes' the 'doing'. Politicians should not be involved in such matters as hiring staff, determining contracts and deciding on who benefits from what programs. Such involvement inevitably leads to unfair favouritism, nepotism and corruption.   Finally, the very clarity of the model with distinct and non-overlapping roles leads to a sound accountability regime: staff is accountable to the Director of Operations, who in turn is solely accountable to Council. Council is accountable to the members. What could be simpler?

Problems with the Doctrine

Two European scholars sum up the case against this doctrine as follows: "That politics and administration are intricately intertwined in local government decision making is obvious to contemporary practitioners and academics. The idea that there ever was or even should be a dichotomy between them has been convincingly refuted by numerous scholars."[19] Here are some of principal arguments they and others use.

The first is that administration is a complex business and hardly value free. Why else would public servants be paid such handsome salaries and schools of administration proliferate? Some of the complexities arise for the following reasons:
- Policy is either non-existent or not comprehensive enough to cover the range of situations being faced;
- Policies are vague (sometimes deliberately so because politicians don't want to make tough choices) or have conflicting objectives or criteria
- Administrators don't have the required resources to carry out the policy
- Some policies are impossible to carry out.

But more fundamentally, as one American observer has pointed out "most, perhaps all, administrative acts make or change policy in the process of trying to implement it. For all such acts we must analyze implementation as part of policy-making"[20]. He gives the example of the simplest kind of policy to make his point:

> "The governor instructs the state police to enforce a fifty-five miles-per-hour highway speed limit. The state police commissioner then must decide such questions as whether to allow motorists a five or ten miles-per-hour leeway over the fifty-five or none at all, whether to concentrate enforcement on the state's main highways or on the more dangerous two-lane secondary highways, and whether to arrest a few violators or draw officers from other tasks in order to make a large number of arrests. Given the commissioner's policy decision, each patrol officer must subsequently decide whether to hold tightly to or to interpret loosely the commissioner's decision on the five to ten miles-

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[18] The approach is also part of a long tradition in administrative thought to emphasize rationale models. One example is Management by Objectives or MBO. There is a natural harmony between MBO and the politics-administration dichotomy, a harmony that has appears to have aided the latter's ready acceptance.
[19] French and Folz, op cit. P. 52
[20] Charles Lindblom, "The Policy-Making Process" (Prentice-Hall, Englewood Cliffs, New Jersey, 1980) P. 64-65

per-hour leeway. Despite the governor's decision, the state's actual operative policy may be to arrest a small proportion of drivers driving over seventy miles-per-hour on secondary highways. A fuller statement of state policy would have to take account also of how judges handled specific cases after arrest. Perhaps the operative policy of the state also levies heavier fines on disreputable-looking drivers than on more respectable-looking citizens."

Thus, almost all administrative acts have a discretionary aspect to them and this embroils administrators in questions of values. To leave 'administration' largely in the hands of administrators, according to some, is undemocratic. It gives unelected officials too much power. Jeffrey Simpson, the respected national columnist for the *Globe and Mail* made a similar argument with respect to the Gomery Inquiry:

> "At the heart of Judge Gomery's recommendations is a radical – and quite likely wrong – notion of the relationship of ministers and civil servants. The report is imbued with the idea, from which various recommendations flow, that ministers do politics and civil servants do administration, and that a water-tight compartment should exist between the two… The civil service needs "political" direction. Otherwise, it becomes a machine without direction – or worse, like all bureaucracy, it becomes a machine with its own rhythms and directions, accountable primarily to itself. There is a necessarily grey area between civil servants-as-administrator and civil servant-as-taker-of-directions, not the kind of watertight compartmentalization the judge proposes. The world of administration is a good deal more complicated than the judge lets on."[21]

But the doctrine also fails on the equally practical grounds that it doesn't fit with the reality facing politicians.   For politicians to claim that administrative matters are of no concern to them would be tantamount to political suicide. As one author puts it, "…to a large extent, politicians will be driven by the desire to be re-elected and therefore have a strong interest in constituency cases."[22]   Consequently, many spend significant portions of their time dealing with constituents who feel aggrieved by decisions made by administrators. In short, they act as ombudspersons trying to prod administrators to respond to complaints. Moreover, many would prefer this role to being a 'policy wonk', a role to which they may not be suited[23].

Leaving aside higher satisfaction levels among constituents, there is another advantage for politicians to immerse themselves in administration. Policies and laws are never perfect. And the 'devil is always in the detail'. Those with policy and law-making responsibilities need to understand what is working and not working in order to do their job better[24].

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[21] Jeffrey Simpson, "The Gomery Reforms should first do no harm", *Globe and Mail*, February 3, 2006. Arthur Kroeger, one of Canada's most respected public servants and a former Deputy Minister before retirement, made a similar point in critiquing the Gomery Inquiry's reasoning: "While I was an official for most of my working life, experience has not given me an admiration for government by the unelected", *Globe And Mail*, February 7, 2006.
[22] Kasper Hansen and Niels Ejersbo, op. cit. P. 740
[23] James Svara, "Dichotomy and Duality: Reconceptualizing the Relationship Between Policy and Administration in Council-Manager Cities", Public Administration Review, January/February 1985, P. 226
[24] One former Deputy Minister described the art of making policy as taking a big problem and making it smaller!

Henry Mintzberg, one of Canada's leading management thinkers, brings yet another perspective to the question in the following manner:

> "Policy" has long meant to the public sector what "strategy" means to the private sector. In both cases, a highly rational model has been dominant: that policy or strategy is formulated consciously, preferably analytically, made explicit and then implemented. Much research and other evidence has raised all kinds of doubt about the validity of this traditional model… Defining strategies as "pattern in action" opens up a whole new perspective on policy-making in the public sector. Strategies can emerge - even highly effective ones – through a host of processes, some gradual, some collective, some spontaneous, many of these not "managed". At the limit we can contrast the traditional rational model with an emergent, or even "grass roots" one, in which strategies grow deep inside the system, sometimes even inadvertently, as weeds grow in a garden."[25]

Implicit in the Mintzberg notion of a continuum of approaches to policy-making is a strong role for administrators, who are hardly divorced from the process.

What is the Empirical Evidence?

The empirical evidence strongly supports the notion that politics and administration are hopelessly intertwined. Here are the results of three studies conducted in the United States:

Empirical Evidence

A random survey of 1000 chief executives (managers) in small US cities (2500 to 25000 in population) undertaken in the fall of 2000 revealed that[26]
a)   city managers and mayors are involved in decision-making of all aspects of the city government from mission, policy, administration and management; and
b)   city managers spent more time on and perceived themselves to be more involved in decisions in each of these areas (including mission and policy) compared to mayors.

In a survey of city managers in jurisdictions with council-manager government conducted by International City/County Management Association (ICMA) in 1996 in which over 1100 individuals responded, a principal finding was that a large majority of managers (over 85%) played an active role in the policy process. Their activities included playing a significant role in policy initiation through the provision of advice and recommendations; presenting elected officials with feasible options for policy implementation; supporting the governing body by identifying community needs and initiating policy proposals; and meeting with individual elected officials to clarify their perspectives and policy preferences. Moreover, the relationship between Council and the manager is for most part not "top down and controlled

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[25] Henry Mintzberg and Jan Jorgensen, "Emergent strategy for public policy" in *Canadian Public Administration*, Volume 30, No. 2 Summer 1987 P. 214

[26] French and Folz, op. cit. P. 56

based". Rather it is "more consensual than confrontational"[27]. The authors conclude that "…the politics-administration dichotomy does not hold up in practice; politics and administration are messily entwined".

In a 1996 research study which examined the council-manager relationship in 31 US cities with populations over 200,000, a study that surveyed Mayors, council members, city managers and their senior staff, a principal conclusion was the following: "…the boundary line between the council and the city manager is increasingly blurred and shifting to include more administration and management in the council's sphere and more mission formulation in the city manager's. A boundary remains and council-manager government continues to be a complementary relationship of political and professional leaders, but the distinct roles of its two components increasingly overlap."[28]

Parallels in the Non-profit World

As noted in this paper's Introduction, the structure of a not for profit organization bears a number of striking similarities to that of the council-manager model in local government. And not surprisingly, as our discussion of the John Carver approach to not for profit governance indicates, the same debate about the policy-administration dichotomy has raged for decades.

Cyril Houle, in his classic book on boards, had this to say about this debate: "In recent years, determined efforts have been made to define the distinctive rights and duties of the two partners. The board's activities are sometimes called "governance" and the executive's, for the sake of contrast, "administration" or "management". But this distinction ultimately proves unsatisfactory, both theoretically and practically. It can imply that the board and the executive are wholly separate entities – sometimes opponents vying for power – rather than partners in a common enterprise. More than that, the terms used to differentiate the two are so hard to define in terms of their relationship to one another that they give little or no help"[29].

