



## Update from the Constitution Reform Committee

December 28, 2009

The Constitution Reform Committee has held several Public Hearings in November and December for Kaw tribal members. The purpose of these meetings was to inform tribal members regarding the progress that the committee has made, and more importantly to hear from the tribal members on how the constitution could be improved for future generations.

A transcript of those hearings is available on the web at [www.kawcrp.com](http://www.kawcrp.com). An overview of the hearings and post-hearing discussions of the committee on a related number of topics are listed below.

### EXECUTIVE OFFICERS

The first major part of each hearing dealt with the issue of the Executive Officers of the tribe. The current Kaw Constitution provides that there shall be an elected Chairman, Vice-Chairman and Secretary. It also requires a Treasurer who is selected by the Executive Council. The current constitution provides that this person shall serve at the pleasure of the Executive Council, shall be bonded, and shall provide reports to the Executive and General Council. Concerns were raised that the Treasurer is not closely monitored by the Executive Council and this person is not required to be a tribal member. Some members of the committee believe one specific member of the council should be assigned the duties of monitoring the actions of the Treasurer. A key point from the Kansas City area Public Hearing was there are currently no educational requirements for the Treasurer.

A question was asked about the hiring of a professional to run the day-to-day operations of the tribe. This person would be responsible for most of the duties currently held by the Chairman as part of his or her CEO job duties. It was explained that the committee has discussed these possibilities and is currently working under the idea that the new constitution would maintain the Chairman as the CEO, but additional checks would be provided by the other branches of government. It is also likely his or her job description would be better defined. One tribal member suggested we should add some sort of educational requirements for the Chairman position in the Kaw Constitution. Others just believe we need additional openness as to the actions of the tribe and this will lead to better oversight by the tribal members themselves.

### PAY FOR ELECTED OFFICERS

Another major topic of discussion dealt with the issue of pay for elected officials of the tribe. Part of the discussion was brought about due to a recent resolution brought before the General Council. This resolution would have equalized the pay for members of the Executive Council at \$20 an hour (some of their hours are paid at \$10 an hour, while others are paid at \$20). This topic has two major

parts. How do we set the pay for the Chairman who is a full time employee of the tribe? Then we have the question of how do we set the pay for members of the Executive Council who work for KEDA (Kaw Enterprise Development Authority)? With regard to the Chairman's pay, there have been three areas of discussion. The first option would be to pay them based upon their qualifications. The second option would be to pay them based upon the decision of the Executive and General Council. The third option would be to start them at a base rate, and offer them incentives based upon successful completion of tasks. Members of the Executive Council who work for one of KEDA's<sup>1</sup> businesses have the option of taking their regular pay while at a Council Meeting, or to accept the pay (\$20 a hour) assuming they were not employed by the tribe. Members of the committee and tribal members as a whole have expressed dissatisfaction in the chaos this has created. The committee has and will continue to discuss providing clarification on this issue in the Kaw Constitution.

### BLOOD QUANTUM

The issue of blood degree as it relates to serving as an elected official for the tribe continues to be a hot topic. The concern is the tribe will soon run out of people who can serve on the Executive Council if the blood degree is not lowered. The committee and people at the public hearings have provided the following solutions to the problem. One suggestion is to eliminate the blood degree requirement completely. A second suggestion is to lower it to a set blood degree. The third was to develop a scale where it would lower automatically to the point where we achieve a specific number of people to meet the requirements to serve on the council. The fourth was a discussion where we tie specific blood degrees to specific seats on the Executive Council. (For example, two seats would be dedicated to people of a quarter blood, two other seats would be for the eighth bloods, etc.) The committee continues to seek additional comments from tribal members as we consider these options.

### KAW GOVERNMENT

The potential changes to the structure of the Kaw Government could make it look more like the government of the United States. Under this system the Chairman and the Vice-Chairman would be completely separated from the Executive Council (Legislature), and the Executive Council would then be made up of at least 7 people. The Executive Council would then be required to select their own leader, which we would probably call the Speaker. This person would run the Executive Council. The interaction between the Executive Council and the Chair and Vice-Chair has not been worked out. If we decide to use this method of government, one of the things we may do is abolish the elected Secretary (of the Executive Council) position. However, we still have to decide who is going to be responsible for the duties of the Secretary.

### ELDER'S COUNCIL

It was suggested that an Elder's Council could be created. The council would work to resolve disputes that occur within the tribe and possibly work with any misguided youth. The makeup of the council and how these people would be selected are topics that have yet to be fully discussed by the committee.

### ATTORNEY GENERAL POSITION

The creation of an Attorney General has also been a topic at the committee meetings and public hearings. One concern heard at a General Council meeting relates to who legally represents the people. They believe the tribal attorney is more loyal to the elected officials than to the tribal members. The

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<sup>1</sup> KEDA runs the tribe's businesses, but the members of the Executive Council exercise no authority over the businesses.

Attorney General would represent the Nation in all criminal prosecutions in the courts of the Nation, and in all civil actions wherein the Kaw Nation is named as a party, provide the official opinion as to the constitutionality of laws at the request of the Chairman, Legislature or General Council and shall have such other duties as may be prescribed by law.

#### EXECUTIVE COUNCIL POLICIES AND PROCEDURES

The Constitution Committee believes the Executive Council needs policies and procedures. Currently, the Kaw Constitution of 1990 allows for them to create their own rules. The Committee believes the policies of the Executive Council needs to be known and published for the approval of the General Council. The Constitution Reform Committee is discussing either writing these policies and procedures for the Executive Council or writing it into the constitution that this be completed within 180 days after the adoption of the new constitution.

#### DISTRICTS

The Constitution Committee has begun looking at reforming the Executive Council and creating a district system. This topic came from a tribal member at the Public Hearing held at the Kaw Pow Wow. The committee has looked at several other tribes who have changed to the district system. Some members of the committee believe this would allow for the Executive Council Members to be more accountable to the citizens of the Nation. The committee is still working on the details as to how to create districts and if a district should elect a specific member of the council are still under discussion.

#### POWERS OF THE GENERAL COUNCIL

The Constitution Committee has heard from several tribal members about the confusion when it comes to the powers held by the General Council. Tribal members currently have limited powers and these powers are to approve the actions of the Executive Council. Some members believe we should increase the powers of the General Council, while others believe a Freedom of Information Act will provide the openness needed to allow for tribal members to go to the elected officials.

#### CONCLUSION

The Constitution Reform Committee is working hard to complete the task of reforming the Constitution. While there have been lots of discussions in regards to changes, the committee is mindful that many of these changes may lead to additional costs. As the committee progresses, they will continue to monitor the financial aspects of the reform. They are very thankful that the Kaw Nation was provided a grant from the United States Department of Health and Human Services, Administration for Native Americans to not only conduct these tasks but also to provide the tribal members with reports as to our progress.

The Committee invites all tribal members to provide input and to become informed as to our progress. Additional information can be found at [www.kawcrp.com](http://www.kawcrp.com). If you have questions or comments, please contact Aaron Carlson at 866-404-5297 or [acarlson@kawnation.com](mailto:acarlson@kawnation.com).