

Constitution Reform  
Public Hearing No. 5  
Saturday, February 6, 2010  
Held at DoubleTree Hotel in Houston, TX  
10:00 am to 12 Noon

The meeting was brought to order by Little Carol Clark, who started out the meeting with a prayer using the Kaw Language. She also introduced Aaron Carlson (Constitution Reform Project Coordinator), Sandy Marckesoni (Project Assistant), along with other committee members who were in attendance Wes Pappan, and Patti Kramer.

The meeting was turned over to Aaron Carlson.

My name is Aaron Carlson, and I am the Constitution Reform Project Coordinator for this grant. The grant we have is to rewrite the Kaw Constitution. We just wanted to go over some of the things that the committee has been discussing and would like to know what you believe should be in the new constitution that will make the tribe stronger as we move forward.

My assistant is Sandy Marckesoni, and our phone numbers and email addresses are listed on our website which is [www.kawcrp.com](http://www.kawcrp.com).

There are three members of the committee who have travelled with us today and they are: Wes Pappan, Patti Kramer and Little Carol Clark. They have been with the committee and working on the constitution for about the last 10 years. They have provided me with a lot of information of what has occurred in the past.

We are working from a grant as awarded to us from the Administration of Native Americans and the Department of Health and Human Services. The grant has provided us with a pool of money not only to hold these meetings, but to hire a lawyer and other professional advisors to help us move forward. The grant ends in September 2011. The grant requires us to rewrite the Kaw Constitution and then to update all tribal policies and procedures.

Some of the requirements of the grant are as follows:

- To consult, educate and update tribal members as to our progress. We do that by having meetings like this today, and through our newsletters and our website.
- To visit other tribes regarding their process on constitution reform. We've met with the Citizen Potawatomi Nation, we've met with the Delawares, and some people from the Cherokee Nation. They have outlined their processes and any difficulties that they had with their process, so that we don't make the same mistakes.
- To hire a Facilitator to guide the constitution reform process. We hired a Facilitator who is an expert on tribal government and tribal law, and he is an attorney as well.
- To complete a draft of the tribal constitution. We hope to have a draft available to provide to tribal members around the first of April based upon the information that we gain from these meetings. This is the fourth of the meetings that we've had. We had our first public hearing in August at the Powwow in Kaw City, we had our second public

hearing on November 21<sup>st</sup> in Ponca City, and we had our third and fourth meetings in Overland Park and Wichita, Kansas on December 5<sup>th</sup>. We'll head to Los Angeles for the last meeting. These transcripts will be available on the Constitution website for your review. It usually takes us about two weeks to get it transcribed.

- To review tribal policies and procedures, bylaws, codes and ordinances. Basically, in the final year of the project, we want to send the new constitution out to the people to be voted on and to be adopted, as well as adopting new policies and procedures throughout the process.

#### Removal of Secretary of the Interior

One of the first major issues that other tribes have encountered deals with the Secretary of the Interior. Most of the constitutions that Indian tribes initially had were written based upon the Indian Reorganization Act of 1930s. Every tribe in the country had a cookie cutter constitution, not all of them, but the majority of them. One of the requirements in these was the requirement that the Secretary of Interior had to approve any changes that you made to your Constitution. Based upon the law that passed in the 1990s, we were allowed to take that provision out. So about three years ago, the tribe held an election to remove the Secretarial approval. So the Secretary of Interior doesn't have to approve any changes that we make. That is a major problem that some of the other tribes had, which slowed down their process by a couple of years. So luckily that has already been accomplished.

#### Approved Changes by the Constitution Committee Made in 2008

In 2008, the Committee had put forth a couple of changes that they thought were necessary. The six changes are as follows:

##### General Council Powers

One of them dealt with General Council Powers. They wanted to add Article II (Legislative Functions), Section 4(c) as follows: "The General Council is empowered to assist the Executive Council and may, at its discretion, issue broad policy directives which shall be dutifully pursued by the Executive Council. Such policy directives are intended to include, but are not limited to, tribal strategic planning goals in the areas of housing, health care, education, historic preservation and economic development."

What they wanted to do was give better direction to the Executive Council through the General Council.

##### Designation of "Primary" Legislative Body

The next change they wanted to make was to amend Article II, Section 4 (a) as follows: "The Executive Council shall serve as the **primary** legislative body of the Kaw Nation...."

##### Conflict of Interest

The next item they wanted to change was in Article II, Section 3 (i) which is to be amended as follows: "No executive council member shall **participate or** vote on any matter coming before the Executive Council in which the member has a personal interest or in which the member stands to gain financially or otherwise be enriched by the outcome of the vote."

They wanted to change this so that they couldn't enter into the debate when it is in their favor.

#### Freedom of Information Act

Basically, the tribe does not have an up-to-date Freedom of Information Act. There are questions about the amount of information that can be acquired by a tribal member. The current Constitution that says if you want to review the minutes and so forth, you can do it. The problem is that you have walk into the Secretary's office and sit there and read them. At current, we don't allow you to take copies out. So this is something that the committee has said that we need to adopt is a Freedom of Information Act that protects what needs to be protected. But at the same time provide information out to tribal members who would like to see it.

The committee has suggested the following amendment to Article II, Section 3(g) as follows: **"The Executive Council shall provide for their own rules of procedure and adopt a tribal freedom of information ordinance for approval by the General Council."**

#### Judicial Terms of Office

Currently, we have six (6) year terms of office for judges on the Kaw Nation Court, and they want to reduce that to a four (4) year term.

#### Tribal Adoption

Lastly, we have a provision that allows for tribal adoption which basically says: "The procedures and requirements for the adoption of other persons as members of the Kaw Nation. Persons adopted into the Kaw Nation shall be recognized as honorary members and shall not have the right to vote, hold office or otherwise exercise the rights, benefits or privileges of members enrolled under Section 1 of this article."