Another commentator on not for profit boards is even more brutal, calling this governance-administration distinction "the worst illusion ever perpetrated in the non-profit world" **[30]**

Conclusion

The evidence that a separation of politics and administration is neither desirable nor obtainable is overwhelming. We need to look elsewhere for answers. In doing so, however, we should not discard all aspects of the policy/administration dichotomy. For example, there is merit in trying to gain greater role clarity and differentiation between political leaders and administrators for

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[27] Sally Coleman Selden, Gene Brewer and Jeffrey Brudney, "The Role of City Managers: Are they Principals, Agents or Both?", *American Review of Public Administration*, Vol. 29, No. 2, June 1999
[28] James Svara, "The Shifting Boundary between Elected and City Managers in Large Council-Manager Cities", *Public Administration Review*, Janaury/February 1999, Vol. 59, No.1
[29] Cyril O. Houle, "Governing Boards: Their Nature and Nuture", Jossey-Bass, San Francisco, 1989. P. 88
[30] Brian O'Connell, as quoted in Houle, op.cit. P. 88

both accountability, legitimacy and performance reasons. Further, political leaders that pay excessive attention to operational matters and not enough to mission and planning are not likely to head successful communities. Thus, the principle of direction should not be ignored. In addition, there are decisions that political leaders should not be taking – who the police should investigate, for example. Fairness, therefore as underlying governance principle should not be forgotten. The challenge is how best to mange the 'messiness', a challenge to which we now turn.

III. TOWARDS AN EFECTIVE PARTNERSHIP BASED ON COMPLEMENTARITY

That there is no one solution to this issue that will fit all governments including those of First Nations, given differences in size, history, culture and functions, is a useful starting point. As two academics concluded in a study of executive behaviour in small US cities: "…neither practitioners nor scholars have reached a consensus about how to achieve a proper "meshing" of politics and administration among elected and unelected officials to obtain "an optimal mix" that advances democratic governance."[31]

Nonetheless, there are some useful generalities. Seeing the relationship as a partnership – one where both sides have to be strong, respect one another, and understand the different motivations of politicians and staff - is one fundamental point of departure. This partnership has to be constantly nurtured; it will never remain static. And like any close relationship there will be tensions and tough times. As John F. Kennedy noted, "My experience in government is that when things are non-controversial and beautifully coordinated, there is not much going on."[32]

The following is one characterization of this partnership, based on a study conducted in 1995-1997 by an international research group encompassing some fourteen countries and over 4000 responses from CEOs in local government:

> "This study of the role of administration in the political process establishes more clearly than do previous studies that top administrators are partners in leadership with the mayor and other leading politicians. Leadership in government arises from and is conditioned by a relationship that is generally characterized by interaction, interdependency, reciprocal influence and mutual respect between politicians and administrators. Although there are differences in authority between the two sets of officials, they have a complementary relationship in which each needs the other and each makes unique contributions to the other in conducting both shared and separate tasks."[33]

The study authors provide further detail on this notion of complementarity:

> "This study enforces the importance of complementarity as a framework for understanding the relationship among officials. Complementarity entails ongoing interaction between elected officials and administrators – a continuous dialogue among officials about governance. Administrators help to shape policy and give it specific content and meaning in the process of implementation. Elected officials oversee

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[31] P. Edward French and David Folz, "Executive Behaviour and Decision-making in Small US Cities", American Review of Public Administration, Vol. 34 No. 1, March 2004, P. 52

[32] Quoted in "Local government Policy-making Process", Municipal Research and Services Centre of Washington, February 1999, www.mrsc.org

[33] Poul Erik Mouritzen and James H. Svara, "Leadership at the Apex: Politicians and Administrators in Western Local Governments", University of Pittsburgh Press, 2002 P. 288- 290. The 14 countries were the United States, Australia, and 12 European countries including four in Scandinavian, England, Ireland, Belgium, France, Italy, Spain and the Netherlands.

implementation and probe specific complaints about poor performance, and they seek to correct problems by fine-tuning either the policy side or the administrative side. New policies and services are defined by elected officials with administrator input and they are implemented or delivered by staff with continuous political oversight. With extensive interaction, the knowledge and values of those who do the ongoing work of government complement the knowledge and values of those who ultimately set the course for government and ensure that it remains on course. The complementarity of politics and administration holds that elected officials and administrators – both in regular communication with citizens – need and help each other in partnership for governance. Dividing the partners or skewing the relationship in one direction or the other means that an important contribution is missing."[34]

Harkening back to the debate over the politics-administration dichotomy, the authors conclude: "Rather than approaching public administration with a conceptual framework of dichotomy and looking for exceptions to it, it is more appropriate to use a framework of complementarity and examine variations within it."

One important variation in the relationship is surely around how the two partners deal with partisan politics. The study authors distinguish two broad responses on the part of managers who are attempting to remain "neutral":

- Managers will offer their best advice and service to whomever is in charge but not actively or directly oppose challengers or
- Managers will seek to maintain a level playing field for incumbents and challengers alike in providing any advice or service to incumbents.

James Svara, an American academic, has attempted to frame complementarity in the relationship in the following diagram. In applying this model, he notes that "The boundary between politics and administration is porous but it continues to be important. Negotiating the location of the line and what passes through it – involvement in administration and management decisions by politicians and policy innovation and political advice and service by CEOs – is a key aspect of the dynamic of leadership at the apex."[35]

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[34] ibid. P. 289
[35] Ibid. P. 277

Dimension of the governmental process – James Svara

Council Tasks		Administration Tasks
Determine "purpose", scope of services, tax level, constitutional issues	**Mission**	Advise (what city can do may influence what it should do); analyze conditions and trends
Pass laws, approve new projects and programs; ratify budget	**Policy**	Make recommendations on all decisions; formulate budget; determine service formulas
Make implementing decisions (e.g. site selection); handle complaints; oversee administration	**Program Administration**	Establish practices and procedures and make decisions for implementing policy
Suggest management changes to manager; review organizational performance in manager's appraisal	**Internal Management**	Control the human material and information resources of organization to support policy and administrative functions

The curved line suggests the division between the elected officials' and appointed officials' spheres of activity, with the Council to the left and the manager to the right of the line. The division represented is intended to roughly approximate a "proper" degree of separation and sharing.

Source: "Working Together: A Guide for Elected and Appointed Officials", International City/County Management Association. Reprinted with minor editing from James Svara, "Dichotomy and Duality: Reconceptualizing the Relationship between Policy and Administration in Council-Manager Cities", Public Administration Review 45 (1985).

There are strong parallels to this idea of a complementary partnership in the writings of experts in nonprofit governance:

"The normal day-to-day relationship between the board and the executive is that of a responsible partnership….Like all intimate human bonds, this one is filled with points of possible tension and difficulty. Just as nobody can write a prescription that would make all marriages happy, so no one can suggest a formula for a universally successful board-executive partnership. While it is true that, in most cases, the board is both legally and actually the dominant partner, the arbitrary exercise of power over its executive by a board should be considered a last resort, a signal that something has gone very much awry."[36]

The notion of complementarity is also very much part of this analysis:

"Both the board and the executive will be helped in their relationship with one another if each of them understands the need for the other to be capable and powerful. Curiously enough, some people have the idea that the board-executive system is merely a safeguard against the weakness of one or the other of the two parties. They argue: if you have a strong board, you don't need a strong executive, and if you have a strong executive, you don't need a strong board. This 'seesaw' principle may be true for short periods of time, but in the long run it is fatal to sound operation. Analysis of the leading institutions in society suggests that an institution flourishes only when it is conducted by both an effective board and an effective executive - and when both are able to work together."[37]

Further, the likelihood of tension and conflict being part of the relationship and the subsequent need to work at the relationship is also part of nonprofit writing:

"The board-executive relationship, since it is necessarily so close, can never be completely free of sources of tension. The result, at least occasionally, may range from irritation to open conflict…The only sensible rule in any particular situation is to mark out as clearly as possible the particular responsibilities to the board and of the executive….A shadowy zone of accommodation will still remain. Just as a husband and wife, a parent and a child, or two business partners must learn to adjust to one another, so must the board and the executive. When the sparks begin to fly within the zone of accommodation, the point of tension should be faced and, if possible, eased before it and its consequences have grown too great."[38]

Annex E contains a brief list of five ways in which the relationship of board and staff can go awry. Many of these pertain to First Nations as well. Annex F provides an illustrative example (not intended to be the 'ideal' to be sought after) of how complementarity might be described in one set of circumstances.

There are a multitude of ways in which First Nations have managed this "shadowy zone of accommodation" where politics and management meet. The next section of the paper attempts to illustrate some of these.

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[36] Cyril Houle, P. 96
[37] ibid P. 96
[38] ibid P. 97

IV. MANAGING THE RELATIONSHIP IN FIRST NATIONS: TOOLS AND APPROACHES

This section explores specific tools and approaches for managing the relationship between political leaders and their staff in the First Nation context. Most of the examples included here come directly from First Nation experience, reported to us through interviews with First Nation leaders (Chiefs and Councillors) and the senior officials of First Nations. That said, we obtained other insights through interviews with academics, officials of the Department of Indian Affairs and others who work in environments where the issue of managing the political-staff interface in First Nation governments is a consideration. We also include, where appropriate, a number of Métis and non-Aboriginal examples.

