



GROWTH AND EVOLUTION OF
THE HCN GOVERNMENT: THE
NEED FOR DEVELOPMENT IN THE
GENERAL COUNCIL BRANCH

September 17, 2021

INTRODUCTION

1963-1993 Wisconsin Winnebago Business Committee

For 30 years, the Ho-Chunk government operated under its initial IRA government, shifting from its traditional form of self-governance (clans and historically culturally significant roles of each) to that of an elected body, a business committee. This committee represented a fourteen-county area in what is now known as Wisconsin, as well as those tribal members living outside of it, in an “at-large” designation. Under this form of government, the Business Committee was led by a Chairman, duly elected by the tribal membership, and who oversaw daily operations within the tribe as well as chairing meetings of the Business Committee.

Business Committee model:

Chairman – representing entire tribe; responsible for administering tribal government operations and chairing meetings of the business committee

Business Committee – 11 members representing geographic Areas of the 14 county region within WI as well as an “at-large” area; responsible for passing all laws and policies governing the operation of the tribal government and service to its People

General Council -- limited functions included removals of elected officials, passing resolutions without ample forethought and deliberation prior to the vote; no follow-through on many resolutions

1994-Present: Ho-Chunk Nation Tribal Government

The Ho-Chunk Nation ratified and enacted a new constitution and with it, a form of government consisting of four branches of government: the legislative, the executive, the judicial and the general council. These first three branches of governments are familiar to most, as they are present in the federal and state systems of government. The General Council is likely less familiar, being unique to our government, but it is the most important, given that other branches of government are granted their authority from the General Council.

Ho-Chunk Nation 1994 Constitution

Executive – headed by President representing entire tribe; responsible for administering Departments in the Executive branch and carrying out the laws and policies of the Nation

Legislative – represents Districts, including the original 14 county area and at-large areas; delegated to make codes, laws and policies affecting Ho-Chunk Nation’s government and its People

Judiciary – new function within the Nation’s government; models from other forms of government (federal, state, tribal) made the function of this branch familiar

General Council – not a new function within the Nation’s government but a body which has not developed a well-defined purpose or set of codes, policies, or procedures; previously it had no outcomes defined for its role as the primary branch of government; as a result, follow-through on resolutions passed remains difficult.

Need for Change

As organizations grow and evolve, certain phenomena signal the need for change. These changes can take place at multiple levels:

Micro – smaller measures which can be taken to address immediate needs for smaller units or individuals

Macro – systemic measures which can be taken to accommodate change/growth/evolution of the whole organization

Changes may need to occur at both levels to meet the current needs of the organization.

The *Model for Managing Complex Change* can help us identify the changes that may need to occur to address the symptoms or challenges an organization is facing.

Model for Managing Complex Change



Adapted from Knoster, T. (1991) Presentation in TASH Conference. Washington, D.C. Adapted by Knoster from Enterprise Group, Ltd.

When we apply this model to the issue of the General Council branch of government, we may ask, what is missing? What are the symptoms and challenges we are currently experiencing? Some could include:

Confusion

What is the *GC* supposed to do?

What exactly is it responsible for?

What is the process for writing resolutions?

Who carries out getting these resolutions made into tribal law?

False Starts

Didn't the *GC* pass a resolution for/on [any number of issues] a few years ago?

Frustration

The *GC* doesn't accomplish anything.

It's a big waste of time and money.

Using the Managing Change model to address these three symptoms, for starters, the missing components would **Vision, Resources, and Action Plan**.

Could the General Council, or a body/unit delegated by the General Council, re-create or re-establish the General Council Agency as a functional, purposeful body working on behalf of the entire Ho-Chunk Nation?

A Proposal for Change

What if the Ho-Chunk Nation General Council empowered itself to operationally carry out its role in relation to and among the other three branches of government?

To begin to answer that question, a quick review of the role of General Council in relation to the other three branches may be helpful:

From the Ho-Chunk Nation Constitution, Article IV General Council:

Section 1. Powers of the General Council. The People of the Ho-Chunk Nation hereby grant all inherent sovereign powers to the General Council. All eligible voters of the Ho-Chunk Nation are entitled to participate in General Council.