This has been in the Constitution since 1990, and thus far they have found no one who has ever done it, so basically what they want to do is take that provision out.

So those are the changes that the Committee came up with before I got here.

#### Blood Degree of Elected Officials

Currently, in order to run for Chairman, Vice Chairman, or Secretary of the tribe, you have to be a quarter blood, 25 years of age, mentally competent, and not convicted of a felony.

Today we have 253 people who met the blood requirement to run for office. The tribe has approximately 3100 enrolled members, and 253 can do that. Those people are spread out all over the country. There are somewhere around 150 located in Oklahoma. So the pool of people who can run for office with the tribe is incredibly limited, and that's one of the main issues that has come up.

A discussion that the committee has had and is looking for feedback on is what do we do. One of the discussions centers around removing the idea of a blood quantum. Anybody who is a tribal member, what is commonly referred to as a descendency tribe, if you can tie on the 1902 Kaw roll, you're a tribal member.

Tribal Attendee: Why is so far back? If they are on the Kaw roll, why in the world are we worried about whether they can serve or not? I don't understand that. I read something about this quorum you are talking about. If you are on the roll, you ought to be eligible to be elected to anything we've got. Otherwise, why are you on the roll. That's the way I feel about it.

Aaron: Those are the types of opinions that we need to hear. What is it that the Kaw tribal members truly want? One of the things on the flip side is the argument of protecting some of the traditions.

Tribal Attendee: That goes back to the Elder's Committee. I think it's their job to teach the young ones that are coming in. The other thing is, the Kaws are scattered all over the world, and there's not enough around there for the elders to teach probably. I am for the traditions too, and I'd like to know that, and at some point I can see that we'll be running out of people. And then there won't be a tribe.

Aaron: I am very aware that the government can abolish tribes. One of the things we discussed was to move it to zero, one of them was to provide some type of sliding scale to say that we would create a number, whether it's 500 or 1000, and say whoever is at the top 500 people are allowed to run for office in an election year. If we go to a specific number, then we'll be back in the same spot 15 years from now. We are not gaining blood, and every generation would lose approximately a half of a degree. If we create some type of scale, we aren't reviewing it every 15 years.

Another thing we discussed is the idea that we would create seats based upon a blood degree. People who are more than a quarter would get two seats on the council, people who are between 1/16th and a quarter would get two seats on the council, people who are between a 1/16th and 1/32th would get a certain number of seats, so that we could open it up to other people, but not to allow the entire tribe to be run by people who were 1/99. If you slow the progression of moving the tribe probably from today who are all at least a quarter into the people who are at a small degree to take over. These are the discussions that we've had thus far on blood quantum. This is probably one of the most highly debated and talked about issues. The Committee has talked about changing the blood degree for the last 10 years, and it's always an issue of contention. So that's something we really need the input of the tribal members not only in Oklahoma but around the country to learn what they think.

#### Separating the Chairman and CEO

We've talked about separating the Chairman position from the CEO, and also hiring a Tribal Administrator to run the day-to-day operations of the tribe. There are no requirements education-wise to be Chairman. All you have to be is electable, and have the required blood degree. The thought is that while you are managing millions of dollars worth of grants, and that we should bring in an educated official to run the day-to-day operations of the tribe. Basically, the discussion from that became who does the CEO report to? Does the CEO report to the Chairman? Because you still have to have some type of Chairman to sign documents for the Federal Government typically. Or does the CEO report to the Council? There were discussions about that that we've had. How do we create what these new job requirements are when we look at them? What is the CEO going to do? What is the Chairman going to do? It's been a continual

discussion. The committee has more recently looked at the idea that maybe we should leave the Chairman and the CEO together, but to write powers into the legislature to have initial checks on this position. Or to have the Executive Council to have additional ability to check his/her actions.

### Three Branch System of Government

We've also talked about moving into a three-branch system of government. Today, the Kaw Nation has a Parliamentary type system of government. The Chairman of the tribe runs the Council to date. What that has created is a conflict. Is he working as a member of the Council, or is he working as a Chairman, and what are his abilities to do what and when. And so we have these issues, and what some tribes have started to do across the country is to completely separate the Chairman from the Council, and to create more of a legislature and executive system that we are familiar with in the Federal System.

Tribal Attendee: You say the CEO signs the checks. If they separate it, then you're saying the CEO will sign the check and run the business. So why do we need the two?

Aaron: The thought basically is that the Chairman becomes more of a ceremonial position, he does outreach under the split system. If he is doing ceremonial duties and signing his name but not doing the operations, how would we pay him and how do we decide what is reasonable as opposed to the CEO who is the brainchild of the operation?

Tribal Committee Attendee: I think that the discussion we were having at the time, was that we elect the Chairman of the tribe. It would be more like ceremonial duties like kissing babies, shaking hands, and representing the tribe at all other functions. But we would hire a CEO to run the business. You've got to look at the tribe too nowadays as a business. The government has been cutting back on giving money out. We are trying to get businesses going to support the tribe like the clinic, health care and education. The CEO would be more for the business side.

Tribal Attendee: That's basically what I'm getting at. If you are going to separate those out, the CEO is really a PR person.

Tribal Committee Attendee: We have KEDA (Kaw Enterprise Development Authority) who are out beating the bushes trying to bring in ideas for business opportunities like wind energy, solar, casinos, and smoke shops. So do we need a CEO that we hire and pay thousands of dollars to? If you keep your Chairman and your CEO, and keep your economic board going, and they're out there trying to find business for the tribe. That's why we are having these meetings to get more ideas on what tribal members think.

Tribal Attendee: I like that and I'm glad you guys came here. And I'm not trying to criticize you or anybody else, but you know, we're out in the outback. We never know what the hell is going on at the tribe. You can't ever get a financial statement from the tribe, and I read in here where the Treasurer is supposed to put one out. Why aren't we getting it?

