

Constitution Reform  
Public Hearing No. 3  
Saturday, December 5, 2009  
Held at Doubletree Hotel in Overland Park, KS  
10:00 am to 1:00 pm

My name is Aaron Carlson and I am the Project Coordinator for rewriting the Kaw Tribal Constitution. I've been with the tribe since February, and we are glad you all came out today.

The tribe got a grant from the U.S. Department of Health and Human Services under the Administration for Native Americans to partake in this activity of making changes to the Constitution. It's a three year grant. We are entering into the second year of the grant and we hope we will be able to build a constitution that makes for a better nation. One of the things that the grant requires is that we hold public hearings, and we decided we would hold these hearings at locations where there were more Kaw tribal members to get the input from people who don't live in Kaw City, Newkirk, or Ponca City. That's why we came here today.

Members of the committee that are present are: Tammy Estes, Lana Burke, Wanda Stone, Patti Kramer, and Carol Clark. I kind of direct the committee, but I am really not a member. Basically, eight years ago before we had the grant, the committee started meeting and looking at making changes to the constitution. In the Spring of 2008, they drafted six changes to the Constitution. One of them basically said that the primary legislative body would be the Executive Council, and just kind of playing with the wording. They also changed the powers of the General Council. The idea was that we would move forward with an idea that the text they wanted to add to the Constitution said that the General Council is empowered to assist the Executive Council and may at its discretion, issue broad policy directives which shall be pursued by the Executive Council. Such directives are intended to include but not limited to strategic planning in the areas of housing, healthcare, education, historical preservation, and economic development. The idea was they would put some more power to the General Council than we have today.

Other things that they wanted to do dealt with the issues of conflicts of interest. Currently, the Constitution says no Executive Council member shall vote on any matter coming before the council dealing with their family or something, and what they said is we want to say not only can they not vote, but additionally they can't participate in the debate. They want a Freedom of Information Act to be adopted by the General Council. They want to force the tribe to allow members of the tribe to have access to different pieces of information from the tribe. Currently, the judicial terms of office for the Kaw Nation are six years, and they wanted to shorten that to four for members of the court. The last thing they adopted in the Spring of 2008 was to stop tribal adoption. What we mean by that is honorary members is what they wanted to take out, and not allow for any honorary members of the tribe. Those are the six changes that they have voted on to make as we continue forward.

The members of the committee have gone through training on two different occasions trying to better understand governmental systems as we move forward. We've studied the constitutions of

a number of different tribes trying to see what tribes are doing, especially tribes that are progressive. This is a tribe that's moving in the right direction and can we duplicate parts of it. The real purpose of today is to come and to see what you as tribal members are interested in putting into the Constitution or to possibly answer any questions you may have.

Tribal Member: What is your definition of moving forward in the tribe, and what does that entail?

Aaron: I think what the committee has realized is a constitution is a generational document. The current one was created in 1990, and what we're looking at is something that will last us a generation forward. Do we have a timeframe that we're working on? Not specifically, but one of the things that we're looking at as we create broad strokes with the Constitution is how is this going to affect people 20 years from now. We're trying hopefully not to repeat or to solve problems that may come up down the road. Obviously, we can't predict the future perfectly but we look at different things that way.

Patti Kramer: Another thing that's on our list that you didn't mention, the biggie, is the blood quantum for serving on the council. That's one of the things that we are looking at to do.

Aaron: These were the things they voted on. Two other issues that have come up that we've never come to a resolution on but we know have to be dealt with. One is the issue of blood quantum, and currently to serve on the Executive Council requires a quarter Kaw blood. We have debated how to change that. Back to your question, if we change it to an eighth, are we going to be revisiting this issue in 20 years? Because currently there are approximately 240 people who are able to serve on the council, and of that 240, fifty of them live outside of Oklahoma. What happens is if you have 190 people who can run, and they're getting older. So if we lower it to an eighth, one of the things that we're looking at is, okay 20 years from now are we in the same position of having a small pool of people who can run? And so that's one of the things that we don't have a true solution for yet. We have debated everything from a sliding scale over time. We've debated reducing the requirement to carry a blood quantum to zero. In order to serve on the council, there is no blood quantum, and if you're Kaw and on the rolls, you can run. We've really debated everything and we're hoping to gather additional input because we don't know.

Tribal Member: Yeah because the blood lines are getting thinner and thinner. I'm 1/32 and I'm like nothing.

Carol Clark: There's nothing more than nothing.

Aaron: I don't have the numbers in front of me but I believe the lowest member on the roll is 1/256. In my research, totally off topic, there's a person on the Cherokee roll that's 1/2048. In the way that you could be a Kaw member, with those numbers, you just can't run for office. That's one of the things that we've looked at.