Approaches to Managing the Relationship

While there is much agreement among our interviewees on the nature of the issue, evidence gathered for this study suggests that, in the development and implementation of tools that can help manage these relationships, First Nations hold diverse views with respect to what works. This observation supports the notion that First Nations must individually have the flexibility to identify solutions for themselves, that there is no magic formula or one best way to deal effectively with this issue. Rather, each First Nation must take into account its own circumstances, traditions, accepted practices, and the preferences of its members.

These tools or approaches fall into five categories:

- the use of First Nation policies and codes
- structural and organizational approaches
- building effective relationships, including through orientation, training and retreats
- encouraging the active involvement of citizens, and
- other tools, practices and approaches

What follows is a discussion of solutions located within each of these categories. Where appropriate, we identify specific examples of how First Nations (and other non-First Nation governments in some cases) have utilized these tools and approaches and what have been the practical results.

A. The Use of First Nation Policies and Codes

Increasingly, First Nations are developing their own instruments and authorities as a means to gain greater clarity and precision in the respective and complementary roles and responsibilities of elected and non-elected officials. These instruments and authorities, many of which do not necessarily find a legislative base in the *Indian Act*, include written codes or laws, and policies.

Some First Nations have also made use of the by-law making power provided by the *Indian Act* to codify, for example, financial management and administration policies.

Within this general category of policies and codes we identify three sub-types or sub-sets of instruments. These are:

- governing codes and policies;
- administrative codes and policies (related to for example, financial management and human resources); and
- program policies

Governing Codes and Policies

These policies are concerned with specifying the respective roles and responsibilities of Council, the Chief and individual councillors, the role of committees of Council, and the role of the First Nation Manager (referred to also as the Band Manager, Director of Operations, or Chief Executive Officer – for the rest of this section, we will utilize the term "First Nation Manager"). They may also address a wide variety of other matters, such as Council meeting procedures, and, in addition, establish rules that speak directly to the relationship. For example, they may specify:

- the specific roles and responsibilities of Council as distinct from that of staff;
- that Council can act only collectively; and that individual councillors including the Chief can not give instructions or orders to staff, unless explicitly authorized to do so by Council as a whole;
- that only the First Nation Manager has the authority and responsibility to instruct staff;
- that any concerns Council may have with respect to individual staff members must be directed through the office of the First Nation Manager;
- that staff should not be prohibited from talking to members of Council, but the limits of such interaction are set out.

Several representatives of First Nations interviewed for this study reported that their First Nations had either developed or were in the process of developing First Nation governance codes or similar, formal instruments that would be approved by the membership for the purposes of achieving a clearer definition of "who does what". In particular, these codes appear to be frequently concerned with setting out roles and responsibilities, first of Councils, second of staff. As a result, they define the nature of the relationship between these two parts of government and their respective spheres of influence and activity.

One First Nation reported that it has a separate Governance Code applicable to Council and an Administrative Code for staff. Progress was being made towards the development of a Finance Code, which would specify the roles both of Council and staff in respect of financial management, administration and accountability.

Election Codes are another instrument used by First Nations to regulate the overlap between politicians and staff. Many First Nations, including several interviewed for this study, have

adopted a rule that requires First Nation staff who are nominated to stand for public office to take a leave of absence during the election period. Where this type of rule is in place, either in written form in a custom election code or as practice, it is normally accompanied by the requirement that once elected, staff must either take a leave of absence or resign from any non-elected position they may hold.

Election codes may also specify that no one should be able to order a staff member to engage in political activities, and that political leaders and staff may not use community property for electoral purposes.

Campaigning rules also can provide some direction in this area. Again, many First Nations follow a rule that prohibits staff from campaigning, either for themselves as candidates or on behalf of others, during working hours. While this is a norm that is generally adhered to, it appears to be much less common that such rules are formally recorded in written codes or policies.

Codes of Conduct, Oaths of Office and Conflict of Interest

Many First Nations identify written codes of conduct, oaths of office and conflict of interest rules as important tools for ensuring that elected leaders don't overstep the boundaries of their political responsibilities and that First Nation staff conduct themselves in an appropriate manner. In some instances, First Nations have seen fit to establish separate Codes for elected leaders and/or to require the public taking of an Oath of Office.

One First Nation interviewee described how the development of a new Leadership Oath accompanied the election of a Chief whose campaign platform centred on increased accountability and transparency in First Nation affairs. During the new Council's public inauguration ceremony, each member of Council was asked to sign the Leadership Oath. The Oath itself is prominently displayed and communicated throughout the community. Members are aware of its content, and as a result, are attuned to their role in promoting leadership compliance with the Oath.

One leader pointed out, "In our community we have clearly defined roles and responsibilities as well as codes of conduct and conflict of interest policies. These work well because there are serious consequences for breaching those roles and policies. Politicians and staff risk reprimand by the rest of council and being banished from meetings for set periods of time which is a public disgrace…there is full transparency from the council to the community for its conduct."

Another First Nation pointed out, "We have clear Conflict of Interest Policies for politicians and staff. They arose from the community and were submitted to the administration that in turn sent them up to Council where they were considered, modified and then re-submitted back to the community, who then sent them back to Council with explicit instructions to be accepted. If Council wants to stay elected they don't dare fiddle with it."

Codes of Conduct may also include staff or be part of human resource policies. Among other things, these instruments may provide direction to staff on the matter of political engagement - for example, that no staff person will engage in political activity while at work.

Administrative Policies

Administrative policies, notably in the areas of financial and human resource management provide another set of instruments through which the various roles, responsibilities, and decision making capacities of both leaders and officials can be specified.

Concerning financial management policies and practices, one First Nation interviewee identified the implementation of a quarterly financial and performance reporting system as being an effective tool for managing and indeed improving the working relationship between staff and leaders. Prior to the introduction of this measure, there was considerable confusion with respect to the "big picture": what was the First Nation staff doing, what was being accomplished, how was the membership being served, and what was the overall financial situation of the First Nation.

The establishment of a quarterly financial reporting system in which the First Nation Manager and senior program managers deliver quarterly reports to Chief and Council has provided many positive outcomes. Among these have been an increased sense of confidence and achievement on the part of staff, and a concomitant reduction in the frequency of direct intervention and "micro-management" by individual members of Council in administrative and program matters. According to the interviewee, the system is having a profound and positive implications for the relationship between politics and administration, providing staff with an opportunity to communicate with leaders on essential matters, and to demonstrate how the direction provided by leaders is being followed and implemented in practice. Quarterly reporting has established a basis upon which shared and reasonable expectations can be formed, and performance measured and evaluated. Clear and concise reporting according to a prescribed reporting structure and format has eliminated some "fear of the unknown" especially for staff, and provides leaders and staff, working together, with a clear sense of common purpose and direction.

The above example demonstrates how even small measures in the area of financial management and administration can have many positive impacts that radiate out to all aspects of the First Nation government. Improving overall accountability, strengthening the sense of strategic direction and common purpose among Council and staff, providing the underpinnings for a complementary relationship in which leaders and staff are confident, each in their respective spheres of responsibility – these are all positive outcomes of a simple reporting measure.

Personnel and human resource management policies are another mechanism for gaining clarity with respect to the interface between elected leaders and staff. Particularly with respect to staff recruitment and hiring, First Nations have adopted a wide range of practices and policies. However, one commonality is the practice or policy in which Chief and Council exercise the privilege of making a final or "ultimate" decision with respect to both hiring and termination of employees. The increased involvement of Councils in employment termination decisions can be attributed at least in part to the increasing number of wrongful dismissal cases pursued against

First Nations in the courts, cases which have frequently delivered costly "lessons" to First Nations. Again, the introduction of clear written policies and guidelines that are followed by senior staff, together with a clear delineation of the role of Council in the process of hiring and termination, may go a long way towards bringing about positive improvements in the way in which First Nations manage human resource issues.

With regards to hiring policies and practices, our interviews suggest that, while elected leaders normally are given the right of final approval, this is usually preceded by a recruitment, screening and interview process carried out by a hiring panel or committee that works at arms length from Council and to a lesser extent from senior managers. Such panels and committees may include representatives drawn from staff (either a program manager or the First Nation Manager) and Council, and in some cases, depending on the position, even the community membership. Hiring panels and committees provide their recommendations for hiring, and terms and conditions of employment to Council. First Nation representatives interviewed for this project indicate that, for the most part, Councils accept the recommendations provided to them regarding preferred candidates.

While the hiring process described above is quite common in First Nations, there is some variability with respect to how the senior officers of First Nations are hired. Especially in larger First Nations, it is the practice that either the Chief, or the Chief and Council exercise the prerogative to appoint the senior officer of the First Nation administration. The rationale for this appears to be linked with the recognized need for a positive and productive relationship between especially the Chief and the First Nation Manager.

The practice whereby First Nation political leaders make selected appointments is mirrored in a South African study[39] that suggests that incoming Councils should have the right to appoint individuals to "strategic policy positions" that fill certain objective criteria. Such criteria specify that:

- the position involves policy-making at the highest level;
- such positions are vital for the effective planning and implementation of the government's policy mandate; and
- in most cases they will be senior line functions where there is a direct interface with the elected representative.

This study concludes that Councils should codify their senior appointment processes and that they should develop a code of conduct for persons so appointed. Finally, this approach requires a broad consensus of support, a condition that appears to exist amongst those First Nations who reported that political leaders appointed their senior staff and that this practice was acceptable within the community.

