

Hospital takeover concerns mount

By TEDDY SNELL - TAHLEQUAH DAILY PRESS

Following an announcement last week that the Cherokee Nation will assume operations of Hastings Indian Medical Center Oct. 1, some tribal officials were surprised the decision was made without a vote of the full council.

The Daily Press obtained a copy of an e-mail Dr. Brad Cobb, District 8 councilor and chairman of the health committee, sent to fellow councilors to voice his concerns.

"As chair of the health committee, this press release has personally put me in a difficult position," wrote Cobb. "And has, at the same time, de-edified the tribal council as a whole."

Speaker of the Council Meredith Frailey indicated Cobb is not the only person concerned about the situation.

"There have been many inquiries about the Cherokee Nation assuming operations of W.W. Hastings Indian Hospital," wrote Frailey in a e-mail to the Daily Press. "And, rightly so, because it is a major, challenging endeavor. Many constituents have inquired whether the level of care at WWHIH will be improved under CN management."

Frailey said several Indian Health Service employees are concerned about their jobs and benefits retention, and some council members expressed concern that the recent news release announcing the takeover gives the appearance of indifference to council opinion.

Cobb explained in his e-mail that he believes tribal councilors are elected by constituents to represent the people, and in announcing the takeover to the media and all employees, the administration effectively disenfranchised the citizenry.

"It is my belief that the Cherokee Nation and W.W. Hastings Indian Medical Center are merely in a negotiation phase," wrote Cobb. "To assume anything more would be conjecture."

Cobb asserted the Hastings matter should be put to a vote of the tribe's health committee, the executive and finance committee, and finally the full council, before any move is made to take over the hospital.

"Until that time, it [the takeover plan] is nothing more than a plan on a blackboard."

In a Daily Press report published in January this year, Cobb, during a health committee meeting, "stressed the importance of properly addressing the tribe's intentions [to take over HIMC], and that the council will be responsible for making any final decision."

Frailey pointed out to proceed to the second phase of negotiations with IHS, an "expression of intent" is required.

"It is my understanding a letter of intent has been provided to IHS by the administration to continue the analysis and planning phase of negotiations," wrote Frailey. "Therefore, it is premature to make a decision on whether to assume operations at the hospital. The planning process and analysis have not been completed. The concerns of citizens and employees certainly are being considered during the process."

District 9 Councilor Chuck Hoskin Jr. responded to Cobb's e-mail, offering support and indicating he, too, believes the matter should be approved by the council and its committees.

"Anyone who has read the press release or subsequent news articles comes away thinking it's a done deal," said Hoskin. "I support Dr. Cobb in his response and back him up 100 percent. This decision would appear to be a public display of indifference to us [tribal council]."

Hoskin indicated he had not yet been contacted by concerned constituents, but that the struggle seems to be internal.

"In hearing about the takeover, most constituents would probably assume we've been involved," he said. "I think the biggest problem is our not being a part of that process."

According to two resolutions passed by the tribal council, 11-93 and 15-06, the principal chief has the authority to "negotiate and execute each associated funding agree-

ment to operate programs, services, functions and activities of the Indian Health Service as authorized by the compact."

The first resolution, 11-93, was passed with full support of the council in February 1993, during Chief Wilma Mankiller's tenure. The second, 15-06, reaffirmed the original resolution and was passed in March 2006, also with full support and endorsement of the council under Chief Chad Smith's administration.

Hoskin agreed there may be legislation in place providing the chief with authority to enter into such agreements.

"I'm going back to my office to review the information," he said. "It may be that we need to amend that legislation to require the chief, to at the very least, ask the council for ratification when he enters into such an agreement. It surprises me a previous council would have given up this power."

While the chief may legally be permitted to enter into such agreements, Hoskin pointed out it is up to the council to make budget allocations.

"The one thing the council has is the power of the purse," he said. "They can approve a takeover, and we can agree to not allocate one thin dime to its pursuit. It's really the only leverage we have."

Frailey stipulated that indeed, the tribal council "has authority from a financial oversight capacity in approving the budget covering the assumption of the [hospital] operations."