Tribal Committee Attendee: A long time ago the Newsletter used to have the Executive Council Minutes in them. They don't do that any more.

Tribal Attendee: We stay in the dark. The people around Kaw City, they more or less control the tribe. I couldn't do anything down here in Spring, Texas. If you let us know a little bit out here in the boonies what's going on, we would certainly appreciate it.

Tribal Committee Attendee: I have something else to add to that. I believe the reason that the Chairman/CEO position sits there is because at one time our Executive Council tried to fire our Chairman. So therefore she had to take it to court and the judges ruled that the CEO and the Chairman were as one at that time, and that's what we've been going off of is that judge's ruling.

Tribal Committee Attendee: And I think that another reason it came up about separating the two, is that here in the last few years we've had a problem with the Chairman/CEO pulling one way, and the Executive Council going another way. So the Executive Council would say okay this is what we voted on, and this is what we want you to do. And the Chairman says he's happy and glad you wanted to do it that way, but I won't do it. And so you kind have a separation of power there where yes he's the Chairman/CEO, but you can't fire him as a CEO, but you can have him recalled if you get enough signatures. Then you have the Executive Council saying this is best for the tribe, but he won't do what you want him to do. So we talked if we separated out the legislative power out over here, and said okay you people are the ones that are going to make the laws and all of that, and then it's up to the Chairman and Vice Chairman over here to carry those laws out. There are just so many things to think about. That's why we want you guys to help us. Maybe you can come up an idea that we haven't thought of in a way to try to pull all this together to make it better for the tribe.

Tribal Attendee: For whatever its worth, in my world, my Executive Board I work with, it seems to me that people that hire me I go their direction. Now I have influence in the way I do my business, it seems to me that working in concert is what we're missing. Am I under the impression that the Executive Committee is the governing body?

Aaron: Yes, they are the governing body and a member of the Executive Council is the Chairman, and the Chairman runs the day-to-day operations of the tribe. There is a court order that says that the Chairman and the CEO is one and the same person.

Tribal Attendee: It is my understanding that we are trying to separate that?

Aaron: I don't know that I want to say that we are going to try to separate the Chairman from the CEO. It's a discussion that we have had and we're seeking additional input on . I think what we are likely to do is separate the Chairman from the governing board. Is probably something that we've also looked at is to separate him from the governing board to stop some of the confusion. The governing board then provides him with policy statements or policy directions and he is responsible implementing them is kind of what we're trying to go to.

Tribal Attendee: It would be very confusing to me to know who I was to report to.

Tribal Committee Attendee: This is our Constitution and if you could look at it and give us your input we would appreciate it. And another thing that we need to put into our Constitution is to

put some teeth into it. We've got the Executive Council giving the Chairman direction. So the Chairman decides not to take it. Oh well we have no teeth in our Constitution. The only thing we can do is by recall or removal, which takes a lot of Kaw people to do it.

Tribal Attendee: So it sounds like it's just a historical thing that nobody has really paid a lot of attention to and said we need to change this and we need to go in this direction.

Aaron: I think that probably what's happened is that we've been working off the Constitution and there are certain things that are good out of it, but we also have things, well maybe that's what it says but that's not what we've been doing, because there are aspects to it that don't work, is kind of what it's become in certain ways.

But we've talked about going away from a Parliamentary System into a more U.S. Governmental System where the Chairman gets direction from the Council, and at the same time, he has the authority to potentially veto a decision, and the Council would provide big policy statements and then he would then carry them out and then put them into play. That is what we've talked about trying to go to cut down on some of the confusion. And then obviously what happens is we would give the Council the ability to authorize the spending of money. And that's the control that they really have is if the Chairman goes in the direction that the Council doesn't like they have the ability to shut off the spending of cash, and that's what we're trying to go to that would not only give them some control, but also give the Chairman a little bit of direction to put these policy issues into place.

Tribal Attendee: Will the Executive Committee be able to remove the Chairman?

Aaron: The Executive Council would be able to remove the Chairman probably through an impeachment clause.

Tribal Committee Attendee: That's another change we wanted to look at in the Constitution.

Aaron: The full committee met on Wednesday and we spent about an hour on the impeachment clause, and how we're going to put the impeachment clause into place, and the second aspect is who should get the vote to remove, and that's where the real discussion went to was if they are trying to impeach somebody, we should have a trial of some type with some type of investigation. Currently in our Constitution if charges are brought against an elected official, the court of the Kaw Nation decides whether or not the person is removed. I think what we discussed was do we leave it that way which is an impartial jury as we refer to, or do we give the authority all tribal members, or do we give the authority to all tribal members who can show up at a quarterly member or at a special meeting of the General Council.

Tribal Attendee: Who consists of the Court of the tribe?

Aaron: The tribe has a court system which is a separate branch the members of the court are appointed by the Chairman, and they are approved by the General Council. When we have our quarterly meetings if they need a new or different judge, somebody brings forward and says these people have been appointed and we need you to approve them. In recent history what's

happened is that they give us a name, and say now we need people on our courts so we can hear cases this week, so just go ahead and approve them. There hasn't been a good screening process for the judges.

Tribal Committee Attendee: We have our own tribal court system set up. We have district court judges and supreme court judges.

Tribal Attendee: You say that the Chairman appoints them?

Tribal Committee Attendee: He does like a nomination. We have district court judges and supreme court judges. He nominates attorneys A, B, and C.

Tribal Attendee: If the Chairman appoints them, that seems like a conflict of interest.