A more structured and rules-based approach to hiring and appointing staff comes from the non-profit sector. In this proposal, set out in a chart form below, all staff are identified as falling into

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[39] Robert Cameron, "Politics-administration interface: the case of the city of Cape Town", International Review of Administrative Sciences Vol. 69 (2003), Sage Publications P. 62-64

one of three group types, each of which has appropriate rules concerning the hiring and appointment process[40]:

Group Type	Appointment Process
1. non-professional workers in support roles	Appointed by the Executive Director or delegate
2. professional workers with some accreditation required	Appointed by the Board on the recommendation of the Executive Director
3. the manager and those in immediate line of succession to the position of manager	Appointment by the Board

Program Policies

Program policies are common in First Nation governments, and normally encompass a definition of roles and responsibilities of Council and staff and rules and guidelines which staff follow or apply in making decisions related to the program area. A policy on housing, for example, might lay out criteria for deciding on the allotment of new houses and a decision-making process that does not include members of Council.

While First Nations may have program policies in place, their effectiveness in large part appears to be determined by the way in which they are implemented. Staff confidence and willingness to apply policy, even in the face of political influence, appears to be a key to ensuring program related decisions are consistent with policy. Program policies will be more strictly adhered to when staff:

- have confidence in their own decision making capacity,
- are able to communicate the results of their own decision making, even if such decisions may displease either a community member or member of Council, and
- have confidence that the Council will stand behind such decisions (and not reverse such decisions for political reasons)

Creating a culture of confidence around program and administrative policies is clearly a joint effort of Council and staff. It is a critical element of a broader effort to build complementary relationships that ultimately work in the best interests of the community.

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[40] Houle, op. cit. P. 116

B. The Use of Organizational Structures and Processes

A second set of tools and approaches for managing the relationship between politicians and their staff falls under the rubric of organizational and structural solutions.   In this section we examine seven such solutions drawing on examples from our research.

Managing Situations where Politicians take on Staff Roles

Many interviewees acknowledged that, from an organizational perspective and especially for small First Nations, it is not always practical or desirable to bar elected leaders from employment with the First Nation. For some First Nations, it has long been a practice to allow leaders to assume general administrative responsibilities (including having the Chief act as the First Nation Manager) or to have Councillors acting, in effect, as program directors or managers.

It is interesting to note that, at least from our sample, the phenomenon in which political leaders also take on staff roles appears to be more prevalent among First Nations with medium sized populations and budgets, rather than either very large or very small First Nations. It is unclear from our research the reasons underlying this pattern or whether this pattern is indeed prevalent beyond our sample.

There appear to be several factors driving First Nations to allow political leaders to assume staff roles, a practice generally discouraged in the non-Aboriginal world. These include the following:

- those persons who are most qualified for staff positions especially at the managerial level, as a result of formal education, skills sets and previous experience, are also those who show a strong interest in or aptitude for community leadership or are viewed as "role models" in their community
- significant governmental responsibilities assumed by First Nation governments combined with constrained financial resources to meet these responsibilities necessitate elected leaders' daily and direct involvement in program or administrative matters
- because of resource limitations First Nations are unable to hire full time and appropriately trained or educated "directors and managers" into some program areas. It is simply a practical measure and by default that elected officials step into the role of program manager in the absence of qualified, program management staff

Our interviewees noted at least two ways in which First Nations attempt to manage these situations. The first is to extend conflict of interest rules to recognize that a political leader who may have an "interest" in a decision because of his or her staff role would need to excuse her/himself from the Council decision making process in such cases. A second approach is to ensure that specific responsibilities of elected leaders did not necessarily correspond with their staff responsibilities.

Modified Portfolio System

One of our interviewees described the case of a First Nation that embarked on a long term process of strategic planning, priority setting, and organizational change, combined with efforts

to better manage community expectations by increasing awareness of constraints within which the First Nation operates.

Prior to embarking on a process of reorganization, this First Nation reported a general lack of clarity in the management of the First Nation's affairs and a concomitant lack of unity of purpose and action between Council and their staff. As a result, community members were unclear with respect to "to whom they should turn" in relation to specific matters.

To deal with these and other problems, Council launched a process to analyze and re-structure both the First Nation staff and Council itself to better meet the needs of the community. The process reached out to and actively engaged the community, with the intent of fostering a different understanding and set of practices for how things might work.

The centrepiece of this First Nation's organizational change is a comprehensive framework in which all First Nation political and staff functions, programs and services have been re-organized under four broad categories of activity. The change process ended the former practice of allowing Council members to also be employees of the First Nation and maintained but modified the portfolio system. All portfolio responsibilities within the community are identified with every possible item, from health programs to responsibility for children's play areas, assigned to a specific member of Council.

Staff are also organized according to the four areas of activity. This required a major reorganization of a formerly disparate set of departments, and the creation of a set of new senior management positions, including the position of Chief Executive Officer. While funding constraints have impeded the immediate staffing of these positions, nonetheless, re-organization of staff and the creation of senior management positions is intended in part to free elected leaders from many of the day to day administrative decisions. Our interviewee noted that where there are no senior managers in place, Councillors still find themselves acting in these capacities, and assisting staff by participating in what might be otherwise be considered strictly staff decisions.

One outcome of the structural change brought about in this community is a better understanding by members of how decisions are made, and what community members can expect from Council and staff. It is now generally accepted, for example, that individual requests must be made in writing to the First Nation administration and that Council members are not able to make decisions or "promises" outside the context of the Council table. This has had the effect of distancing individual Councillors from day to day operational decisions.

Implementation of many of the changes proposed through this process is now complete and the community members accept and widely embrace them. Organizational change will remain, nonetheless, a work in progress as the First Nation is limited in some respects by fiscal considerations.

Part of a Broader, Nation-building Initiative

Another leader interviewed for this project indicated that his First Nation was undertaking an organizational exercise aimed at restructuring the way they do business to not only accommodate

community needs but also establish a cultural basis for government operations and activities. He described this ongoing initiative as one which involves the identification of institutionalized problems, leading to healing and decolonization of the First Nation administration as part of a broader nation building process. At a very practical level, this initiative also emphasizes achieving clarity on the distinct but complementary roles of governance, management and administration.

Strong Executive Body

First Nations operating under self-government agreements or arrangements have greater latitude to structure their governments and administration in a direction that matches their cultures, traditions and circumstances. One self-governing First Nation interviewed for this study identified their organization of government as encompassing multiple layers of accountability based on a traditional structure combined with an executive body.

Under this First Nation's arrangement, the executive office of Chief and the Executive Director, a person appointed by the Chief as the head of the First Nation's staff, provide the main point of interface between the political and staff arms of government. Under this system, there is a very clear separation between staff and political roles along a continuum that sees the executive body separated from but in closer proximity to staff in comparison to more traditional governing structures.

As Chair of the senior management board, the Chief frequently joins the directors of major programs in discussions and decision making around operational matters. That said, in general, responsibility for the staff side of government, including all hiring, remains the responsibility of the Executive Director, as the First Nation's senior administrative official.

Arms-Length, Semi-Independent Structures

Some First Nations have established structures and organizations that operate at arms-length from elected leadership and their staff. These may be corporations or unincorporated boards and agencies whose directors handle certain functions within broad policies set down by Council, or as set out in separate bylaws. Examples include economic development corporations, housing authorities and policing authorities. One of the ideas behind this structural approach is to 'insulate' certain kinds of decision from inappropriate political interference.

A few interviewed for this project reported their First Nation had established arms-length institutions and organizations in certain program areas. One First Nation identified the establishment and operation of a Human Services Corporation as a success. In this arrangement, the corporation's board is primarily comprised of community members. While two Councillors also sit as non-voting members, their role is neither one of intervening or making decisions but of ensuring there is some channel of communication established with Council. This First Nation indicated that, because the model was working so well and because it had received the support and recognition of the community, they intended to adopt it across a range of policy and program areas in the future.

Some First Nations have established treasury boards or finance committees that are, to varying degree, independent of Council and make large and small financial decisions, prepare budgets, manage budgets or provide general oversight of the financial affairs of the First Nation. One First Nation reported that they had established a treasury board comprised of a few members of Council and a few members of the financial administration staff. This board had responsibility to receive program budget proposals from staff and committees, prepare an overall budget for the upcoming fiscal year for recommendation to and approval by Council. The board also has responsibility to oversee the transfer and management of budgets by particular departments and agencies of the First Nation. In this arrangement, the principle of primary accountability and decision making authority of Council is maintained, while the responsibility for interface with the First Nation's operational side rests with a body that itself embodies a balanced composite of political leaders and staff.

Perhaps the most elaborate use of semi-independent boards that we came across – albeit still at the proposal stage – was the Métis Settlements in Alberta. The figure in the following page illustrates a proposed Board Model under discussion. In all of these models the challenge is to find the appropriate balance for maintaining an adequate degree of political control over the direction and finances of these boards but at the same time ensuring non-partisan decision-making on day to day matters. It is important to note that the Métis settlements already have in place an elaborate appeals and dispute resolution process (more on this later in this section), a situation that is an important underpinning of more decision-making by non-political bodies.