Tribal Member: So what is the general consensus now from everybody?

Aaron: We've done a lot of things trying to encourage members to come out. Everybody mailed letters, and we've followed up with phone calls. The tribe doesn't keep an active phone list, and we looked up numbers encouraging everybody to come out.

Tribal Member: I'm just wondering what the overall consensus is?

Carol Clark: He hasn't touched on the other topic which is going to a three-branch form government, or stay with what we have.

Aaron: Does anybody think we have a true consensus? I think the only consensus we have at this point is that it has to be lowered. I don't think there is anybody who is arguing heavily against that. I mean there's probably a small faction that thinks that. What I would say when the numbers are laid out, it's become apparent that it's going to have to be lowered but we just don't know. We don't know how low at this point, and I would say additionally we're not sure if we'll just set it at a number or put in a sliding scale which will lower it over time.

Tribal Member: Because you don't want to revisit this again in 20 years, is that what I'm understanding?

Carol Clark: There were actually two ideas brought up. One of them was to take what the 500<sup>th</sup> person on the roll's blood quantum and put it there, and then when that drops below 500, then the blood quantum to that next 500th person drops down, and that way it continually moves. And the only time that it really counts is when it's an election year, and you have to know how much they are before they can run. At that point, you can call and ask what is the 500<sup>th</sup> person's blood degree. Another guy that came up with an idea is if you put two quarter bloods in there, two 1/8ths, and two for each blood quantum, and different amounts and put them in there for term limits, then everyone there is represented.

Aaron: We talked about using a kind of districting system. If we have a council of 7 people, we have two that had to be a quarter blood or more, two that had to be between an 1/8<sup>th</sup> and a quarter, two that would have to be a 1/16<sup>th</sup> and an 1/8<sup>th</sup>, etc. That was something that came up at one of our training sessions in late September that we've not fully hashed out. It's one of those things that we are continuing to take with us as we debate and discuss these things, but we've not spent a lot of time looking at exactly how the numbers would be.

One of the things that we have discussed is going to a completely separate three-branch system of government. The Chairman is the Executive, but he also serves on the Legislative Branch as a member of the Council. One of the things that we've talked about is separating the Chairman from the Council, and creating more of a true Executive separate from the Legislative Branch. We know currently we have a number of conflicts on the Council in regards to who's in charge. Is it the Council or is it the Chairman? So what we've talked about doing is separating the Chairman and probably the Vice Chairman away from the Council. They would not have a vote on the Council, and they would be separate from the Executive Council and we'd still have the General Council and we kind of move forward almost in a four-branch system of government. One of the things that we have to then do is realign everybody's job or duty who serves on the Executive Council and the Executive Branch and decide who's responsible for this.

We have three pages of different items from the Constitution of the powers that are distributed in our governmental system. We've gone through those in some ways and looked at this. If we take this apart and move it around, who should get what power, and the second question is, who should have the ability to check the power. One of the things that we've looked at doing if we go to a truly separate legislature from the Council, is doing away with the elected position of secretary. The legislature will pick their own record keeper, and so we don't need a true record keeper. But then we have to look at certain things that are currently there. The secretary of the tribe is responsible for keeping the list of members. Who do we give the power or the job of keeping the list of members to then, is what we have to sort out as we develop forward. If we separate the two out, who becomes the Chairman of the General Council Meeting? Those are things that we're still working through and trying to gain input on.

Wanda: And we're talking about having more members in the legislature.

Aaron: Currently there are 7 members in the legislature, and under the new system we would still have 7 members of the legislature, but we'd have a Chairman and Vice Chairman in addition to that, and so it would increase the total number of elected officials from 7 to 9.

Wanda: We also talked about 11.

Aaron: The minimum number would be 7 members of the legislature. So those are things that we've discussed.

Wanda: We started way back to make changes to the Constitution because we had so many conflicts. Everybody that reads the Constitution reads it differently. We sometimes get into discussions and then we have to go to court to resolve it. We just don't need to be in court all the time. So we're trying to clarify the Constitution so we can get away from so much conflict.

Patti Kramer: And another thing that we discussed is after we come together with all the changes, because you have to look at each part of the Constitution separately, so if you change it in one part, then it make affect another part of the Constitution. So another thing that we've discussed, when it goes out to the people to vote on whether they want to change it or not, do we submit it as one giant winner take all, or do we break it down into sections and take a chance that they vote one part in that's not going to affect this other part that didn't get voted in. So that's another thing we want to know. How do you want to vote on it. We just want you guys to tell us what you think needs to be changed, and how you would like to see it changed.