Summary:

- **All inherent sovereign powers of the Nation are granted to the General Council.**
- **All eligible voters of the HCN are entitled to participate in General Council.**

Section 2. Delegation of Authority. The General Council hereby authorizes the legislative branch to make laws and appropriate funds in accordance with Article V. The General Council hereby authorizes the executive branch to enforce the laws and administer funds in accordance with Article VI. The General Council hereby authorizes the judicial branch to interpret and apply the laws and Constitution of the Nation in accordance with Article VII.

Summary:

- **The GC authorizes the Legislative branch to make laws and appropriate funds.**
- **The GC authorizes the Executive branch to enforce the laws and administer funds.**
- **The GC authorizes the Judicial branch to interpret and apply the laws.**

Section 3. Powers Retained by the General Council

- a) **..[T]o set policy for the Nation.**

..policy shall be resolutions [sic] proposed and approved at Annual Meetings and Special Meetings, by a majority vote of the qualified voters..

..policy shall be made into laws, including codes, ordinances, resolutions and statutes by the Legislative Branch of the Ho-Chunk Nation within forty-five (45) days..

- (b) The General Council retains the power

to **review and reverse actions of the Legislature except those enumerated in Section 4** of this Article. The General Council shall return such reversals to the Legislature for reconsideration consistent with the action of the General Council.

..to **review and reverse decisions of the Judiciary which interpret actions of the Legislature. The General Council does not retain the power to review and reverse decisions of the Judiciary which interpret this Constitution.**

(c) to **propose amendments in accordance with Article XIII**, including those which reverse decisions of the Judiciary interpreting this Constitution.

(d) to **establish its own procedures in accordance with this Constitution**.

(e) The General Council retains the **power to call a Special Election**.

(f) **Actions by the General Council shall be binding**.

(g) **General Council Branch delegates authority to General Council Agency to select, hire manage and supervise General Council Branch personnel to accomplish the tasks mandated by General Council**. [Amendment VI adopted on August 14, 2012 which became effective on September 28, 2012 by operation of law.]

Section 4. Excepted Powers. The **General Council does not retain the power to review actions relating to the hiring or firing of personnel**.

Section 5. Annual Meetings. The **People shall meet in General Council at least one time each year, which shall be called by the President, and at other times as provided in Section 6 of this Article**. Notice shall be provided by the President for all Annual Meetings of the General Council.

Section 6. Special Meetings. **Special Meetings of the General Council shall be called by the President upon petition by twenty (20) percent of the eligible voters, or upon written request of a majority of the Legislature, or when deemed necessary by the President**. Notice shall be provided by the President for all Special Meetings of the General Council.

Section 7. Procedures. **Twenty (20) percent of the eligible voters of the Nation present in General Council shall constitute a quorum. Each action of the General Council shall require the presence of a quorum. The President shall call all Annual and Special General Council Meetings, except those meetings called pursuant to Article IX, Section 2 (i.e., General Council Removal of the President)**.

In order to address some of the change needed to make the General Council a functioning and purposeful branch of government, we may turn our attention to Sec. 3(g), in which the General Council branch delegates authority to the General Council Agency to accomplish the tasks of the General Council. What is its purpose? What tools does it employ to carry out its purpose? What persons/positions carry out the tasks to ensure it is achieving its purpose?

The Proposed NEW General Council Agency

The General Council Agency has been in existence and has been a troubled organization for some time. It has not experienced the type of long-term professional organization and formal development process as seen in the other branches.

One of the initial important steps that could be taken to remedy this, is for the General Council branch to re-create the GCA as a governmental oversight and accountability agency. Its role could be similar (**NOT** the same) to that of the Government Accountability Office, or GAO, for the U.S. federal government. The GAO is “an independent, nonpartisan agency that helps Congress determine which government programs are working well and which are not” (*source*: YouTube U.S. Government Accountability Office, see link below). Instead of being accountable to Congress, or the Legislature in the case of the HCN government, this agency would be accountable to the GC, which delegates its authority to the other branches of government for their specific roles.

