



**NAVAJO NATION
DIVISION OF COMMUNITY DEVELOPMENT**

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Local Governance Act amendments loom beyond the horizon



Navajo Nation Division of Community Development Director Arbin Mitchell said proposed amendments to the Local Governance Act have been in works for several years now. Mitchell said the LGA is working and providing new accountability as intended. (Photo by Rick Abasta)

WINDOW ROCK-The Navajo Nation Division of Community Development is currently proposing amendments to Title 26 of the Navajo Nation Code, the Local Governance Act.

On June 20, 2011, the division presented a full report on the amendments and the certification process for chapters with regard to the Five Management System and Community Land Use Planning to the Navajo Nation Council Resources and Development Committee.

Community Development presented the amendments to the committee alongside the Department of Justice and the Office of the Auditor General.

At present time, there are 22 LGA certified chapters and 93 CLUP certified chapters on the Navajo Nation.

Five chapters are currently on deck for certification and they are Teesto, Tiis Tsoh Sikaad, Tsidii To'ii, Leupp, and Chilchinbeto.

NNDCCD Director Arbin Mitchell said the LGA amendments have the underscore and overstrike portion completed and now, review by the RDC and then the NNC remain.

The amendments to the Act are the first of its kind since it was enacted on April 18, 1998.

"When people ask if (LGA) works, my simple answer is yes, it works," Mitchell said. "On the federal government side, independence came in 1776, but we still don't have a perfect

government.

"LGA was enacted in 1998 and within a few years, people are questioning if it works," he added.

Provisions in the LGA amendments include identifying the chapter supervisor and the duties and responsibilities at the chapter. Another mandate is to have all of the chapters operate on Sage Fund Accounting Software, formerly MIP, which is a nonprofit financial management system.

The title is also proposed to change from LGA to Local Empowerment Act, reflecting the promulgation of certain powers from the central government down to the chapter level.

Perhaps the biggest amendment is the inclusion of read-only capability on chapter bank accounts for the Office of Management and Budget, Community Development, Local Governance Support Center and the Office of the Controller.

This was designed to prevent financial mismanagement that has plagued chapters in the past.

"We've been meeting with Wells Fargo representatives to view these balances online. That way, the chapters will know that we are also the reviewers on the account," Mitchell said.

Navajo Nation Auditor General Elizabeth Begay said her office is mandated to review the FMS policies and procedures of chapters and recommend certification to the RDC.

"We obtain an understanding of the internal control policies and procedures established by the chapter's Five Management System, we evaluate the design effectiveness and determine whether such procedures have been placed in operation," Begay said.

She said LGA certification is the responsibility of three parties: the chapter, OAG and the RDC.

In early 2010, DOJ finalized a Five Management System Policies and Procedures Manual for all non-certified chapters to adopt and implement.

**"Becoming certified
doesn't cut you off,"
Lewis said.**

DOJ's standardization of the FMS manual for the chapters has not only brought accountability but also eliminated costs for chapters trying to develop their own manual.

"Based on that standard manual, all of the certified chapters are required to at least implement the policies and procedures for three months,"

Begay said.

Brian Lewis, an attorney for DOJ, produced the FMS manual shortly after becoming employed with the Navajo Nation on Jan. 19, 2010.

Lewis said it was designed to address two main problems facing DOJ: white collar criminal activity at the chapters and political interference.

“The guiding principle in trying to make this (LGA) work with these amendments is prioritizing what the chapters need to do and the persons who administer the law,” Lewis said.

He noted that people respond to incentives and that as policymakers, council delegates need to keep that concept in mind when creating policies for people to do one thing or not.

“I would say as we go through this, keep in mind that incentives have to be created and this is a balancing act,” Lewis said.

Making sure the all the laws are consistent is important, Lewis said, because it could lead to inconsistencies and competing authorities.

“What you need is to do way with the previous Act and certain items will have to be amended, namely Title 5, Title 12 because all of the law must be consistent,” Lewis said. “The average layperson reading the law is going to need some kind of indicator where and how, wherever things are changed.”

He said the Act must promote the political integrity, economic security, and the health and welfare of the Navajo Nation.