Wanda: When I was Chairman, I looked at it every day. It became like a bible to me. A lot of people don't look at it but once a year. So I know it's hard to suggest any changes because you don't really know how it's going to affect how the tribe operates. That's the reason why we want to give you suggestions for change and let you deal with it and see what you think. But we need your input if you've got any change that you see that needs to be made, and then we'll consider it to put it as a change to the people.

Aaron: In going along that line, and you don't have to be specific and say I want to change Article 1, and if you tell us a concern you have, we could try to incorporate that in. This is really what we're looking at. Or if you have a specific change, we can work with that too. We are just trying to move forward. We know we have a daunting task.

Carol Clark: And whatever you guys say is what we're going to go and take back to every meeting, and say well this suggestion came up and this is what this Kaw member said. We want every Kaw member to have a say in their own Constitution.

Patti Kramer: We've talked about so many things in the Constitution. We talked about maybe even putting some educational requirements in to be on the Executive Council. Because right now you don't need to have any education whatsoever to be on the Council. Of course we know that going to school and all that and having a degree is not everything, because life teaches you life's lessons as you go along. But then again too, we want to take in every consideration.

Aaron: The current requirement is you have to be 25 years of age, a quarter blood, not crazy, and you cannot be a convicted felon. These are the four true requirements. So a 25 year old kid could essentially walk in and get elected to be the Chairman and run the tribe.

Tribal Member: And you have to live in Kaw City?

Aaron: There are no residential requirements. Certain tribes do have that. You have to live within the jurisdictional area of the tribe. It varies with other tribes. We have nothing like that in the Kaw Constitution. So as long as you can get to work being the Tribal Chairman, you can live wherever you want.

Carol Clark: We used to have a Council member that lived in Little Rock, AR. And sometimes he made it more than the people who lived in town that went to the Executive Council Meetings.

Aaron: Currently I think one of the Council Members lives in Tulsa, one lives in Stillwater, two live in Newkirk, the Chairman lives just south of Wichita, and one lives in Ponca City. Most of them currently live in the state of Oklahoma, and the Chairman lives in Kansas.

Tribal Member: That's a lot of information. I didn't realize that there was all of this. You look at this and you think oh my gosh.

Aaron: When I built the separation of powers list, even the committee had trouble grasping everything that was there. I told them this was all the duties in the Constitution, and how are we going to pass them out.

Carol Clark: Not only that, but the General Council which has the Chairman over the day-to-day activities, and chairs all of the meetings, and the EC has so many powers, but the actual General Council, which is the people of the Kaw Nation, have like how many things to do?

Aaron: They basically have 7 powers. They basically have to agree to the changes that have already been authorized by the Executive Council. And those include the sale of land or leases,

the appointment of judicial officials, and pay raises for Constitutionally elected tribal positions. This is essentially what the General Council currently has authority over.

Carol Clark: That's it. How many times do they bring this stuff to us. Hardly ever. This is the only thing that we can actually vote on. So you have whoever you put in office up there making all the decisions, and they have already made the decision before it comes to the General Council, and we're just giving it our blessing. What I'd personally like to see is to have the power go back to the General Council, or a lot of it, so we can run our own tribe instead of the 7 people who are in there.

Aaron: Since I've been here, I've been to three General Council Meetings and a Special Meeting. And in that time period they've brought two resolutions to the General Council for a vote. One dealt with attempting to get land in Braman taken into trust by the Federal Government so we could build a Casino on it, and the second one was an attempt to gain a pay raise for members of the Executive Council. The first one passed and the second one was declined by the General Council. A lot of stuff doesn't have to go to the General Council. General Council Meetings have in some way is a kind of a briefing for tribal members who show up and have the ability to ask questions. I would probably say in my opinion some of those questions get answered and some of them don't. Sometimes you get things out of the General Council Meetings that later get taken into action, but sometimes it's a slow process. That somebody brings up an idea and the members of the Council and the members of the different boards will take that into consideration. And so things come out of them that way from the citizens, but there's no guarantee or no way to force the action.

Patti Kramer: Like one thing for example, is we've asked the Executive Council on numerous occasions to come up with policies and procedures for themselves, of how they're going to handle things, and how things are going to be carried out, and because they keep getting into rifts between each other. And if they would have policies and procedures for themselves, it would take care of a lot of that. We've got policies and procedures for everybody else, where are yours? They'll say, we're gonna do that and that's all we get from them at every meeting.

Aaron: It's never happened. The current Constitution from 1990 says that the Executive Council shall adopt its own policies and procedures. And to date, they have never done it. The problem that that creates is it's hard to know what you can or can't do, or how you're supposed to get things accomplished. And so it has created issues in the tribe.

Patti Kramer: That's another thing you know that we felt like it should be in the Constitution, since it is the law. We thought about putting it in there and giving them a deadline in order to get it done.