Tribal Committee Attendee: He nominates them but he brings them to the General Council for us to approve them. They're saying that these are the guys that are qualified. Another thing that you have to think about in Indian country up there is that you only have so many attorneys who are willing to do that, that are willing to be on your tribal court system. They may be on your tribal court system and also on five other tribes. And so when you find somebody that says okay I'm be willing to come over there and have tribal court, you know you kind of jump on them. That's not always a good thing. And they only have court once a month. They do Indian child welfare cases, they do divorces, and it's just like a regular court system like you'd have anywhere else.

Tribal Committee Attendee: And when they give us names of judges, we're lucky if we get a last name.

Tribal Committee Attendee: Usually they bring them to the General Council Meeting, and we aren't given any background on them or whether they have any qualifications.

Tribal Attendee: See this is why you people coming here, we didn't know anything like this was going on. Nothing is ever put out.

Tribal Committee Attendee: You can get the financials if you write in and ask for them.

Tribal Attendee: Why do you have to write in?

Tribal Committee Attendee: They provide the financial statements at the General Council Meetings. But you can write in and they will send you a complete financial statement.

Tribal Attendee: Who do I write to?

Tribal Committee Attendee: Charley Hover.

Aaron: I will write that information down for you.

Tribal Committee Attendee: If you have an attorney that is non-Indian, they have to come in and get qualified to serve in Indian court because Indian law is different. So not just any attorney can come in and be an attorney in Indian court.

Aaron: Currently, our judges are not Kaw and there are no requirements that they be Kaw.

Tribal Committee Attendee: But they are native of some tribe.

Aaron: As I recall, it's not a specific requirement but it's kind of like who can we find that is qualified and will do it.

Tribal Attendee: So you're saying we require them to be an Indian to be a judge?

Tribal Committee Attendee: We don't require it, but they have to apply to practice law in Indian Court, and they have to be approved or disapproved. So they have to know Indian law.

Aaron: We've talked about moving to a three-branch system of Government as I've said and that would take the Chairman and the Vice Chairman away from the Council. So they would work more as a true Executive Branch. We would then probably increase the size of the Council to at least the 7 that we have now, but take those away, so that would be 2 more elected officials, and there's been some discussion to move as far as 9 to let it operate more as a true legislature. We would allow the legislature to select their own leader. We felt like that the 9 people would pick their own leader or their own speaker of the legislature (as I typically refer to it) as coming from the U.S. Governmental System and that way they make decisions and tell the Chairman how to do it. We have the Judicial Branch which is the court system which is still going to maintain similarly to how it is independent from the Executive and the Legislature, and what we have which is different from the U.S. Federal System is we also then have this General Council. The General Council is made up of any tribal member 18 years of age or older who shows up. We have quarterly meetings as required by the Constitution. The General Council provides broad policy decisions and the General Council is required to approve I believe it is six things of the Executive Council.

Tribal Attendee: Can the General Council override the Executive Council?

Tribal Committee Attendee: No only if it pertains to those few things. We can voice our opinion.

Aaron: It's all of the tribal members and what they essentially get to do is provide policy decisions and they get to approve five or six things. If they take a vote at the General Council Meeting, I refer to it as a glorified survey because it has no bearing. The things they can do are deal with pay for elected officials, transfers of land, if the tribe wants to sell land, lease land, etc. that has to be approved by the General Council, confirming judges, or if we change the election law. Those are the four or five things that the General Council has the authority over and issues over which is mainly land. And so that's something that we continue to talk about is, where do we need to give more powers to the tribal citizens, the group as a whole. And I would argue that it's a double edged sword. If you give them too much power you get complete chaos. And if

you don't give them enough power, then they have no real authority. These are some of the things we have been looking at, and where does the General Council truly need to be able to step in.

One of the things that the General Council has focused on recently is that there are no rules for the business committee. Other than what's in the Constitution, which is not much, the Executive Council has never put forth any rules of procedure. And so there's no clarity as to what you do. I have been in front of them before, and thought I was following a reasonable process, and they are like this isn't not how we do it, and we don't need that.

Tribal Committee Attendee: I think what's happened over the years they've all just kind of said okay this is the way we're going to do it, but they never wrote it down as to how that's going to be done. And we have asked and asked that they write it down.

Tribal Committee Attendee: And this is our governing board and they don't have policies and procedures but they expect their employees and the General Council to have policies and procedures, but they don't have them.

Tribal Committee Attendee: So we'd like to put that into the Constitution that the Executive Council do their own policies and procedures and that they be accomplished within a certain time period.

Aaron: Another thing that since I've gotten here, more recently we've gotten copies of some of the policies and procedures for other councils of tribes so that we can provide it to them and say this is what other tribes are doing what can we use out of this to try and put in a reasonable system. Because literally every time we have turnover either on the Council or in certain staff people who work for the tribe, okay how do we do this, and there is nothing to read and its all through word of mouth.

That is in general some of the major topics that we've discussed and I think what we're really here looking for is what other things need to be discussed and kind of just doing our due diligence to find out what we can do to help you in the outlying areas and to make the tribe better. So we'll take any input that you have and if there is anything I haven't covered, and you think I should, let me know.

Tribal Committee Attendee: I know one of the things that we've had numerous discussions about is how are we going to get this approved by the people. We know we are going to send it out to you for a vote, but are we going to say okay you have a choice on blood quantum, do you want it to be A, B, C, or D, and put the majority of what we've heard in there and let you vote on it? One of the things that we've run into is if we change this part in the Constitution, it may affect it three pages over. And so you kind of have to have a consistency there. And so are there certain things that you want to vote on specifically and the rest of it just kind of a basic Constitution where the rest of it is winner take all? We need your input on how you want to do that. Do you want to vote on everything that's going to be changed by line item by line item? The only thing is if you vote one way here and then you get over here and this doesn't pass, then were sunk and it's not going to fit.

Aaron: I think the third option is we'll send you one document which is up or down. This is what the Committee created based upon the meetings we've had and the input we've had.