LGA certified chapters are still a political subdivision of the Navajo Nation and still have access to all of the data, technical assistance and services, he added.

Lewis said, “There’s a lot of talk about weaning the chapters off the central government. This is kind of the intent of the law over the long term, to devolve certain authorities like taxation, imminent domain, zoning.

“Becoming LGA certified doesn’t cut you off,” he added.

Certification doesn’t mean absolute autonomy either, Lewis explained. Rather, chapters are still bound by the statutes of general applicability.

“You’re always going to be subject to those laws. When you become certified, you’re still bound by the laws of general applicability that apply to everybody else, all the other programs, divisions,” Lewis said.

Mitchell said maintaining transparency within the division and the chapters is the ultimate goal, to keep an atmosphere of fiscal accountability at all levels.

The Woven Integrated Navajo Data System has provided transparency for the division and was noticed by the Federal Emergen-

cy Management Agency when they visited the Navajo Nation.

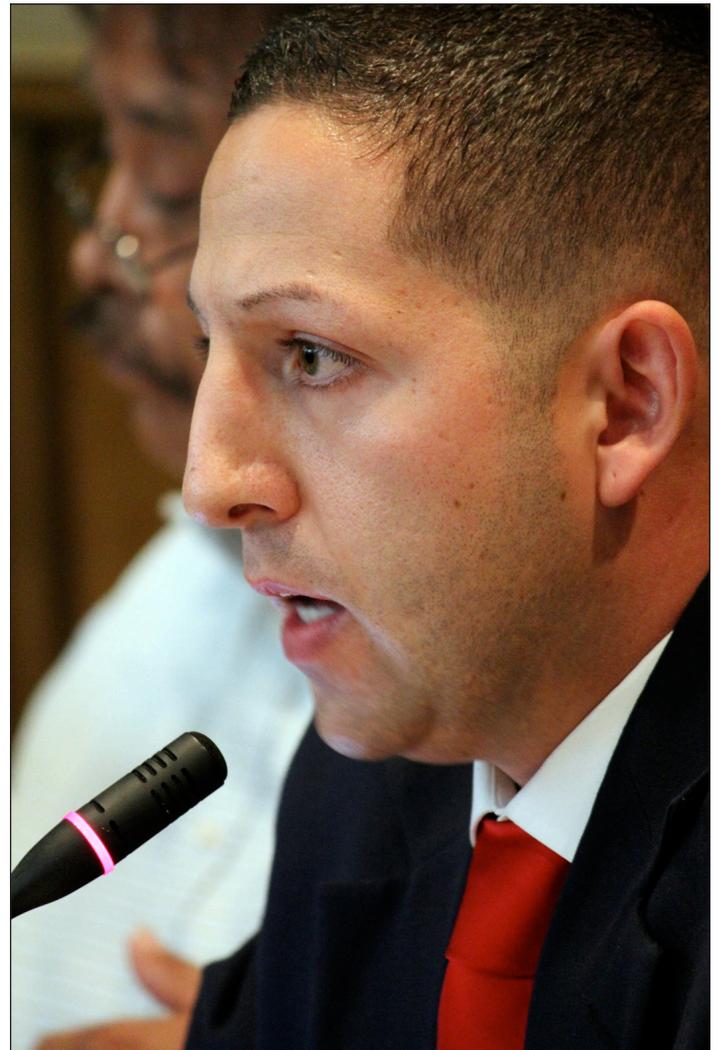
“FEMA compared Window Rock to the chapters and the FEMA representative said the chapter is better organized because they had all their files in order,” Mitchell said.

With the proposed amendments to the LGA and continuing innovations of the WIND System, Community Development continues to strain for progress at the local levels of governance and accountability.

The five chapters ready for certification will be initiated on July 11, 2011.

Information: www.nndcd.org

-30-



Brian Lewis, an attorney with the Department of Justice, said certified chapters are bound by the statutes of general applicability and must continue to follow the same laws as other tribal programs and departments. Lewis said contrary to popular opinion, becoming certified does not cut chapters off from services provided by the central government. (Photo by Rick Abasta)