Aaron: I was looking the other day and found another tribe had put it in their Constitution and said within an 180 days of the enactment of this Constitution, the Executive Council shall, and it specifically stated a timeframe for what they had to do. That is probably something we're going to have to look at. I think the problem is is that typically Constitutions do not have an enforcement mechanism. If we put that in and 180 days tick off, there is no teeth to do anything to them. I think that's one thing that we've also talked about in the current Constitution there is

no way for the members of the EC to reprimand each other. If a member of the Council does something that the rest of the council thinks is embarrassing to the tribe or is a bad decision, the only mechanism in place is to try and have that person thrown out of office. And we've had a number of cases where the Council or the Chairman have gotten into fights and gotten people removed from the Council. Your only option is removal or nothing, and so we've looked at forcing them to probably put in some kind of way of reprimanding themselves, or can the General Council reprimand them but not take them out of office.

Patti: That's another thing right now is the Council, if they see one of the other council members do something wrong, they won't stand up and do anything about it because they're afraid they'll get sued and they'll have to pay attorney fees. And so they just let it go on because they don't want to be responsible for any legal fees.

Aaron: Along that line what happens is if you're serving on the Council, it's not uncommon to have a number of lawsuits among the council members where they sue each other. And while the Constitution says that the General Council may vote to repay them, there's no guarantee.

Tribal Attendee: What do they sue each over? I would like just one example.

Carol Clark: We had a recent court case regarding the Chairman, which is a public document, where he gave himself a raise, wrote himself a check, and it went back to when he started.

Aaron: I would probably say that that case came out of the issue that the Chairman is also the CEO of the tribe. And so he gave the CEO a raise which is himself. And there was lawsuit on that.

Patti Kramer: He lost and had to pay it back.

Aaron: It ended up in mediation and of the mediation he agreed to pay back the money, and I don't remember all of the details.

Patti Kramer: Then (a year or two later) he filed a lawsuit against the other council members for harassment or something.

Carol Clark: I thought it was because they didn't do his evaluation in the time period he thought it ought to be done.

Patti Kramer: Then the judge said until this has all been settled they couldn't harass him, so basically they can't even talk to each other now.

Aaron: There is a pending case between the Chairman and a previous General Council. These are some of the allegations of the case, there are more, but at this point nothing has been proven.

Carol Clark: At one of the last General Council Meetings, in your Constitution it says you can't vote on anything that benefits you. And in the Constitution as he read that one of the things that the powers of the General Council has is to vote whether or not they get a raise. Well our

Executive Council members gave themselves a raise unanimously and brought it to the General Council for our blessing, which they did not get, and we voted it down that they didn't get a raise. We're waiting to see what happens with that, because they broke the law by voting on themselves a raise. But nobody has any money to sue them, so what do you do? They broke the law so what do you do.

So we have to put something in our Constitution to protect us as tribal members against the powers that be. But how do you do that?

Tribal Attendee: That's a good question if they don't follow what's in there.

Aaron: You always have the problem are they following the Constitution and who's in charge of forcing them to follow the Constitution, and the mechanism we have now is to run to the court system. I think one of the other problems that I don't know if we can solve in the Constitution is the slowness or delays in the court system. Court cases especially of this manner that we're discussing get into the court system, and it seems to be that they tend to delay for long periods of time.

Carol Clark: And the way that I interpret it, since there's nothing written in there that protects the judicial system from the Chairman himself. He's in charge of the court system and the court clerk, so he schedules the court dates, the court clerk, who gets paid by the tribe, and he signs her checks.

Aaron: But she works for the judges. Because we are a small tribe, you have some crossover of the branches of government. There are people who are currently in the legislature; the Executive Council minus the Chairman has no staff. All the staff reports to the Chairman. The problem that you have in this case is that the Court Clerk is an employee of the judicial branch, but the Executive Branch/Legislative Branch signs her paycheck. And so you get this mixed up system as to who does the Court Clerk truly report to. Which has come up. I don't think we're going to separate out the payroll systems, we're just not big enough. We need a little bit more direction as to who the Court Clerk currently kind of reports to.

Carol Clark: Just these few things we've thrown out there, we need guidance on how we fix them. This is what we debate every time. How do we fix these problems in the Constitution.

Aaron: As we get later in the grant, one of the things that were supposed to redo is review the laws of the Kaw Nation and make sure they're in sync with the new Constitution. It may be possible the General Council puts forward the policies and procedures for the Executive Council, and sends it out. Because they won't send it down. And that's one of the things that we're trying to look at is how we fix that. We found recently things in tribal law that is in violation of the Constitution. There was an election three weeks ago, and the Constitution said that if there is a vacancy, it has to be filled by a majority vote of the General Council. And the Election Ordinance said whoever gets the most votes wins. And so if you have three or more candidates, there's a possibility that somebody doesn't get a majority. And we took days researching a solution to that potential problem, because the tribal law and the Constitution were not the same.