"The decision to approve a budget for that purpose will involve careful consideration and deliberation by tribal council members," wrote Frailey. "Specifically, the tribal council has authority as a legislative body and as a representative of the Cherokee people to be involved in the planning and analysis of assuming operations at WWHIH. During a recent CN Health Committee meeting, a request was made and approved to involve the tribal council in an advisory capacity to serve on the negotiation team when those conversations begin with IHS."

In addition to Frailey, members include Jack Baker, Brad Cobb, and Bill John Baker.

"The purpose of the request was to keep the tribal council informed as planning proceeds and to provide requested input, if necessary, in the negotiations," Frailey wrote.

She also indicated she plans to consider three options in her final analysis of whether the Cherokee Nation should assume operations of HIMC. Her questions include:

- Should the operations of HIMC continue under IHS?
- Should operations be privatized?
- Should Cherokee Nation assume the operations?

"As a sovereign nation, every decision our leaders make should be made to not only protect, but also to honor our inherent sovereign rights," wrote Frailey. "It is indeed an honor for the Cherokee Nation to be recognized as a sovereign and to be able to negotiate on a government-to-government basis with the U.S. Indian Health Service.

"In a health care delivery system, to accomplish the above sovereign goals, we should be promoting healthy Indian people and assuring we are providing services that increase the status of their health. Therefore, in my analysis covering the three options listed above, I will need to determine who can best meet the needs of not only the Cherokee people, but all Indian people served through the [hospital]."

She also wants to know who has the ability to elevate the health status of Indian people to the highest level possible.

"When the [tribe's] administration presents the final plan as to whether we should assume operations of WWHIH to the council for approval, if they can resolve those concerns in my mind, then I will make a decision," Frailey said. "The most important consideration is whether Indian people will be served at the highest level they desire."

Cherokees to re-open landfill operation near Stilwell

By Donna Hales
Phoenix Staff Writer

Cherokee Nation Businesses plans to re-open the tribal landfill near Stilwell with construction of a \$15 million additional waste disposal cell. CNB officials announced in a media release.

CNB is owned by the Cherokee Nation. It receives \$70 million annually under the Jobs Growth Act for job creation and growth, said Councilor Bill John Baker.

CNB Chief Executive Officer Brad Carson said Wednesday re-opening the facility will help local communities in Adair, Cherokee and Delaware counties that were customers until the landfill shut down last fall when it became full.

The Cherokee Nation Environmental Protection Commission approved letting CNB build the new cell and re-open the site.

It is estimated the new cell could last 20 years. CNB committed to develop the landfill based on a plan in place for years that was not fully developed by the previous landfill operator.

"Cherokee Nation has the responsibility to take care of the landfill, and CNB is fulfilling that commitment," Mark Green, chairman of the Cherokee Nation EPC, is quoted in the CNB release.

Carson said the Cherokee Nation EPC put strong environmental compliance restrictions in place as part of the permitting process with CNB, the statement reads.

Carson could not be reached for further comment.

But community activist and Cherokee Nation tribal member Jack Crittenden submitted a copy of his argument to Cherokee Nation EPC against the issuance of its permit modification.

The permit application was never approved by Cherokee Nation EPC and had 68 omissions or incomplete pieces of information, according to engineering firm Aquaterra in a review of the application, Crittenden argued.

Daniel B. Stephens & Associates Inc., another engineering firm, agreed in

March 2006 that the application at that time was not satisfactory for approval.

"If it's determined by two engineering firms that the permit application is not satisfactory for approval how can it be modified until it is approved?" Crittenden asked the permitting group.

The landfill has been operating under a conditional interim permit authorized by Cherokee Nation EPC on July 7, 2005.

While the interim permit has been in force, the landfill was fined \$1.65 million for various violations and ignored that fine and many other notices of violations, never submitting a complete permit application or master plan, Crittenden said.