Tribal Committee Attendee: I'd like to call that a draft. There's nothing set in stone if you don't like it, then you can comment.

Aaron: What I think we plan on doing is that once we finish this round of public hearings, we will make a draft, and it is my intention to send it to all tribal members and say please comment, and to take those comments and have a second drafting meeting and we will go through those comments and try to decide yes this is a viable comment, and we've seen this comment from "x" number of tribal members, and we need to fix this or to make a decision yes that's a comment we've received but it's not going to be considered because of the fact that we've studied or looked at the issue.

Tribal Committee Attendee: I'm not with him on that. I think we should send out a draft with all the things that we want to change and how you want it changed. I'm not going to play God. I'm not going to make the changes for you. I want you to tell me what you want. I want you to have a choice.

Tribal Committee Attendee: It's your document for your kids, your grandkids, and their kids.

Tribal Attendee: I like the draft part. The reason I say that is, I think that all of us who are here today will come out of here with a lot more knowledge than when we came in. Unfortunately, I've never been to a tribal meeting of any kind. When I was younger, I had other things to do. I didn't have time to drive 700 to 800 miles.

Tribal Committee Attendee: And some other things we've talked about is we're hoping to catch up with technology and at some point in time we can have the Council Meetings online, or have them live.

Tribal Committee Attendee: The Citizen-Potawatomi Tribe has a website and they have their Executive Council meetings online and watch them.

Tribal Committee Attendee: And we spend a lot of money for our Executive Council to travel, and I don't think it would have killed them to come to the four places that we've gone. Aaron is diligent in finding out where the most Kaw people are and sending someone once a year to come visit with you and let you express yourself.

Tribal Committee Attendee: The Potawatomi's hold regional meetings.

Aaron: And on that topic, the Potawatomi's did that 18 years ago. They started holding regional meetings across the country, and in some cases, they told us they said they had two people show up. We went all this way for two people, but after a while it started catching on and more people continued to show up. I'll tell you this is the best attended meeting we've had outside the Kaw Powwow in Kaw City. I'm glad that everybody came out.

Tribal Committee Attendee: In Ponca City, our own service area, we only had two people show up.

Tribal Committee Attendee: Another example is when we have a General Council Meeting, which is out at the Powwow Grounds, it's the same 25 to 35 people who show up. For being right there at home, there's the same ones who show up.

Tribal Attendee: I guess the question is how do you engage tribal members? From what I'm hearing there is no accountability. You have members that run, they want to be elected and want your support, and once they're elected, you never hear from them again. So you should send out some kind of newsletter that includes the tribe's strategy, and the earnings growth. But if nobody knows what the tribe is actually earning, what has this newly elected group done for the tribe to insure and provide to the members what they've actually done for the tribe over "x" number of years, and I think they'd want to prove to the government that it's a smoothly run organization with future growth plans.

Tribal Committee Attendee: You know what happened at our last tribal election? We are a small community, we have a small amount of people in our area, and they go out and dig up everybody that they can. This one happened to be off the floor because we had somebody resign. And whoever brought the most family members to the meeting won the election.

Tribal Committee Attendee: It wasn't quite like that. There's a conflict in our Constitution if I'm not mistaken, because if you read it, one of the interpretations is, for an Executive Council members to get a raise they must vote on it, and then bring it to the General Council for their blessing. We have to approve it. So that happened. Well the General Council didn't approve it, and our Secretary got hurt feelings, and resigned because she wasn't going to get a raise. And then that left this hole open, and if there's term that's almost up, you get to make a nomination from the floor and bring it in. There were four different parties that showed up, and it would have been a tight race but one of their people walked in late who was going to get nominated, so that one fourth of the people that was there to vote for that one woman, had to jump on somebody's bandwagon so she won.

Aaron: We essentially had almost four different factions as I would refer to them. And under most cases it's almost similar to political parties but it's kind of not.

Tribal Committee Attendee: How many tribal members did we have there to vote that day?

Aaron: I think there were about 88 or 89 people who showed up for the election. Literally there were people we had never seen before.

Tribal Committee Attendee: At any other General Council Meeting, we're lucky to get 30.

Tribal Committee Attendee: We used to have to call our children and cousins, just to get 25 people there to make a quorum. The Constitution also says an Executive Council is not allowed to vote on anything that may benefit them financially or personally. But they had to do that to

get it to the floor, and I suggested that we shouldn't give them a raise until we get a copy of their policies and procedures.

Aaron: The pay for the members of the Council is something that the tribe has dealt with recently and right now they get paid an hourly rate.

Tribal Attendee: Do they get paid when doing work for the Council, or is that just a salary?

Aaron: The Chairman is on salary. The other six Council members when they are in a council meeting, they get paid \$20 an hour. If one of them goes to a meeting or training somewhere else in the country, they get paid \$10 an hour.

Tribal Committee Attendee: They also get paid \$10 from the tribe to travel.

Tribal Committee Attendee: When they go on these trips they get their per diem, their hotel room, and expenses paid.

Tribal Committee Attendee: And we do have other committees at the tribe too. They have invented committees to rake up leaves over at our tribal offices. There is a committee for everything. They get paid \$75 per person per meeting. You get your \$75 fee even if you don't stay for the whole meeting. The Constitution Committee is a volunteer committee and you get paid no money to be on this committee.

Aaron: We are paying the expenses when the committee travels, but all the other committees are typically paid a meeting fee.

Tribal Committee Attendee: We don't get a meeting fee, and the grant is paying for that. When the grant is finished, there will be no money again.

Aaron: The one good thing about the Federal Grant is it has allowed us to go and meet with tribal members and to try to provide you all with updates, both on the web and the mail. And that's one very good thing that we've been able to do. In the past, they would beg the Council for money, or they would literally pool their own money together to get things done.