Tribal Attendee: Who's the judge who oversees all of these lawsuits?

Aaron: The Kaw Nation has a Supreme Court made up of three judges, and there also is a District Court of the Kaw Nation. I think it goes to the District Court first, and then you can appeal it to the Supreme Court.

Tribal Attendee: So basically it's all under the Chairman and the Executive Council?

Aaron: The Court Clerk is somewhat under the Chairman, and the judges can essentially do whatever they want. They are appointed by the Executive Council and confirmed by the General Council. But the BIA recognizes that we have a three-branch system of government, and the judicial system is completely separate, but there is some intermingling.

Carol Clark: And the judges we never meet before we vote on them. They only give us the names of the judges, and they don't provide us any other information on them. Who is he and what do we know about him?

Patti Kramer: I think a lot of times it's just whoever they can get that will take the position, because they're pretty hard to fill because you have so many other tribes that are needing judges, and so they give us the ones who are willing to do it, and you don't have a lot of choice.

We know we threw a lot of information out to you today, but what we're hoping that you'll go back and talk to your friends and family that are tribal members and give them some input. Then Aaron has a website that you guys can contact him by, or call or email him. Anything he gets he'll bring to us. So when you go back and review all the information we talked about today, and look at your Constitution and think about it. We've been thinking about this Constitution for 11 years. But we finally just got this grant and we'll be able to pull something together now.

Carol Clark: We still have to be kind of speedy about it because we are one year into the grant, and this is a three year grant.

Aaron: October 1<sup>st</sup> is the year deadline, so we are into the fourteenth month of a 36-month grant.

Carol Clark: We have a lot to do with this, and the laws that relate back to the Constitution. We have to make sure things are in sync.

Patti: And all of us who are on the Constitution Committee we are volunteers, we don't get paid.

Tribal Attendee: How many more meetings are you going to do after the Wichita one?

Aaron: The talk is that we will look at three more. We have one probably in the Houston area, there's a possibility of us going out to California for a number of members out that way, and have a final one in Newkirk in late January or the first part of February as a timeframe and that we feel like that's enough. We had one at the Powwow, and we had one in Ponca City two weeks ago. We have the two today, and we feel like we've done the best we can to gain information.

Carol Clark: The Constitution Committee will meet on December 16<sup>th</sup> and January 6<sup>th</sup> and anybody is invited to come. You may come up with some big Eureka and want to show up and explain to us in person what you've come up with, and you are more than welcome to come there at any time. We have them at 4:00 pm on Wednesdays.

Aaron: We've been meeting every other week and will continue that into January. I have to go to Washington sometime in January to meet with the granting agency and that's why we've waited. If I'm supposed to be gone the week we're supposed to meet, we're stalling, and we'll continue meeting every other week. The shortest time of a meeting has been about an hour, and the longest has been about 2 and half hours. A lot of stuff to try think about and discuss.

Carol Clark: At our last meeting, the job description that was given to Wanda when she was Chairman/CEO, that I don't know whether our Chairman goes by it or by one of his own. You are more than welcome to review it.

Aaron: As far as I know, there has not been a new job description issued. The way that one was written, I think there could be questions as to whether or not it transfers forward because it specifically quotes the previous Chairman by name. I don't know.

Carol Clark: The Chairman did not want to give us what he thought his job description was, so that's all we have to go off of, and that's what we had to decide how to break that position up, and as to who does what.

Aaron: One of the other things that we've talked about and haven't really come to resolution on is should we hire a professional to run the tribe, as opposed to letting the Chairman run the tribe. Should we separate the CEO.

Tribal Attendee: I don't have a good feeling about people that are outsiders. I had an HMO when I had a condo, and we had an outsider who ran the Condo Association, and they just wanted all the money. He rooked us.

Aaron: That's what we're here for is to hear about those things, and that's one thing that we've debated all sides of it. Part of it is if we hire a professional whether we call it a CEO or a Tribal Administrator which is another common term for that position, is that they need to be educated. We have no guarantee with the current system that whoever wins the election is educated. The flip side of that coin is that there's a number documents that have to be submitted to the Federal Government that have to be signed by the Chairman. Do we employ two people or not?

Carol Clark: I was onboard with hiring a professional CEO to come in and run our tribe. Then somebody said something--the tribe doesn't even handle their own businesses. We have a KEDA Board for that that's separate from the tribe, so why do we need a professional to run the tribe, when we have no businesses? All we have are the grants and the day-to-day activities.