Crittenden said the nation had not been willing to undergo an independent study by an agency that had no prior affiliation or contracts with Cherokee Nation. But Carson recently promised Adair County District 2 Cherokee Nation Councilors Joe Crittenden and Jodie Fishinghawk it will undergo an independent study, Fishinghawk said. Ed Fite, a commissioner on the Cherokee Nation EPC, said he put a lot of stock in Carson and CNB to get the job done and get it done right. "I think they are the best game in town right now," he said in the CNB release. Baker and Fishinghawk said the tribe took about a \$4.8 million loss on the landfill in 2007. But now, "we're damned if we do and damned if we don't," he said. To close the landfill completely and restore the land to Environmental Protection Agency standards would cost millions of dollars, Baker and Fishinghawk said. Since the last landfill operator contract with the city of Fayetteville, Ark. The Cherokee Nation signed a multi-year contract with Fayetteville rather than the corporation to which the administration contracted to operate the landfill. Cherokee Nation decided to honor the contract. The tribe has to pay more than it receives for that contract to take garbage sent to Fayetteville from several sites in Arkansas to an Arkansas landfill, Fishinghawk said. "Maybe we'll break even on the deal," Baker said. The council did not vote on opening a new cell. The landfill is under the control of CNB. >>

Political cost of Cherokee stance on freedmen continues to mount

by: Jerry Reynolds / Indian Country Today

WASHINGTON - Thirty-five members of the Congressional Black Caucus have informed Senate Majority Leader Harry Reid, D-Nev., that they will actively oppose reauthorization of the Native American Housing and Self-Determination Assistance Act unless it cuts off funding to the Cherokee Nation of Oklahoma, pending the nation's recognition of Cherokee freedmen and their descendants as tribal citizens.

The freedmen are descendants of slaves and free blacks who lived among the Cherokee before, during and after the Civil War. The Cherokee, a slave-owning tribe from its origins in the Southeast, sided with the Confederacy at the outset of the Civil War, later switching its allegiance to the Union. An 1866 treaty renewed federal relations with the Cherokee and conferred all rights of native Cherokees on the freedmen and their descendants. U.S. District Court Judge Henry H. Kennedy has found that the Cherokee soon began to marginalize the freedmen; and in 2003, not for the first time, the tribe tried to expel them through changes to its constitution.

The ultimate disposition of the case is still in doubt. But increasingly, Congress is not.

The NAHASDA bill, H.R. 2786 in the House of Representatives, has passed in that chamber, and a Senate counterpart, S. 2062, is on the legislative calendar. Rep. Barney Frank, D-Mass., chairman of the Financial Services Committee in the House, maintains that it will not become law without the provision against Cherokee funding. Rep.

Melvin Watt, D-N.C., and a member of Financial Services, has called for a reality check on the Cherokee, after initially holding out hope of a rapprochement.

A hard-fought bill to reauthorize the Indian Health Care Improvement Act, the top priority of the National Congress of American Indians in the current 110th Congress, has passed the full Senate (as S. 1200) and the House Natural Resources Committee (as H.R. 1328). But Rep. G.K. Butterfield, D-N.C., and others in the House have signaled intentions to amend the bill in the Energy and Commerce Committee, with a similar provision forbidding Cherokee funding over the freedmen. Both Energy and Commerce and Ways and Means, the third House committee with jurisdiction over the bill, have until June 6 to consider H.R. 1328.

Rep. Maxine Waters, D-Calif., continues to push a bill that would sever federal relations with the Cherokee and revoke their casino charter until the freedmen are restored to full citizenship. Her bill, H.R. 2824 in the House, has 24 co-sponsors and she hopes to hold public hearings on it yet this year.

In a mid-April letter to tribal leaders, National American Indian Housing Council Chairman Marty Shuravloff wrote, "The NAIHC is very concerned that the Freedmen matter might upend not only the pending NAHASDA reauthorization but the passage of all Indian tribal legislation in this and possibly future congresses. This would be an unfortunate outcome for the hundreds of thousands of American Indian and Alaska Native low income families that would be unwitting victims in a controversy involving one Indian tribe."

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Tribe's casino profits increase

vices, health and education received the most, with almost \$9 million spent for health and more than \$5 million allotted to education services.

Cherokee Nation Enterprises also increased its work force from the previous year by 380 employees, according to the data, which members of the tribe received last week.