It is a common practice for First Nations to establish separate corporate structures and boards to oversee economic development projects and First Nation owned and operated businesses. One First Nation reported that, in pursuing an important economic venture in which significant First Nation resources were to be invested, they had established a separate board composed almost entirely of non-First Nation members, but persons with considerable experience and expertise, to guide the project through to the operational stage.

Dispute Resolution Bodies and Appeal Mechanisms

The political and administrative decision making processes of First Nations can be augmented and supported with the establishment of internal appeal mechanisms and procedures. These may be program-specific, or they may be established to deal with a wide range of appeals and complaints on a variety of matters.

Some First Nations have identified a group of Elders to mediate and sometimes arbitrate certain types of disputes among members, or between members and Council. The active engagement of these types of dispute resolution bodies can remove Council from decisions that otherwise may be susceptible to the use of partisan political calculus.

However they are organized, appeal structures provide First Nations with an alternative to Chief and Council as the "only" structure to which complaints and grievances can be addressed. Our interviews suggest that appeal structures and mechanisms that are *separate* from Council and staff are not widely in use within First Nation contexts, although many recognize their desirability and potential.

Métis Settlements[41]
Proposed Board Model

"The Board Model keeps responsibility for "core governance" matters with Council but creates new independent and professional/expert boards to develop and manage community health, business, housing, training and cultural functions."

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┌─────────────────────┐                    ┌─────────────────────┐
│ Education & Training │                    │ Social/Cultural Board│
│     Authority        │                    │                      │
└─────────────────────┘                    └─────────────────────┘

                          ╭──────────────╮
                         │   Settlement   │
┌─────────────────────┐  │    Council     │   ┌─────────────────────┐
│  Housing Authority  │  │ Law-making, policy│ │ Settlement Development│
└─────────────────────┘  │ & external relations│ │     Foundation       │
                         ╰──────────────╯    └─────────────────────┘
┌─────────────────────┐                          ┌─────────────────────┐
│   Settlement Owned   │                          │i.e. Resource Corporation│
│        Bank          │                          └─────────────────────┘
└─────────────────────┘
                                                  ┌─────────────────────┐
                                                  │ i.e Tourism Corporation│
                                                  └─────────────────────┘

                    ┌─────────────────────┐       ┌─────────────────────┐
                    │  Core Community     │       │ i.e Forestry Corporation│
                    │     Services        │       └─────────────────────┘
                    │(administration, infrastructure,│
                    │ water treatment, electricity,│  ┌─────────────────────┐
                    │ roads etc.)         │       │       Others        │
                    └─────────────────────┘       └─────────────────────┘
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Source: "Métis Settlements Messenger", Special edition 2006

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[41] There are eight Métis Settlements in Alberta with approximately 7000 citizens, covering some 1.25 million acres. Each settlement has a government with municipal-like responsibilities. In addition there is a regional government (Métis Settlements General Council), which performs a number of law-making functions. The historical development of the Métis settlements has marked parallels with that of First Nations. For more information, see Catherine Bell and Harold Robinson, "Government of the Métis Settlements: Foundations and Future Directions", a paper delivered at the National Symposium Crown-Métis Relations, Winnipeg, Manitoba, February 2006. The paper will be published by the Law Commission of Canada.

At this point in time, those First Nations addressing the need to establish avenues of appeal to a body other than the original decision maker, or to Chief and Council, seem more frequently to either insert a program specific advisory committee or the First Nation Manager into the process, or confirm the decision making authority of a program manager. Our interviews confirmed that the most common practice is for First Nations to specify that grievances, complaints and appeals must first be directed to a program manager, followed by a program Committee (if such exists), then to the First Nation Manager and finally to Council.

Interviewees also noted that codification of an appeal process is an effective means not only for managing grievances arising from staff decisions but also for increasing awareness among community members that they too must follow a set of rules when seeking to reverse a decision made by administrative or program staff.

For example, upon election, one of the first acts of one First Nation leader to office was to develop a system for handling complaints. As described by this individual: "community members who used to bring every little complaint to the Chief's office found themselves being referred to the appropriate committee or program managers, who also had to get used to the new level of accountability for providing services to community members."[42]

Another First Nation leader reported to us that their community was actively pursuing the establishment of an appeal mechanism but more in the nature of an ombudsman, with authority to receive and address grievances and complaints on a wide range of matters, from labour relations and personnel issues arising within the administration itself, to housing and education issues which individual members wished to raise.

One group with growing experience in the use of dispute resolution and appeal mechanisms are the Métis Settlements of Alberta. The Métis Settlements Appeal Tribunal (MSAT)[43] provides a quasi-judicial review of Settlement Council decisions and the regional government's policies. It represents a revival of community customs and non-adversarial dispute resolution processes that avoids the formality, costs and delays of court. The MSAT is independent of the executive and legislative branches of Métis Settlement Government. It has some powers analogous to a court but has some unique features including extensive alternate dispute resolution (ADR) jurisdiction, evolving jurisdiction, blending of law and Métis custom, location and procedure for hearings and community input. Since inception, it has handled over 160 cases.

In addition to this Appeals Tribunal, the Métis Settlements also have established an Office of the Métis Settlements Ombudsman, who has handled over 500 complaints since inception in 2003. (The Ombudsman can make recommendations to Alberta's Minister of Aboriginal and Northern Affairs on redress measures.)

Appointing a First Nation Manager

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[42] Maurice Switzer, *Anishinabek News*, December 2003, P. 4
[43] For more information on both this Appeals Tribunal and the Ombudsman, see Catherine Bell and Harold Robinson, op. cit. P. 22-28

As we noted earlier, not all First Nations have appointed a senior officer to act as the head of the First Nations' staff. The reasons for this are many, but seem to be directly linked to past practice and situations in which some or all Council members were employed by the First Nation, especially in director or senior manager-type roles. Interviewees cited other reasons as well: funding constraints, the presence of a strong Chief and Council, or previous experience (often negative) with such a position.

Nonetheless, the hiring or appointment of a senior official, especially one who combines the attributes of strong management skills, confidence, experience and the potential for a productive and positive relationship with Council, may be one of the most effective organizational measures a First Nation can introduce. Through interviews we were able to discern that where such characteristics exist the relationship between Council and administration is more likely to be "complementary" rather than either antagonistic or simply weak and ineffective. Another factor which appears to contribute to a positive working relationship and establishment of an appropriate and respectful interface between Council and administration is the appointment of senior officer who is not also a member of the First Nation.

Regarding the hiring of their First Nation Manager, one First Nation reported that an internal committee screens candidates but a panel external to the community comprising representatives of other First Nations interviews candidates and makes recommendations for hiring. The decision to hire ultimately rests with the Council but nonetheless Council always weighs carefully this committee's recommendations.

C. Nurturing the Relationship

As suggested in Part III, the relationship between leaders and staff is a dynamic one, and one which needs constant attention, development, evaluation and nurturing. Some First Nations nurture the relationship in a variety of ways including:

- orientation and training
- retreats
- performance evaluations

Set out below are some of the practices and approaches which First Nations have adopted.

Orientation and Training

Our interviews confirm a wide-spread practice of facilitated orientation and training being provided to new Chiefs and Councils. These sessions appear to be of two types. In most instances they are geared towards familiarizing, or re-familiarizing, leaders with program and service functions, staff and organizational structure, economic and business development activities, committees, legal issues and other current issues which the First Nation is dealing with, and which will occupy the time and resources of Council and their staff during their term.

These types of sessions often involve briefings by and the active participation of staff. They provide an opportunity for Councillors who have been assigned particular portfolio responsibilities to learn more about these responsibilities and the specific activities of staff. Although they may encompass some training and orientation on the nature of the relationship between Council and staff, and appropriate ways of conducting and managing this relationship, this does not appear to be the primary focus of these types of sessions.

Other First Nations have taken the opportunity to provide orientation and training, either at the beginning of the term of office, or over the course of the term, to leaders and senior staff, on a wider set of governance matters.

One First Nation reported they had made effective use of services provided by the Canadian Executive Services Organization's Aboriginal program. The new Council, together with senior staff, attended a three-day retreat outside the community, a retreat which included orientation on First Nation governance and the particular challenges that First Nations leaders face in operating within a constrained legal, social and financial environment.

Another First Nation reported their legal counsel had provided training and orientation to a newly elected Council. This orientation was based extensively on models and practices advocated by the Harvard Project on Indian Economic Development and that of the Native Nations Institute (at the University of Arizona). With its emphasis on general matters of governance, this type of training, according to some, is very effective in helping Council members and staff to enhance their understanding of their roles and responsibilities and of the government environment in which they work, including the politician-staff partnership. Interest in and a desire for this second type of orientation and training is increasing among First Nations in Canada.

Retreats

Retreats, either facilitated or un-facilitated, allow those involved in the management of First Nation affairs to take stock of what they have accomplished and directions they wish to pursue. These also provide an opportunity for an assessment of the Council-staff working relationship, and the identification of adjustments that may be required to effect a more smooth, compatible, and complementary relationship.