The importance of GAO’s role, as described in their [video](#), is to be unbiased and nonpartisan, providing fact-based and objective information to the Legislative and Executive branches. It examines programs, policies, and facilities. Its core values of Accountability, Integrity, and Reliability are reflected in the work they do, and it must be so for the NEW GCA as well.

The development of this potential NEW GCA would take time and would occur in phases, just as it has with the other branches of government. The GAO for the federal government is celebrating its Centennial Anniversary this year, 2021, and according to this YouTube [video](#), the GAO evolved from checking vouchers, to doing financial audits, to doing performance audits. The potential NEW GCA would need to evolve in a similar manner and over a period of years, likely decades.

The New General Council Agency could be the driver for what former General Comptroller of the GAO Dave Walker wanted the agency to focus on: Oversight, Insight, and Foresight. The oversight role is what the GAO has seen as its primary charge for much of its existence. The Insight role would examine best practices and lessons learned. Foresight would examine emerging trends and challenges, establishing priorities, and would involve *strategic planning*.

There are fifteen teams in the GAO, but the potential NEW GCA would need to start with just a few and may include:

- **Security/Safety/Defense**
- **Demographic Trends**
- **Economic Forces/Financial Management**
- **Health**
- **Environment/Science/Technology**

Within each of these foci, the GAO hires experts in the social sciences, auditors, lawyers, and experts in specific, relevant fields based on need.

In addition to those teams, the GAO also utilizes tools and teams to help perform its functions:

- ❖ Principles of Appropriations Law
 - covering all aspects of federal spending: Legal Framework, Availability of Appropriations, Obligation of Appropriations, Continuing Resolutions, Liability and Relief of Accountable Officers, Federal Assistance, Acquisition of Goods and Services, Real Property, and Claims Against and By the Government

- ❖ Recommendations Database:
 - Recommendations that still need to be addressed, preparing legislative and executive leaders for appropriations and oversight as well as improve operations
 - Recommendations save money, help legislative branch make decisions, and improve or revise major government programs

- ❖ Action Tracker
 - Identify opportunities to reduce fragmentation, overlap, and duplication across government;
 - Reduces costs and increases revenue

- ❖ Presidential and Congressional Transition
 - Major issues facing the Nation
 - Meeting strategic challenges
 - Other resources: High Risk (list of programs and operations at risk of fraud, abuse, and mismanagement); Priority Recommendations (save money, help Congress and federal managers make decisions on priority issues, improve/change programs; help managers meet current and future challenges)

Over the years, the Ho-Chunk Nation has identified the need for these functions to exist somewhere within its government, but the placement, funding, and oversight for them has been unclear. The Planning and Development Division in the Department of Administration has attempted some of these functions, as have various Legislative committees, as well as the most recent iteration of the GCA. Again, the closest model for these functions seems to be the U.S. Government Accountability Office.

There are some important distinctions that must be made, however, between the GAO and the potential NEW GCA. It will need to start with just a few, high priority functions, primarily those delegated to the General Council within Article IV, §3, and potentially others to be identified and initiated by the General Council. It will need a group of people (inside and outside of the Nation) with expertise, experience, and investment in a healthy, vibrant, responsive Ho-Chunk Nation government (i.e., to operationalize the checks and balances set forth for each branch of government in the Ho-Chunk Nation Constitution, making it more fully functional and building capacity for growth, efficiency, and efficacy). It will need to build in mechanisms for its support and perpetuation, including Administrative Rules and Policies as well as training its workforce to meet the unique needs and priorities of the General Council branch and the General Council Agency in its new professional, unbiased, nonpartisan role.

Sources:

Constitution of the Ho-Chunk Nation, Ho-Chunk Nation website: <https://ho-chunknation.com/wp-content/uploads/2019/10/Final-HCN-Constitution-July-2019-1.pdf>

Government Accounting Office website. <https://www.gao.gov/>

“Three Comptrollers General Reflect on Their Tenures at GAO,” Government Accounting Office YouTube channel: <https://youtu.be/ulkDBoQoI9I>

“GAO: The Congressional Watchdog,” Government Accounting Office YouTube channel: <https://youtu.be/zczyT3xZqiY>