Aaron: These are all of the things that we've discussed and we just have to slowly work through it and try to gain the opinion of as many tribal members as we can as we move forward.

Tribal Attendee: When you send out the votes for us to vote on, and I know it's over 3,000 members currently, how many people actually check it and send it back?

Aaron: There are currently 3,039 tribal members. Only those over the age of 18 have the legal authority to vote. So your number shrinks to somewhere around 2,200. I would say that probably on a good election, ten percent of that will vote.

Tribal Attendee: How many voted when they took the Secretary out of the Constitution?

Aaron: They did a Constitutional Amendment three years ago, and when we did that Constitutional Amendment I think there was about 175 people who voted. A couple of weeks ago there was an election to fill the vacancy on the Executive Council, and we had 88 people who showed up at the General Council Meeting, and that was high for what we've seen in recent times.

Patti Kramer: At General Council Meetings, we usually get only about 25 or 30 people.

Aaron: I think the three I've been to this year have been in the range of about 45 people.

Patti Kramer: You have to have at least 25 at the meeting to make a quorum.

Aaron: The quorum is 25 and then half of that can make the decision, which would be 13 people.

Wanda: But we're afraid if we raise the quorum amount, we won't get enough people to have a meeting.

Carol Clark: There were times when we had to call people in Kaw City to get them out of bed so that we could have a meeting. There would be 18 or 19 people and we started calling people.

Aaron: With regard to your statement, how do we know who would be filling out the ballots if we mailed them all to one address? In the election law there's not really a provision to stop fraud. Previously I worked closely with elections before coming to the tribe, so I know all of these little steps you have to take and the tribe doesn't have that. Technically, if you were to return all of them in one envelope, they won't count them. Each ballot has to come in a separate envelope. We have addresses looking at the mailing list that have people in age ranging from 80 to 18 supposedly all living in the same house. And so we know that people have signed up their relatives, their kids or their grandkids at one residency, but we have no way of truly defining who is signing that ballot.

Carol Clark: What you just said, he's kind of acting like a representative for your family, and that was one of the ideas in the legislative that we came up with. We felt like there needs to be somebody that you can contact, that's over your area, let's say Kansas City. If you had one person on that council that watches over your district, and if you have a question and they can't answer it, they should be able to go find it and contact you back. Because the people at large

needs representation. And if you have one person that was taking care of you, then you could call and ask them a question and they could get back to you. To me, I would like to know who I could contact.

Tribal Attendee: I think that's a good idea actually because you don't know who to contact now. You get on the website and you don't know what to do.

Aaron: One of the things that if you go to that kind of system and you set up a delegate or a district. Let's say we elect a member from Kansas City on the Executive Council. Do we provide them with a computer to connect in and vote at a Council Meeting or how do we do it. You would have one specific person as a point of contact as a member of the Council. That's something that has come up and we've not fully vetted. Who should you call as a tribal member to get a question answered? Should we assign a specific council member to a geographic area?

Tribal Attendee: So that's as far as the question got.

Aaron: It's just one of those other things we haven't fully discussed and debated the good ramifications and the bad ramifications of it.

Tribal Attendee: The bad is if someone bugged the heck out of you.

Carol Clark: But that's what you would get paid for. If someone has a specific question, then you can get back to them. If they just want to vent, they could just listen to them. We are sitting here for free, giving up our Saturdays and time with our families. The Executive Council members get paid to represent us, and they need to work for their money.

Aaron: Just as a point of clarification, the members of the Executive Council get paid an hourly rate. They are not salaried and they do not receive benefits, except for the Chairman who is an employee.

Patti Kramer: And another thing we talked about for the Constitution, if we split it into the three-tier government, the Executive Branch would be have a Chair and the Vice Chair, then are they full-time employees of the tribe, and how do you pay them? Where do the funds come from to pay them?

Aaron: We can't make changes in the Constitution that will bankrupt the tribe by putting a whole bunch of people on the payroll who don't have a duty or something. We've had long debates about that. Another thing along that same line, if the Chairman leaves the tribe to attend a meeting in Washington, D.C., who's in charge of the tribe?

Tribal Attendee: The Vice Chairman.

Aaron: Currently the Vice Chairman has an outside job and doesn't spend much time at the tribal offices. He doesn't know about the day-to-day operation. He lives in Tulsa which is two hours away. So if we provide for a transition down to that person, how do we build enough

compensation for them to allow them to come. Some people have freedom at work and can come over, and some people can't. That's something else that we're trying to find balance on.

If the Chairman and the Vice Chairman go to a meeting together outside the area, who's running the tribe?

Wanda: What we did when I was Chairman was I appointed someone from the office that was one of the key employees, like the Financial Officer or somebody like that who could make the decisions. They could sign if anyone needed to travel or anything like that, while I was gone, and it worked very well. We hardly ever had any problems.