Tribal Attendee: This is quite a coup that they did get money with the grant when a lot of the tribes are paying for reform out of their own pockets. The Citizen Potawatomi Nation sat down and went through about 30 different Constitutions, and they didn't have a Facilitator or anything. They sat down and took the best out of each one of those documents and made their new Constitution and they had no funds. They are a bigger tribe and they do have more money.

Tribal Committee Attendee: In the big scheme of things when it's all done, the Constitution and all the committees, because every committee is supposed to have bylaws and policies and procedures, and then everything will work together in the scheme of things.

Tribal Committee Attendee: And another thing that we learned from the Cherokees, is they refer to their tribal members as "citizens". They said you are a member of a club, and they said they

wanted to change it because you are a citizen of a nation. And is that something you guys want to change in our Constitution? I didn't know if that was a big thing or a little thing or if you care about that one way or another. Do you want to be a citizen or do you want to be a member? Is that something you want to change, or does it make any difference to you?

Tribal Attendee: It doesn't make any difference to me on that.

Tribal Attendee: Are we a Kaw Club or are we a Kaw Nation?

Tribal Committee Attendee: We used to be the "Kaw Nation of Oklahoma". Well they've dropped that. Now it's just the Kaw Nation. Now we've got tribal members in about 48 states, so for that reason we needed to drop the reference to Oklahoma.

Tribal Attendee: This is some pretty interesting stuff. My grandmother was really involved in the tribe and I really didn't understand it until about 10 or 15 years ago. A couple of points I'd like to make. I'd be interested in seeing a flowchart of the three branches of government, what are the three branches, and what are the current responsibilities of each branch. Also, where does the Chairman fit, and who does that person report to, and if you're talking about separating out the Chairman and the CEO, what would the CEO do? In corporate America, it's the Chief Operating Officer, instead of a CEO. If you want a Chief Operating Officer, that's a little different. The Chief Operating Officer works for the CEO. Then it becomes a measure of accountability.

Tribal Committee Attendee: Give him that Separation of Powers spreadsheet that you prepared showing the current responsibilities of each branch as it is now.

Tribal Committee Attendee: Another thing we have to think about is if you hire somebody to do the job that the current Chairman has been doing, and they also have the Chairman and you're going to pay him, where is the money going to come from?

Tribal Committee Attendee: Something that I'm wondering about if you have a three-branch system of government, and you have your Chairman and Vice Chairman there, how's this going to work? Do they run the day-to-day activities? What exactly does the Vice Chairman do? Because now when the Chairman leaves he just leaves anybody in charge.

Tribal Committee Attendee: No, he leaves nobody in charge.

Tribal Committee Attendee: But before that, they used to write up a little sheet that said a certain person was in charge in the Chairman's absence. Well now when the Chairman leaves nobody is in charge. So what's the point of having a Vice Chairman if you can't use him. Because when the Chairman leaves he's taking the money as his salary, so who pays the Vice Chairman?

Tribal Attendee: One of the things that builds strength in any organization, I don't care what it is, your Chairman needs to be your base out into the community and who will do things for us. My job is networking. I'm out in the community and that's where the business is. I go out and

touch a lot of people in the community. I could bring a lot of things to the table because I'm out in the community. What I'm saying is, it's the Chairman's job to address these issues. I don't freelance a lot at all because I know what bottom line is if I go off too far, that my needs are gone. So I understand that. My responsibility to my company, or the tribe, is that I am out in the community addressing some of these issues. I'm out in the community or I'm talking to the Chairman of the Gaming Committee, and I'm building relationships. It sounds like we have a really splintered relationship.

Tribal Committee Attendee: And you have some people who are really good at that. To toot my Mom's horn, when she was Chairman, she did that. She had so many contacts and relationships that were built.

Tribal Attendee: That's a gift.

Tribal Committee Attendee: And another thing. He's told you what the qualifications are to hold office. In your personal opinion, do you want somebody who has an education? Because we all know that an education doesn't mean everything. Do you want life experience or do you want to leave it like it is with no qualifications, just a certain age, and no criminal history?

Tribal Attendee: I think we need to have a combination of all of it.

Tribal Committee Attendee: So how do you put that in the Constitution?

Tribal Attendee: Who does the hiring?

Tribal Committee Attendee: The Chairman is voted in by the General Council. Do you want to put that in the Constitution that the Chairman meet certain qualifications? I would at least like to see a high school diploma or a GED, and right now, it's not in there. And some of the smartest people I know don't have a college degree. But do you want to put a qualification in there?

Tribal Committee Attendee: That's one of the reasons for dropping the blood degree. So that we can get more qualified people into that position.

Tribal Committee Attendee: Because we don't have the pool locally. Would you want to come to an Executive Council Meeting once a month from Texas?

Tribal Attendee: I have considered it.

Tribal Committee Attendee: Some people can afford it, and some people can't.

Tribal Attendee: I'd love to but I can't afford it.

Tribal Committee Attendee: It seems like the biggest problem we are going to have is to set the blood degree. A lot of people are for that, and if you are an enrolled member of the Kaw Nation, it's like being a U.S. citizen. You should be able to serve your people. Do we drop it to an 1/8<sup>th</sup>, do we go lower, or do we go higher?

Aaron: Right now we are starting to see some tribes have gone ahead and said we're going to have elected officials all over the country. And to represent different people, and the problem is, the tribes that we have seen do that have a whole lot more money on the table. And they pay for the travel for their members of their council whenever you call them to get in. At the Cherokee Nation, two of their legislatures are required to be outside their service area. One of them lives in California. She also happens to have a house in Oklahoma. She's a college professor so it's kind of a gray area there. She's back and forth enough and her work allows her to do that, and one of them lives in Oklahoma City. They pay him to drive back and forth. They've got the money to do that. At this point, the Kaw Nation would have to reallocate some of their funding and priorities if we were to put required elected officials to live outside of the service area. Is it something that I hope we could go to at some point? Yes, I think it is and it would give us a better input from the people around the country. But there is a financial aspect to it.