First Nations reported they adopt different formats for their retreats. In some instances these are attended only by Council, in other cases by Council together with senior staff or, in the case of smaller First Nations, by Council and all staff. Their purposes may focus variously on annual or strategic planning, or on evaluation and assessment.

Performance Evaluations

An increasingly popular technique to allow politicians and staff to get a read on each other's performance is to employ a third party to undertake 360 degree evaluations, which allow Council to make comments about staff and vice-versa. The use of a third party allows frank and anonymous appraisals, thus reducing the fear of reprisals among staff.

In our admittedly small sample, we found no explicit examples of this technique being used by First Nations. However, given its growing popularity among bodies like school boards, it may be only a matter of time before it surfaces in First Nation country.

D. Encouraging the Involvement of First Nation Citizens

Appropriately used, citizen engagement in First Nation matters is also an effective tool for creating a buffer between political leaders and the First Nation's internal operations. At the same time such engagement enhances accountability and improves communications with the membership around important matters.

First Nation members and citizens can become involved in First Nation affairs through a wide variety of means - for example, through regular meetings which are either "open" to community input, or organized primarily to provide information on First Nation affairs, including financial position, to the membership.

Another mechanism is to provide opportunities for First Nation citizens to participate as members of committees, either as advisors or as decision-makers, and on boards of arms-length organizations such as housing or education authorities.

Such involvement can improve transparency and accountability, not only by opening up the relationship between leaders and staff to wider scrutiny, but also by creating space or a "buffer" between these two parts of First Nation government.

Our interviews suggest that not all First Nations have opted to make use of committees as a way to engage citizens. But where this practice is instituted it can be effective, provided that the committee is aware of the scope of its authority and Council's expectations and that leadership accountability is preserved. One elected leader of a larger First Nation reported that in their community a very clear separation was drawn between Council and staff functions. Individual Councillors were strongly discouraged from intervening in respect of administrative or program matters, or with staff. Nonetheless, this First Nation has established many committees as well as arms-length authorities to oversee particular program areas. It is through these structures that the First Nation encourages more active participation of not only citizens but also Council members who have an interest in the area.

This First Nation established committees with the membership drawn from citizens and with some representation of Council. They are generally empowered with decision-making authority, set out in a formal mandate and/or articles of association or incorporation. Council establishes budgets but transfers these to committees and arms-length structures for their management and administration. In this respect, community members are actively engaging in decision making, as well as in managing resources and staff, while the leadership, at least collectively, is insulated from day to day decisions and operational matters.

Another interviewee whose First Nation has instituted a committee system indicated that these tend to comprise both on and off reserve members and are chaired by a member of Council with portfolio responsibility. Committees are given significant responsibility – for example, they must ensure that programs are in place, properly managed and funded. But decision-making authority is neither absolute nor final. Council reserves the right to "ratify" or "sanction" committee decisions, though rarely overturning decisions or diverging from committee recommendations.

Some First Nations are actively involved in comprehensive community planning processes as a means of engaging their citizens and rebuilding their governments. According to one interviewee, "We needed comprehensive community planning to comb out our own values, vision and principles. It's those values and principles that create standards and laws, and we recognized that those laws and standards create stability."

However, after having gone through that comprehensive process with its citizens this particular Nation realized just how ill-prepared it was to actually implement them. "We realized that we weren't properly structured to deliver our very own values and vision given the typical *Indian Act* system that was in place in our communities. Therefore, we set about to change it. It's becoming a "new" way completely of doing things. We are in this for the long term with 25-year milestones. This is holistic government".

E. *Other Tools, Practices and Approaches*

In terms of day to day practice, there are many tools that First Nation can and do employ to manage the relationship among staff and leaders.

The One Hour Rule

On the question of managing a Council's "right of inquiry" with staff, the International City/County Management Association (ICMA) suggests a practice that may be of some utility to First Nation leaders and staff. As described by the ICMA, an association of City managers in the US, to manage this "right of inquiry", Council might employ a "one hour rule", which can assist a member of Council to determine the appropriateness (or inappropriateness) of a direct intervention with a staff member. Under this rule, if a staff member is asked by a member of Council to undertake a task that itself takes more than one hour to complete, the staff member will notify the city manager, who will determine with the councilor whether the task should be carried out.[44]

Other examples can be drawn from non-First Nation contexts. One city council in the United States, to cite one such illustration, has laid out the basis for a working relationship between leaders and with staff in its "Ethics Handbook for Elected Officials":

"Under the council-manager form of government, the City Council appoints a City Manager, who directs the day-to-day operations of all employees. Council members need

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[44] Frederic Homer and Robert Schuhmann, "The Municipal Balance of Power: Lessons from Federalist 51", *Public Administration and Management: An interactive Journal*, Volume 10, Number 3, P. 18, 2003

to be sensitive to the role of the City Manager and City staff. Council members may ask other staff members about the status of a matter and may ask for information, but Council members shall not expressly or implicitly give orders or directions to staff, except through their participation on the City Council. They shall not try privately to influence the decisions or recommendations of staff members, but they may share information with staff. Council and board members shall not intervene directly with staff on behalf of a particular constituent or organization on a pending matter, but shall participate with council or board colleagues in discussing and deciding policy matters for staff to carry out.[45]"

Institutionalizing Conflict

Another practice which has been adopted in some non-First Nation governments and which may be useful to First Nations and applicable to their governance context is an approach that seeks to "institutionalize conflict". When dealing with controversial, value-laden issues, Council will, prior to making a decision, organize working sessions in which both Council and key senior staff participate. At these sessions, the opportunity for a full and open exchange of views is provided and participants together explore, identify and develop possible solutions. All this occurs prior to leaders giving instructions to staff to develop a solution, approach or new policy. The idea is to "institutionalize conflict" rather than have various factions attempt to manipulate staff to bring forward proposals to their liking, or make "end runs" around the managers.

Using Information Technology

One First Nation indicated to us their view that the use of information technology, particularly electronic mail, can be very effective tool in managing on a day to day basis the relationship between politicians and staff. When leaders and staff make use of the "copy" (cc.) function during electronic exchanges, transparency improves. That is, it becomes immediately apparent who is involved in such discussions and the nature of their interventions.

The efficacy of this approach, it would appear, lies in its general acceptance by leaders and staff, and its consistent use. For example, it is accepted practice that the Chief or a Councillor , when providing direction to a program manager or to the First Nation's senior financial officer, copy the email to *all* members of Council, or in some instances at least to the responsible Portfolio Councillor. This practice, widely accepted within the First Nation by both members of Council and staff, contributes to transparency and clarity in how tasks are allocated and leaders provide direction to staff. It "exposes" communication among staff and leaders, leaving a record that can be analyzed if issues arise in the future, either as a result of misunderstanding or misinterpretation, or because some may consider the intervention or direction as inappropriate.

Interviewees suggested a number of other practical measures as having some utility in managing the relationship between Council and staff, and discouraging inappropriate intervention in administrative or financial decisions. We summarize these below:

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[45] City of Mesa, Office of the City Manager, **www.city**ofmesa.org

- The adoption by Chief and Council of a procedure whereby no decisions are taken in the month of December, when traditionally there are more requests from community members, especially for special or family needs.

- The physical separation of Council offices from those of administrative staff, preferably in different buildings.

- Increased recognition and reliance upon occupational and professional standards that may have application within a particular program or service areas or area of administration. Employees in First Nation administrations, particularly those who work in areas where occupational and professional standards have been broadly established (e.g. education, social work, accounting) should rely more or make greater use of these standards in mediating their relationships with political leaders, or "backing up" their individual decisions and actions.

- The unionization of staff so that they will be less susceptible to being 'fired' when a new Chief and Council take over.

- The use of an ISO standard that helps define roles, responsibilities and decision-making processes among political leaders and staff. At least one First Nation, Membertou, has an ISO certification, and the use of a certification system is embedded in one of the newly adopted Acts relating to property taxation and financial management.[46]

With the general principles outlined in Section III and the Tools and Approaches in this section as a backdrop, we now turn to the development of an analytical tool that might be useful to First Nation communities and organizations in improving relationships between political leaders and their staff.

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[46] See *First Nations Fiscal and Statistical Management Act*, especially, sections 50 and 55.

V. A PROPOSED ANALYTICAL TOOL

Unlike the model which advocates a clean separation of politics from administration, the proposed approach in which partnership is built on complementarity lacks precision and leaves a porous border to negotiate and manage. As a way of handling this challenge, we propose here an analytical tool[47] encompassing five basic steps. Each requires some elaboration. This tool could be used in a stand-alone exercise or as part of a large planning initiative.

Step One: Map out the principal functions of the First Nation government that Council and the manager must undertake either together or separately. There are a variety of ways of going about such a mapping exercise. The list of functions in figure 2 on the next page may provide a useful starting point. Communities might find it even more useful to enlarge on the functions, especially in the area of programs as the specific roles of chief, council and staff might vary considerably from program to program. Similarly it might be useful to expand on the internal administrative functions beyond financial and human resource management.

Step Two: Determine the current level of engagement for each of Chief, Council and staff represented by the Manager for each of the major functions. This could also be done for the community's citizens.

