

2014 Penobscot Indian Nation Constitution Work Plan

1. Objective

Develop and document a plan to draft, review and present a Penobscot Tribal constitution for ratification at the 2014 Penobscot Indian Nation General Meeting.

2. Background and Rationale for a Penobscot Tribal Constitution

- **Definition of constitution**

con·sti·tu·tion (n)
[k ɒ n st ɪ t ʃ ə n]

- statement of fundamental laws: a written statement outlining the basic laws or principles by which a country or organization is governed
- document containing fundamental laws: a document or statute outlining the basic laws or principles by which a country or organization is governed

Synonyms: charter · bill · statute · instrument of government

Source: <http://www.bing.com/search?pc=Z074&form=ZGATBR&q=what+is+a+constitution>

- **What is a constitution?**

A constitution is fundamental and are entrenched rules governing the conduct of an organization or nation state, and establishing its concept, character, and structure. It is usually a short document, general in nature and embodying the aspirations and values of its writers and subjects.

Source: <http://www.businessdictionary.com/definition/constitution.html#ixzz2rAGEUQvB>

- **Why have a constitution?**

Nations need constitutions because they provide a written law that establishes how the government is to operate and what regulations it must follow in dealing with its citizens. At the end of 2012, a Community Wellness Advisory Group (CWAG) was established under a project of the Penobscot Indian Nation Tribal Court which was comprised of eight Penobscot tribal members. The group was trained in Nation Building, Tribal Governance Core Cultural Values and Leadership. Based on issues facing the tribe, concerns were narrowed down to a set of core focus issues that if addressed, would be of the greatest service to the community and strengthen relations between individual community members and between community members and the tribal government. This group reaffirmed the requirement to develop a Tribal Constitution as one of the main outputs from this work effort. The specific actions surrounding the establishment of the Tribal Constitution resulting from this work effort are shown as a reference since they served as the primary basis for this proposed work plan to develop a tribal constitution:

- **Recommended actions recommended by the CWAG:**

1. Create a tribal constitution
2. Vote on forming a committee and form a constitution committee
3. Obtain copies of the previous constitution
4. Interview previous members for lessons learned
5. Review, research and develop a comprehensive constitution
6. Hold town meetings to discuss/review the constitution
7. Address concerns and revise accordingly and send a final draft to the community in April
8. Vote on the constitution during May General Meeting

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In addition to this formal project commissioned by the Penobscot Tribal court, there is anecdotal data, website chatter and community support for a Tribal Constitution. Also, since the previous effort failed to pass a constitution at a prior general meeting, it is still viewed as an incomplete piece of work by the community that requires final closure. The previous draft did not achieve the vote need to be passed since 1) it was voted on in total and not in sections and 2) there was not enough community input/review in the process since many tribal members expressed a lack of knowledge about the development of the constitution.

Given the past experience, it is a requirement for this work effort to ensure input from the entire tribal community through public forums, e.g. formal Penobscot Nation websites, US mailings, and public hearings.

Since a Tribal Constitution will set forth the most basic law of our Nation and territory from which all other laws and rules are hierarchically derived¹ it is imperative that the community reviews it, has a voice in the process to enable support for a Tribal Constitution to be ratified.

3. Team, approach and work plan

- **Team**

- Confirm existing team commitment to work effort and review work plan to gain agreement. Once agreed to, the team will begin to execute the plan
- **Existing team:** Donna Chapman (Community), Sherri Mitchell, Esq. (Community, CWAG Ldr) Lisa Stewart Montgomery (Tribal Employee), Cheryl Kelly (Tribal Community), Phil Attean (Tribal Employee), Charlene Virgilio (Council), Mark Chavaree, Esq. (Tribal Employee), Maria Girouard (Council, unable to participate)

- **Approach**

- The team shall serve as the community body for the development of the constitution using the draft constitution resulting from previous work efforts.
- The draft constitution will be segmented by article, sections and/or parts with an assigned team member (s) to complete the final draft of their section (in context with the rest of the document).
- The article, sections and/or parts assigned owner (s) will identify key constituents or Subject Matter Experts (SMEs) to review their draft sections with prior to the community reviews and team checkpoints, e.g. financial section owner will be reviewed by the PIN budget committee and the PIN Finance Director to apply SME input.
- Owners will participate and communicate to tribal members (on and off the reservation) via mail and website to gather community input.
- The team will hold at least 2 public hearings with the Penobscot community aligned with General Meeting requirements.
- Owners will apply input and edit the draft constitution accordingly based on the input received from the community (community in this case is defined as all Penobscot members whether a member of the Tribal Government, Tribal membership or a is a Tribal employee).
- The team will prepare a final draft to enable a vote* at the May general meeting

The team recommends the vote be conducted as a whole document and will accept changes to clauses or wording since the document is written in context with all sections.