Aaron: Another one of the things that we've been discussing is if we can get some type of Freedom of Information Act in place, or basically saying if you know what happened at a meeting you could get call up and get a transcript. The current practice is that if you want to review the minutes of a General Council Meeting, you have to go to the Executive Secretary's office. This is not the elected secretary; this is essentially the Executive Secretary who works directly for the Chairman. And you can walk in and review the minutes. The timeframe for seeing the minutes is you have to do it during working hours, and you can't make photocopies of them.

Carol Clark: You have to sit in her office, and read those minutes. You cannot leave the room. You've got people walking between you and the desk, and that's where you're reading the minutes.

Aaron: There are no provisions for allowing copies to being made if they are available.

Carol Clark: The minutes are three to four months behind right now.

Aaron: If you go to a General Council Meeting, you can have a copy. Its every three months, and we have only four General Council Meetings a year. So if you want the October minutes, they will be passed out and approved in January.

Carol Clark: Now you don't have time to read these minutes because they are given to you that day to read. Now here's the problem with your Constitution. In your Constitution, you elect a Secretary on your Executive Council. She doesn't take minutes. She doesn't have anything to do with the minutes. She passes them off to an employee. She passes them off to the Chairman's secretary to transcribe those minutes, along with all the other duties that she has to do.

Aaron: The Executive Council Meetings are different from the General Council Meetings. We just changed the secretary of the Executive Council a month ago. And in the process I believe that the elected person was doing most of those minutes, but I'm not sure how quickly they were completed. There's nothing saying that the minutes need to be done within two weeks of the meeting. Whether or not you put it in that way, or if you put it in the policies and procedures for the Executive Council, is probably a little more realistic. At one point, the tribe got behind. We

had turnover in the Executive Secretary who works for the Chairman. When I first got here they were approving minutes that were 9 or 10 months old.

Carol Clark: By you not living in the middle of this political stuff, looking at that, would you not assume in your Constitution that the Secretary is responsible for the minutes?

Aaron: What happens is the Constitution says the Secretary shall do all these jobs, and then it says, these jobs can be delegated to an employee of the tribe by Resolution.

Carol Clark: Another thing you'll find in the Constitutio--you'll find the Treasurer position in there. Your Treasurer is a paid employee of the tribe. You're making somebody that's non-Indian and not elected to the Executive Council, as a Treasurer of your tribe.

Aaron: The flip side of that scenario, while it's an elected position, you at least have the ability to hire a professional. But the flip side is, I could be elected Treasurer if I was a quarter blood over the age of 25, not a felon and not crazy, and I can't add 1 plus 4. You have to find balance between the two, but I think that based upon what we learned at the Public Hearing in Ponca City, we probably need to put in some oversight on this position. To keep a better eye as to what's happening. There's always the concern we need some more protection.

Carol Clark: In your Constitution, on page 8, Section 5, as it speaks about the Treasurer it says, "The Treasurer of the Kaw Nation shall be appointed by the Executive Council from within or without the Executive Council, and shall serve at the pleasure of the Executive Council. The Treasurer, and all officers authorized to handle funds of the Nation, shall be bonded at the expense of the government of the Kaw Nation."

Aaron: So basically it says oh we can pick somebody on the Executive Council or somebody off the Executive Council. You asked if he's bonded. I know that this debate has come up in the last four or five months. He is bonded but the tribe also has in addition to that an insurance policy to protect it if any funds are absconded with. They tribe has an insurance policy on all employees. If I stole my laptop, then the tribe has a policy to cover those things. There is a bond on him in addition to. I've been asked by some people at the tribe who deal with the insurance and things like that, to take out the word "bonded" and put in the word "insured", because they're slightly different but we would probably be better protected with insurance than a bond. That's a one-word change that they come to me and said and we might look at changing that, but it doesn't affect anybody but the person buying the insurance.

Carol Clark: As I look at my Constitution, I assume that my secretary is doing the secretarial duties or at least overseeing the secretarial duties are done in a timely manner. When I look at the Treasurer, I am assuming that that's an Executive Council Member's job. But still, I am assuming that one of the Executive Council Members should be overseeing the Treasurer.

Patti Kramer: In reality they are, because the Manager of Accounting who is serving as the Treasurer right now, his boss is the Chairman.

Aaron: The Chairman and the rest of the Council.

Wanda: And he does give a report at each Council Meeting. The only bad thing about that is some of the Council Members can't read a financial report.

Carol Clark: And not only that, your Treasurer's Report sometimes is behind 3 to 6 months. You'll be working on figures before that. And the outside cover is dated before that.