Step Three: Together, the Chief, Council and the Manager should determine the desired level of engagement of each with regards to the government's major functions (see figure 2 for an illustrative example).

Step Four: Determine the gap between the actual and desired level of engagement and identify what is the cause of the gap.   The Chief, Council and the Manager should then determine how they can best realize this desired level of engagement for each function by applying some of the tools and approaches outlined in Section IV. For example in certain program areas is there a need for some structural change to curtail Council involvement in certain day to day operational decisions or will the development of a suite of program policies provide a more appropriate response? Should the First Nation institute a complaints procedure? Is there need for a code of conduct to deal with potential problems in the area of human resource and financial management? In short, what is the best tool to realize the desired level of engagement in each functional area? It is likely that at the end of this Step, the participants will need to set priorities, identifying those aspects of the relationship which deserve immediate attention and those that could wait until a second or third phase.

Step Five: Test the proposed approaches, tools and solutions for filling the gap using the five principles of good governance. Examples of illustrative questions that these principles might engender are in the box below.

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[47] This tool is an adaptation of a similar approach suggested by David Nadler, "Building Better Boards", *Harvard Business Review*, May 2004

Principle	Illustrative Question
Legitimacy & voice	▪ Would the proposed roles of political leaders and staff meet with community expectations of democratic governance? ▪ Has the community had a meaningful opportunity to comment on the proposed changes? ▪ Are there avenues of appeal, especially for decisions made by staff or by a semi-independent body? ▪ Are there safeguards to ensure that decision-making will be in the public interest and not in the narrow interests of decision-makers?
Accountability	▪ How will political leaders be held accountable under the proposed changes? ▪ How transparent will decision-making be? ▪ Are there accountability mechanisms in play (audits, evaluations, ombudspersons etc.) that can counter individuals not acting in the public interest?
Fairness	▪ What is the likelihood of decision-making being fair to all citizens? Are there safeguards in place to deal with potential conflicts of interest? ▪ What will be the gender impacts, if any, of the proposed changes? ▪ Will the 'rule of law' prevail or will decision-making be perceived as capricious? ▪ Will Council be able to fill all of its legal obligations?
Performance	▪ How will proposed changes affect the efficient and effective delivery of programs and services? ▪ What will the changes mean to staff morale? ▪ What are the potential risks of legal action resulting from these changes? ▪ Do the changes strengthen both staff and council?
Direction	▪ Are the proposed changes compatible with the long term strategic directions of the community? ▪ Will the changes direct more or less energy and time on the part of Council and senior staff to determining these directions and keeping them current?

Figure 2 – Step Three

Council Roles X Manager's Roles O	Desired Level of Engagement (illustrative)				
	None	Low	Moderate	High	Exclusive
1. Strategic Direction & Priorities				X O	
2. Programs					
• Day to day decisions	X	X		O	
• Monitoring performance				X O	
• Program Policies				X O	
• Handling citizen complaints				X O	
• Determining operational procedures		X		O	
3. Human Resources					
• Staff appointments (directors and support staff)	X support			X O directors	O support
• Leadership development			X	O	
• Non-Manager compensation		X		O	
• Organization & HR Policies				X O	
• Corporate culture			X	O	
4. Financial Management					
• Financial policy & budget				X O	
• Ethical performance			X	O	
• Financial reporting			X	O	
5. Risk Management					
• Audit					X
• Risk Strategy				X O	
6. External Relations			O	X	
7. Evaluating the FN Manager					X
8. Council Governance					
• Council effectiveness			O	X	
• Governance Policies				X O	

CONCLUSIONS

Placing the relationship between political leaders and their staff on a sound footing is a critical issue for democratic governments. That the quality of this relationship affects all five good governance principles serves only to underline this point. Regarding the principle of "Legitimacy and Voice", for example, community members may not view as legitimate having unelected officials making important decisions that affect them. On the other hand, many citizens may view decisions on the allocation of program benefits based on partisan political considerations (rewarding political allies) as both illegitimate and unfair.

Similarly with regards to "accountability", unclear or blurred roles between political leaders and staff may render the holding of political leaders to account a difficult task for electors. The other good governance principles of "performance", "direction" and "fairness" are equally affected by the state of this critical relationship.

The issue is not only important, it is also universal. Aboriginal communities and organizations struggling with this relationship can take some comfort in the fact that all governments – and indeed most not for profit organizations – face similar dilemmas and conundrums. The Gomery Commission into the sponsorship scandal is the latest manifestation of this long-standing problem, one that continues to plague even the federal government.

While the issue is universal, there are, nonetheless, unique features of First Nations – their traditional and contemporary history, cultures, size of communities and the size of their governments – that provide a colouration and set of challenges to First Nations, challenges which in some ways are more acute than those faced by other governments.

The importance and universality of the issue also leads to a third conclusion: there are no easy solutions or magic panaceas that will resolve the difficulties posed by the relationship of politicians and their staff. As one study concludes, "…neither practitioners nor scholars have reached a consensus about how to achieve a proper "meshing" of politics and administration among elected and unelected officials to obtain "an optimal mix" that advances democratic governance."[48]

Certainly the long standing doctrine of creating a clean split between politics and administration must be discarded as overly simplistic and indeed seriously flawed both on theoretical and practical grounds. The empirical evidence, for example, is very clear – the clean separation of politics and administration does not hold up in practice. Rather politics and administration are "messily entwined".

In searching for some way of describing the ideal relationship, there appears to be a growing consensus both in the academic, government and not for profit worlds that a "partnership based on complementarity" is the ultimate objective to shoot for, even if it can never be fully achieved. As one commentator puts it, there will always be a "grey zone of accommodation" to manage.

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[48] P. Edward French and David Folz, op. cit. P. 52

To help manage the relationship, we canvass in this study five approaches or tools that have been used effectively in First Nations and in some instances by other governments. These are:

- the use of policies and codes
- structural and organizational approaches ranging from complaints and dispute resolution mechanisms to semi-independent boards
- nurturing the relationship through orientation, training and retreats
- encouraging the active involvement of citizens in community decision-making, and
- other tools and approaches including the use of information technology and certification regimes for organizations.

It is highly unlikely that any one tool or approach will adequately deal with the many issues posed by the relationship of politicians and their staff. Indeed, what is likely called for is a long-term strategy, one that employs a variety of approaches.

To help communities and organizations develop such a strategy, we have proposed a five-step analytical tool to help identify key problem areas and design appropriate approaches for dealing with them. There are no easy short cuts. Such an approach will take time to develop, will demand commitment of both political leaders and senior staff, will require broad community support to be successful and will take considerable effort to effect. Even then difficulties will surely arise given the closeness of the relationship and these will need to be addressed. In short, like all important relationships in life, this one requires constant attention and nurturing. It is about a journey, not a destination.

Perhaps the other sobering thought is that many of the approaches for managing this relationship may well be people specific, that is, personalities and individual capabilities may be important, especially in small organizations or governments. Thus, one approach - say a particular program policy – may suit the leadership styles of one Chief and Council but not another. Consequently, the overall regime for managing the relationship will never stay constant. Similarly new developments facing the community may demand the introduction of new approaches over time.

What should be constant, however, are the principles for sound governance. If solutions, tools approaches or changes meet the tests of legitimacy and voice, accountability, fairness, performance and direction, then leaders, their staff and their communities and organizations will know they are on the right track.

ANNEX A: LIST OF INTERVIEWEES

Chief Adrian Stimson, Siksika Nation, Alberta

Chief Walter Jimmy, Thunderchild First Nation, Saskatchewan

Chief Valerie Monague, Beausoleil First Nation, Ontario

Chief Peter Johnson, Teslin Tlingit Council, Yukon Territory

Chief Angie Barnes, Mohawk Council of Akwesasne

Councillor Floyd Keshane, Councillor, Key First Nation, Saskatchewan

Annette Jimmy, Administrator, Thunderchild First Nation, Saskatchewan

Roy Inglangasuk , Executive Director, Teslin Tlingit Council, Yukon Territory

Roslyn Merrick, Tribal Government Administrator, Long Plain First Nation, Manitoba

Alan Polchies, Executive Assistant to the Chief, St. Mary's Band, New Brunswick

Russell Roundpoint, Administrator, Mohawk Council of Akwesasne, Ontario

George Addai, Band Manager, Kapawen'o First Nation, Alberta

Ken Rockthunder, Director of Operations, Key First Nation, Saskatchewan

Shannon Ward, Director of Operations, Metepenagiag First Nation, New Brunswick

Frances Abele, School of Public Policy and Administration, Carleton University

Kiera Ladner, Department of Political Science, University of Western Ontario

Leane Enders, Senior Policy Advisor, Program Governance, Department of Indian Affairs and Northern Development

Robert Shotton, Manager, Program Governance, Department of Indian Affairs and Northern Development

Dave Boileau, Senior Policy Advisor, Governance Branch, Department of Indian Affairs and Northern Development

Ed Allen, Chief Executive Officer, Nisga'a Lisims Government

Keith Mathews, Councillor, Barrier First Nation

Harold Calla, CEO, First Nations Financial Management Board and former Councillor of the Squamish First Nation

Matt Vickers, Former CEO of the Gitxsan Government Commission and Senior Manager, Meyers Norris Penny.