¹ <http://en.wikipedia.org/wiki/Constitution>

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- **Work plan: Proposed Section Owners**

Constitution Section	Proposed Section Owner
• Preamble	Phil Attean
• Name	Cheryl Kelly
• Article I: Territory	Mark Chavaree
• Article II: Jurisdiction	Cheryl Kelly
• Article III: Membership	Cheryl Kelly
• Article IV: Declaration of Members Civil Rights (11 statements)	Donna Chapman, Lisa Montgomery, Phil Attean
• Article V: Organization of Government	
<ul style="list-style-type: none"> ◦ Section A: Legislative <ul style="list-style-type: none"> ▪ Part 1. Legislative Authority ▪ Part 2. General Meeting ▪ Part 3. State of Maine Legislation ▪ Part 4. Procedure for Amending the Maine Implementing Act ▪ Part 5. Tribal Representative (a – f statements) 	Mark Chavaree, Sherri Mitchell
<ul style="list-style-type: none"> ◦ Section B: Executive <ul style="list-style-type: none"> ▪ Section 1. Powers of the Chief and Council (a - v statements) ▪ Section 2: Composition and Procedures of the Chief and Council (a - c statements) ▪ Section 3. Tribal Clerk (a – e statements) 	Lisa Montgomery, Charlene Virgilio
<ul style="list-style-type: none"> ◦ Section C: Penobscot Judicial System <ul style="list-style-type: none"> ▪ Part 1. Powers of the Tribal Clerk (a – d statements) ▪ Part 2. Sovereign Immunity ▪ Part 3: Composition of the Tribal Court ▪ Part 4: Political Activities ▪ Part 5: Tribal Court Rules and Procedures ▪ Part 6. Penobscot Appellate Panel 	Mark Chavaree, Sherri Mitchell
◦ Section D: Reserved Powers	Lisa Montgomery
◦ Section E: Administrative Bodies and Powers	Lisa Montgomery
◦ Section F: Petitions by the People	Donna Chapman
◦ Section G: Employment	Phil Attean
<ul style="list-style-type: none"> ◦ Section H: Financial Accountability <ul style="list-style-type: none"> ▪ Part 1: General Fund Budget ▪ Part 2: Financial Accountability ▪ Part 3: Annual Audit ▪ Part 4: Conflict of Interest 	Phil Attean, Charlene Virgilio
• Article VI: Elections	Charlene Virgilio
• Article VII: Savings Clause	Mark Chavaree
• Article VIII: Severability	Mark Chavaree
• Article IX: Adoption of Constitution	Sherri Mitchell
<ul style="list-style-type: none"> • Article X: Amendments to the Constitution <ul style="list-style-type: none"> ◦ Section A: Procedure for Amendments ◦ Section B: Listing of Amendments 	Donna Chapman

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- Work plan: Proposed Timeline**

• February 7 th	Review the plan to gain agreement from the team	Complete
• February 10 th	Review the agreed-to work plan with the Chief	Mark/Charlene
• February 11 th	Start executing the plan (align to Gen'l Mtg req'ts)	Section Owners
• February 16 th – March 21 st	Hold weekly work sessions (work with key SMEs)	Section owners
• March 4	Submit article for Community Flyer	Team
• March 20 th & March 27	Hold progress checkpoint team meetings	Team
• March 22 nd	Hold meeting to finalize draft for community reviews	Team
• March 24 th – April 11 th	Conduct public hearing aligned w/General Mtg req'ts	Team
• April 14 th – April 18 th	Edit sections as required based on community input	Section owners
• April 17 th	Hold meeting to review and finalize all changes	Team
• April 18 th - 25 th	Complete final draft prepared for May General Meeting	Mark/Charlene
• May 3 rd	General Meeting Vote	

- Work plan: Calendar**

Month	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
February	2 USET	3 USET	4 USET	5 USET	6 Team Work Plan Review	7	8
Start executing final work plan	9	10 Chief Review of Work Plan	11	12	13	14	15
Weekly Work Sessions	16	17	18	19	20	21	22
	23	24	25	26	27	28	
March							1
Weekly Work Sessions	2	3	4 Article due	5	6	7	8
	9	10	11	12	13	14	15
	16	17	18	19	20 Team Mtg	21	22
Community Reviews	23	24	25	26	27 Team Mtg	28	29
	30	31					
April			1	2	3	4	5
Community Reviews	6	7	8	9	10	11	12
Edit draft as needed	13	14	15	16	17 Team Mtg	18	19
Finalize Draft	20	21	22	23	24	25 Complete Final Draft	26
Submit for General Mtg	27	28	29	30			
May					1	2	3 General Meeting Vote
Ratification or Next Steps	4	5	6	7	8	9	10