Tribal Attendee: Have you gotten any feedback from these out-of-state people. Are they really helping the tribe that much?

Aaron: I would say most of the people who come from out of state to the tribal meetings, we usually get good input from them, and I feel like we get reasonable input, but I'm not sure it's ever really acted upon.

Tribal Committee Attendee: I'm going to be more truthful than his politics. Let me tell you what happens at a General Council meeting. You go in at 10:00 in the morning. Then we get started around 10:30 or 11:00. Then the Chairman gets up and reads something that somebody typed him, and so we're all just sitting there. Then each one of the directors get up there and give their presentations. We listened to them and he stretches it out till noon. Nobody who ever says anything is just us three. He has this meeting every three months because it's in the Constitution. That's what your meeting consists of. You get a financial statement, and all these other reports. It's in a nice little binder, and it's usually three to four months behind. Then when we get the financial statement but we don't get the one from the quarter prior so that we can compare the two.

Tribal Committee Attendee: We vote by a show of hands on most stuff that comes up on the floor of the General Council Meeting. So you would get a motion on the floor, and then you'd get a second. Any discussion, and all those in favor raise your hands. So you've got one or two hands that shoot up. And you look around to see who is voting yes, and who is voting no. That's kind of a bad deal I think.

Tribal Committee Attendee: Employees are afraid to vote because if they vote the wrong way, they could be fired, or a member of their family could be fired. That's what happens in these meetings. You don't dare vote on anything if you have somebody working at the tribe. I was fired because I spoke my mind. That was a long time ago. But I was wrongfully terminated and I did take it to the court. But that's what happens to people and they're afraid, and I was the example that they made of me.

Aaron: I do think that with regard to the financials, there's no track from one to the next. You do get a financial statement that says how much money they spent, and how much money is in the bank, but it doesn't tell us what happened six months earlier and there's no progression. I'm looking at the financials but it doesn't tell me anything if I don't compare it to the one I got three months ago at the previous meeting.

Tribal Attendee: They're not sent out monthly?

Tribal Committee Attendee: No.

Tribal Attendee: I agree with this gentleman. The last time I saw a financial was a good many years ago, and they were in good shape. And I'm thinking we've got the tribe moving and making money. Now I don't know what's going on with the financials. It just makes me wonder sometimes where the money is going to.

Tribal Committee Attendee: The lady at the back brought up a good question. Don't these people want to show something for their time on the Executive Council?

Tribal Committee Attendee: Just like in the Newsletter. They used to put in the minutes of the Executive Council Meetings, and how the Executive Council voted, and what Resolutions were passed.

Tribal Attendee: Who has the final say on these things. When the Executive Council votes on something can the Chairman veto it? How do we ever get anything going?

Aaron: That's part of the problem. The current Constitution does not provide for veto power, and so what you have is that if the Council says to do something then they do it, but there are questions as to who is responsible for implementing things. That's one of the things that we need to fix is who's responsible for implementing whatever the Council puts forward.

Tribal Attendee: It's like our government. They can give you something to do but they don't have anybody to follow up on it to see its being done. I wonder how our tribe does it.

Tribal Committee Attendee: That happens to us at the General Council Meetings all the time. We ask them for something and by the next General Council Meeting and if you don't remember then it's forgot.

Tribal Committee Attendee: At the Executive Council Meetings, I used to have to go and give reports. They start at 10:00 on Saturday morning. The Chairman will come in and they pass the packets out about what they're going to discuss. They don't get it a week ahead of time so they can sit at home and read through it ahead of the meeting. They never complete a meeting and they have to come back.

Tribal Committee Attendee: I went to an Executive Council Meeting recently and I noticed a lot of things were getting tabled because they got their packet that morning and they hadn't had a

chance to look at it. They actually wanted to read what was in the packet and so they tabled a lot of things.

Tribal Committee Attendee: If you were on the agenda at 10:30, and they might not get to you in until about 4:00 or 5:00. Or they might tell you that they might not even get to you. If you've got that packet sitting in front of you of what they're going to discuss, to me you needed the packet the day before. Everybody should be able to come in on the same playing field.

Tribal Attendee: I'll tell you the best way to get people mad at you is through poor communication. It sounds like we have a real weakness. I have probably between 2500 to 2600 people that I have to communicate with, plus a board meeting, and if I don't get that stuff out, I'll hear about it. If I don't produce a financial statement, that's a big flag. If I don't produce minutes, then that's a big flag. So if I don't share a Resolution, that should be a big flag. If I violate the Constitution, then that's a big flag. All that is communication. If I don't want to do it, then I'll leave. I'll walk out the door or somebody will help me walk out the door.

Tribal Attendee: You know that. You are dealing with people here, are you going to fire me? If they want to come to the meeting, I'm like you. I never went to a meeting that I wasn't prepared for. I don't believe you're going to get our people to do that. There's got to be a mind change somewhere, and you can't put that in the Constitution.

Tribal Committee Attendee: It's pretty sad when your General Council is more prepared for the meeting than the Executive Council and the Chairman. That brings me to my next thing, I'd like to see the term limits reduced from four years down to two years.

Tribal Committee Attendee: Another thing we discussed was dividing up the U.S. map into regions and have one Executive Council member or Regional Director assigned to a certain region. You could even have that member travel once a year to each region to visit with tribal members within that area. The tribe could pay for this person to travel to these meetings. Then the Executive Council member could provide a report back to the other tribal members.

Aaron: We've looked at going to a districting system and there is considerable cost associated with it, and whether or not we would allow for meetings solely through the internet and technology like that. I don't think anybody has led the charge to set up these districts.