Wanda: It's hard for him to get the financials done in time for the first Saturday of the month. It's supposed to be the second Saturday of the month, and if they change the meeting to the first Saturday, he doesn't have enough time to get the financials done in time.

Aaron: There is a little bit of a lag. The Executive Council sees the numbers every month from the Treasurer, and the General Council sees the numbers four times a year. If we're having a meeting in January, it may be November's numbers. Because December's numbers aren't completed in time for the meeting scheduled for the first week of January.

If we start putting in requirements, one of the things we discussed, let's say you have an underwater basket weaving degree from Podunk State University, how do we decide what is a reasonable degree, and those are things that have come up too.

Carol Clark: In the financials, if you don't have anything to compare that financial report from the month they give it to you and you don't have the one previous to that, you can't really determine anything from the financial statement because you have to take this financial statement and look at the other one to get the outlook of it. We're given one at a time. And unless you haven't kept your financial statement from the previous meeting, you have nothing to compare it to.

Patti Kramer: In one of our trainings, they even talked about what some of the other tribes had done. Some tribes had changed themselves as "members" to "citizens". Instead of being a Kaw Nation member, you would be a Kaw Nation citizen.

Aaron: The argument behind calling them citizens is you're a member of a club, you're a citizen of a nation or a government. And that's what they were getting at. The Kaw Nation is not a club, it's a birth right. Therefore, you're a citizen based upon that. It was very enlightening as to how they came to that. We also dealt with certain things like that where I think it was during Wanda's tenure that we took out the words "of Oklahoma". We're not the Kaw Nation of Oklahoma, we're the Kaw Nation period. And things like that occasionally I still see "of Oklahoma" on different things. It's who we are and we can't limit ourselves.

Tribal Attendee: I think if you take on the job, you need to get things done in a timely manner, and a time limit needs to be added with regard to the minutes, and the Treasurer's Reports.

Tribal Attendee: I would think as the Treasurer you would need a business background or something.

Aaron: I think he is currently a CPA. But the problem is if we take an elected official it could be anybody. That's why the council has gone to the outside and hired a professional to fill that position.

Carol Clark: But you could actually get a council member that says I want that Treasurer position.

Patti Kramer: I think at one time if you were secretary and you did your own minutes, they got paid didn't they, \$10 an hour?

Aaron: I will tell you that when we elected the new secretary last month, the Chairman came to me that says is there anything that says that they get paid to do their minutes. I told him it was not in the Constitution if it exists, it's in tribal law. And so what happened is that they said the secretary should get paid XXX number of dollars to do the minutes. You've got to remember that they only get paid by the hour. Members of the council, the secretary, everybody except the Chairman don't get a salary. The question is should we pay them an additional hourly rate to do the minutes.

The Secretary does the minutes of the Executive Council; an employee of the tribe does the minutes of the General Council.

Patti Kramer: Of the Executive Council, they don't do those minutes.

Aaron: Gay was doing the minutes and they were paying her at some rate. But now I don't know what's going to happen.

Wanda: I've been in every position on that Council, and when I was secretary, I did my own minutes and I didn't get paid. But that was when we didn't have any money.

Patti: I know they used to pay JoAnn to do the minutes.

Wanda: No, JoAnn paid them. She paid them out of her own pocket.

Carol Clark: We may want to go back and revisit that.

Wanda: Any more you can take a laptop into those meetings and just do the minutes right there. Any more you don't have to take them home and do them like I did.

Carol: You can have a voice thing on your laptop that actually records the meeting. You push a button and it's all typed out for you.

Aaron: A voice activation software.

Carol: Then it would be accurate instead of one person's perception of what actually happened.

Aaron: To be honest, that would probably work at the Executive Council. At the General Council, it probably wouldn't work because you get too much talking.

Carol: But the Executive Council is what counts.

Aaron: I will take that back and ask them to consider going to a voice activation software to alleviate the minutes.

Carol: I think they used to have one in the Museum. It was on the computer that Jim Pepper Henry had which was a Mac. We were on the Museum Board at that time. It's been there at our fingertips all along.

Aaron: I think we can investigate that out.

As you move forward, or as you look at these things, and talk to your friends and family members, feel free to give me a call or to email me. I think my number is on all of the letters that I've been mailing. We do have a website: [www.kawcrp.com](http://www.kawcrp.com) and it kind of tracks some of the things that we've done, and has a copy of the Constitution and some things like that. So feel free to make contact with me, and as we move forward we will continue to solicit the opinions of Kaw tribal members but then also incorporate what they say.

Wanda: Would it be a problem if they show up at a meeting, and give them our minutes if they want them?

Tribal Attendee: That would be interesting because I give presentations on our tribe. I'd like to have copies for that. People just don't know who we are.