Bobbi Okeymaw, Executive Director Treaty Six Tribal Association

Gwen Philips, Self Government Coordinator, Ktunaxa Nation

Fred Tolmie, Former Chief Financial Officer, National Assembly of First Nations.

Gerald Wesley, Wescan Advisory Services and Chief Negotiator, Tsimsian Nation

Judy White, Director of Self Government, Conne River First Nation

Harold Robinson, Executive Co-ordinator, Métis Settlements General Council

Mike Degagne, Executive Director, Aboriginal Healing Foundation

Stewart Clatworthy, Four Winds Consulting, Winnipeg

ANNEX B: LIST OF WORKSHOP PARTICIPANTS

George Addai, Band Manager, Kapawen'o First Nation, Alberta

Alex Ker, Compass Consulting, Orangeville Ontario

Gwen Philips, Self-government Co-ordinator, KtunaxaNation

Bobbi Herrera-Okeymaw, Executive Director, Confederacy of Treaty First Nations,

Chris Roberston, Co'Se'Ma' Communications

Christopher Duschênes, Governance Policy Development, Indian and Northern Affairs Canada

David Boileau, Governance Policy Development, Indian and Northern Affairs Canada

John Graham, Institute On Governance

ANNEX C: FOUR MODELS OF LOCAL GOVERNMENT

Council-manager Form – a governing board (council) headed by a 'non-executive' leader (mayor) and an appointed chief executive officer. The mayor is usually elected by the electors as a whole but has no independent powers except for those relating to presiding over Council. The mayor usually has a closer relationship with the CEO than do the other Councillors. Elections are usually non-partisan. (Canada, Australia, Finland, Ireland, Norway and the United States)

Strong Mayor Form – an elected official (mayor) who is the primary political leader of the governing board (council) and who possesses considerable executive authority e.g. he/she hires and fires the CEO, directs the staff, can award contracts up to a certain amount without Council approval, submits a budget that cannot be changed except by a large majority of Council, can veto Council actions etc. (France, Italy Portugal, Spain, United States mayor-council cities)

Committee-leader Form – a quasi-parliamentary form with standing committees, an executive (or finance committee) and a mayor (or majority leader) drawn from the dominant party or party coalition in the city council. The mayor is the formal head of the municipal administration. However, the mayor can not block or interfere with decisions taken by the committees. (Denmark, Great Britain, Sweden)

Collective leadership Form – a cabinet leadership structure in which an executive committee of council exercises executive authority along with a mayor who has limited authority and a CEO primarily responsible to the executive committee. In Holland, the mayor is appointed by the central government. (Belgium, Holland)

Source: Poul Erik Mouritzen and James Svara, "Leadership at the Apex: Politicians and Administrators in Western Local Governments", University of Pittsburgh Press, 2002

ANNEX D: PRINCIPLES OF GOOD GOVERNANCE

<table>
<tr><td colspan="2" align="center">Principles of Good Governance</td></tr>
<tr><td>IOG Principles</td><td align="center">UNDP Principles</td></tr>
<tr>
<td>Legitimacy and Voice</td>
<td>Participation – all men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their intention. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively.

Consensus orientation – good governance mediates differing interests to reach a broad consensus on what is in the best interest of the group and, where possible, on policies and procedures.</td>
</tr>
<tr>
<td>Direction</td>
<td>Strategic vision – leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.</td>
</tr>
<tr>
<td>Performance</td>
<td>Responsiveness – institutions and processes try to serve all stakeholders.

Effectiveness and efficiency – processes and institutions produce results that meet needs while making the best use of resources.</td>
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<tr>
<td>Accountability</td>
<td>Accountability – decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external.

Transparency – transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.</td>
</tr>
<tr>
<td>Fairness</td>
<td>Equity – all men and women have opportunities to improve or maintain their well-being.

Rule of Law – legal frameworks should be fair and enforced impartially, particularly the laws on human rights.</td>
</tr>
</table>

The principles of Legitimacy and Voice and Fairness can be traced to international human rights law - in particular, the Universal Declaration of Human Rights and the supporting Treaties and Protocols developed by the United Nations (see next page).

HUMAN RIGHTS PRINCIPLES AND GOOD GOVERNANCE		
Good Governance Principles	**UNDP Principles**	**United Nations Universal Declaration of Human Rights**
Legitimacy & Voice	**Participation**	▪ "Everyone has the right to freedom of opinion and expression…" (Article 19) ▪ "Everyone has the right to freedom of peaceful assembly and association" (Article 20) ▪ "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives" (Article 21) ▪ "Everyone has duties to the community…" (Article 29)
	Consensus Orientation	▪ "The will of the people shall be the basis of the authority of government: this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage…" (Article 21) ▪ "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society" (Article 29)
Fairness	**Equity**	▪ "All human beings are born free and equal in dignity and rights…" (Article 1) ▪ "Everyone is entitled to all the rights and freedoms set forth in the this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (Article 2) ▪ "Whereas the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" (Preamble)
	Rule of Law	▪ "Whereas it is essential …that human rights should be protected by the rule of law" (Preamble) ▪ "All are equal before the law" (Article 7) ▪ "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal…" (Article 10) ▪ "No one shall be subjected to arbitrary arrest, detention or exile" (Article 5) ▪ "No one shall be arbitrarily deprived of his property" "Article 17)

ANNEX E: FIVE MAJOR WAYS IN WHICH THE RELATIONSHIP CAN GO AWRY IN AN NGO CONTEXT[49]

1. **The Dominant Manager** – Some characteristics are the manager keeping vital information from the board; he or she sets the board agenda; doing business by intrigue – that is working in private with certain board members to bring forward resolutions and carry the day with the board

2. **The Dominant Board** – The manager is reduced to little more that a clerk ; the board micro-manages all staff work; usually a dominant board cannot get anyone capable of acting as a real partner with it and therefore the manager position is characterized by high turnover.

3. **The Divided Board** – the board is sharply divided on an issue or policy. The difficulty is more acute when the chair or the manager is a member of one of the factions.

4. **Cronyism or Antagonism** - problems arise when some on the board believe that some of their members have a special relationship with the manager such that their concerns get special attention. A board acts as a collective enterprise and one member has no authority to speak for it. When this rules appear to be violated then emotions run high.

5. **The dual executive** – Many organizations, particularly large and complex ones have a division of work utilizing a dual executive - for example, a hospital with an administrator and head of medical staff. This situation is ripe for rivalry if the relationship between the two executives is not good.

Other Potential Problem Areas

▪   Managing a special relationship that exists between a member of the board and a member of staff through kinship, previous friendship, outside connections, or close collaboration on past agency.   What is critical here is to maintain the integrity of the relationship between the CEO and the board. Thus, no board member should give instructions to any member of staff except at the will of the board and through the CEO. Further, no staff member should circumvent the CEO by going to a board member with a complaint or by pleading with a board member for special consideration for some aspect of the program.   Another important principle is any such relationship should be openly disclosed.

▪   Having a board member that also serves as a volunteer or even as a paid employee. Houle treats this problem as follows: "Sophisticated people can readily work out an accommodation between the two very different kinds of responsibility; after all, much of life consists of balancing conflicting challenges. But people who seek for simple certainties may find it hard – at least initially – to serve simultaneously as broad overseers of an institution and as servants in one part of its program. All kinds of difficulties, great and small, can arise, of

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[49] Houle, op. cit. P. 99-112

which perhaps the most worrisome is the discovery by the trustee of some serious hidden problem within the institution."[50]

- ■ <u>Developing separate hierarchies of support staff for the board</u>. When boards develop separate hierarchies of support staff members who are not accountable to the CEO, "…trouble looms on the horizon". This becomes especially problematic when this staff provides independent information and judgements to the board (i.e. their role is not just clerical) or when the chair devotes a major amount of paid or unpaid time to the board.

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[50] ibid P. 114

ANNEX F: THE COMPLEMENTARY PARTNERSHIP

COMPLEMENTARY PARTNERSHIP – ILLUSTRATIVE EXAMPLES		
Elements	**Political Leaders (common tendencies)**	**Senior Staff (common tendencies)**
Overall Objective	Improve individual & community well-being	Improve individual & community well-being
Orientation	Political but with operational sensitivity Getting re-elected	Operational but with political sensitivity Non-partisan, professional
Primary Role	Decision-maker on key issues	Supports decision-making; provides options & analysis; managers
Time Horizon	Governed by election cycles Looking for short term successes	Concerned with long term resolution of problems
Length of Service	Dependent on re- election; can be short	Career-orientation
Education Background	Varied	Often professional certification or degree in area of expertise
Job Experience	Varied, often outside of government	Often limited to public service
Media Relations	Seeks media attention	Avoids media attention
Special Knowledge	Acutely aware of public views, what will 'fly'	In depth knowledge of issues and processes
External Relations	Deals primarily with political leaders	Deals primarily with other officials
Handling complaints	Seeks constituent satisfaction	Concerned with precedents, policy integrity
Career path	Often seeks increasing responsibilities at regional or national levels	Often seeks increasing responsibilities at regional or national levels