Tribal Committee Attendee: We came up with another idea that we visited once before that instead of doing by districts we could do it by things they were responsible for.

Aaron: That's right. What happens today if you have a problem with any issue, you don't have a specific person to call. If I'm a tribal member and I have a problem with something and I call, there's no guarantee that you're gonna get somebody who is concerned about the issue you called about. The discussion to try to fix that if you say that this is your one elected official, then you know who to blame and could then turn and vote them out of office. What I think that we might look at doing is to put people in charge of a topic. And say, you are the member of the Council who is responsible for health issues, and you are responsible for housing issues, and that way the person would (a) become knowledgeable on the topic, and (b) if you have a problem

with health care, we could say that the person in charge of that is Jeff Smith. Here is his number and he can help on health care issues, and a different councilor would be housing, and a different councilor would be enrollment or something like that to try to correct some of those issues where you're going to get a real answer because you are going to talk to the person in charge. That is something that the committee has started to look at and that came up in the last month or so.

Tribal Attendee: After what I have heard here this morning, you folks have a hell of a job to do and I don't see how you're going to make a Constitution that's going to solve all of our problems.

Tribal Committee Attendee: We're just going to try to cover as many areas as possible. We hope that we get the best ideas from you guys, we want to listen to whatever you have to say, and we want to be able to incorporate it into the Constitution, and give you a voice of how you want things changed. What we try to do when we go to those Committee Meetings, we try to think of what has happened in the past, and how we can make a change in the Constitution so that it doesn't happen again. Then we'll present our ideas to you, and we want you to present your ideas to us, so that we can come up with the best possible Constitution that we can. We know we can't fix everything. There's no way, and we can't predict what's going to happen. We need to do something because what we have right now is not working. We know it's not working so we've got to make some changes.

Tribal Committee Attendee: If you pick up this Constitution and we all read it right now, we are all going to interpret each section differently. That's why we've got these lawyers all over the world, and if you give it to a lawyer you'll get something different.

Tribal Committee Attendee: Another thing that we talked about is putting a dictionary or glossary of terms in there to clarify some of the language in the Constitution. We have also talked about putting intent in there as well as what we want it to mean.

Tribal Attendee: And if you look at the Osage Nation's Constitution, its 2 inches thick and there is too much in there. You don't want to make it too big or complicated.

Tribal Committee Attendee: And after you read through the Constitution, do you want us to tweak those few things that we talked about, or do you want us to go and clarify as best we can? What's your opinions? We want you guys to go back and read the Constitution. We want you guys to let us know. Where do you think the major changes need to be made? Does it need to be completely rewritten?

Aaron: I appreciate you all coming out.

Tribal Attendee: I think that if the Native American Indians don't make their voice and presence heard in this country now, the funding that is received by the tribes right now from the United States Government is going to go to the illegals because they are making their presence and their voice heard. And you don't think the politicians aren't representing the illegal immigrants in this country? They are. We see it every day here in Houston, Texas. Who wants the funding to shift. The Native Americans need to have their voices heard, and they need to still have a

presence in this country, and all this intertribal fighting needs to stop, and they need to make sure that the government is hearing their requests and that funding is still available.

Tribal Committee Attendee: That's why we need to change our Constitution because we need to handle our tribe like a business now so that we can stay competitive for those grants. We have a grant committee that makes us a lot of money. Your Chairman wouldn't have an office to stand in, because those grants are indirect costs. Yes we have some gaming and the enterprises out there and they give back to the clinic. Without the gaming and smoke shop, your clinic wouldn't be able to be run. We don't just see Kaw there, we see other tribes also. We need to generate some money, we've got all these buildings, and we're getting ready to open a new Library. We need a lot of money to maintain these buildings.

Aaron: We have maintenance issues and what she kind of hit on was that the grants do make a huge difference to the tribe, and on this specific grant, about 65 percent of the total amount of money that goes to salaries in the grant, which is Sandy and I, that 65 percent of that number it goes back into the tribe to pay for human resources, and to pay for accounting inside the grant, so the grant is incredibly important to the tribe. The comment is right that all tribes have to be very careful as to what the Federal Government is doing because the amount of money that is issued in to not only our tribe but to every other tribe too.

Tribal Attendee: Unfortunately we're getting smaller.

Tribal Committee Attendee: No we're getting larger. We get 5 or 10 people each month added to our tribe.

Tribal Attendee: Will we be able to vote on the changes to the Constitution?

Aaron: Yes, in order for the new Constitution to go into effect we have to have an election. There will be an election and there will be additional information coming out as to our progress and etc. There's a good chance that we'll send out a survey. We continue to need your input. Obviously on the handouts is my name and phone number and the address and our website. Feel free to make contact with us and tell us about any ideas that you have, and keep us in tune as we move forward.

Tribal Attendee: KEDA, what is that and why is there no authority over the business. Who does that?

Tribal Committee Attendee: It stands for Kaw Enterprise Development Authority and the way that works they have a committee that is nominated by the Chairman and confirmed by the Executive Council. Those members run the enterprise businesses. They run the casino, the smoke shops, Tobacco Row, and Woodridge. They approve the budgets and make the decisions of the enterprises. But they do report to the Executive Council.

Aaron: They report to the Executive Council but once they are appointed onto the KEDA Board the council has limited control over what the KEDA Board can do.

Tribal Attendee: So we're saying the KEDA Board can spend a lot of money?

Aaron: The KEDA Board spends a lot of money. Then what happens is that every month KEDA writes a check to the tribe, which is somewhat of a tax.

Tribal Attendee: That's very interesting.

Tribal Committee Attendee: And that money is put into the clinic, social services, glasses, dental care, education, and money to run the tribe. Anything you want to know about KEDA, you can email my mom Wanda Stone.

Aaron: We will close the meeting, and if you have any questions, please feel free to contact me.