The numbers reflect a continuing upward trend in profits and workers. In 1999, casino profits were less than \$5 million, and the CNE work force has grown from 86 employees in 1992 to 3,180 in 2007.

Principal Chief Chad Smith credits the increase in profits and resulting rise in funds available for services, to the tribe's practice of setting a portion of the profits aside to reinvest in tribal business operations.

Using those profits to expand operations and create more jobs allows Cherokee citizens to find good jobs that offer benefits packages, thereby reducing the burden on tribal money set aside for social services, he said.

In this regard, Smith said, providing a job is providing an essential service to Cherokee citizens.

"We can help eight people find a job and become employed for the same amount as providing services for one," Smith said. "We believe the greatest service we can do for a Cherokee and his family is help him get a meaningful job. It helps people develop their own self-worth; being able to support their family goes a long way. It's our general experience that Cherokees want to work."

The profits will help pay for expansion projects at casinos in West Siloam Springs and Catoosa.

The Cherokee Casino West Siloam Springs is undergoing a \$108 million expansion, expected to be completed later this year, said Mike Miller, communications officer for the tribe. The work force of 500 there will be nearly doubled.

The Cherokee Casino Resort in Catoosa will receive about \$125 mil-

lion for expansion, to be completed early next year, with 450 new jobs being added to the work force of 1,700, Miller said.

The money from tribal gaming operations stays in the state, Smith said, from an employee's paycheck to contracting companies working on casino expansions to money paid to the state as part of the tribe's gaming compact.

"There's no outside corporation, no invested shareholders," he said. "The company is pretty much 100 people."

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Expansion projects planned for Cherokee Nation casinos

- Expansion projects planned for Cherokee Nation casinos Catoosa
- * 20-story hotel tower with 350 rooms
- * Resort spa
- * 1,800-seat entertainment and convention venue
- * 750 new electronic games
- * Toby Keith's I Love This Bar & Grill restaurant
- * Expansions to Wild Potato Buffet and McGill's restaurants
- * Upscale nightclub
- * Additional meeting space

Total expansion: 337,000 square feet
Total expansion cost: \$125 million
New employees: 450
Completion: 2009

- West Siloam Springs
- * Eight-story hotel tower with 140 rooms
- * Meeting and banquet space
- * More than 1,600 electronic games
- * 30 poker tables and table games
- * A fine-dining restaurant
- * Las Vegas-style buffet
- * Brand-name eateries
- * Expansion of Twister's and stage

Total expansion: 312,000 square feet with 200,000 square feet of gaming space
Total cost: \$108 million
New employees: 450
Completion: Late 2008

CHIEF Chad Smith: He says profits will go toward casino expansion, tribal benefits and jobs.

The Cherokee Nation: A CASE OF FREEDMEN

It had been pointed out at that time that Freedmen who might enroll that they could be a powerful "voting block" in the Cherokee Nation.

When Ross O. Swimmer dismissed the Freedmen from the citizenship rolls of the Cherokee Nation in 1983, illegally stripping them of their civil rights in the Nation, not a single Freedmen was consulted, even though a large number of Freedmen were enrolled citizens of the Cherokee Nation and had actually voted in the 1970 and 1975 elections.

Wilma Mankiller followed up to cement the ousting of Cherokee Freedmen when she and her council adopted legislation defining Cherokee Citizenship on having a Certificate of Degree in Indian Blood, thus legislatively booting the Freedmen from the tribe. - Angela Walton-Raji

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Cherokees comply with tobacco taxes

ting the message.

"It shows that the licensees have gotten the letter, understand what the letter means and are acting accordingly," he said. "That's also what we've found in our inspections."

The World's investigation, however, found that a Cherokee-affiliated store at 1418 N. Sheridan Road continues to sell low-tax cigarettes in violation of the compact.

The 6-cent tax stamps used by the smoke shop, First American Tobacco Co., give it a \$3 to \$4 advantage per carton over nontribal stores, which must purchase cigarettes with a \$1.03 stamp.

The smoke shop's manager, Scott Gable, would not comment Friday on why it was selling low-tax cigarettes.

Miller said Cherokee tax officials were inspecting the inventory at the more than 50 tribal shops and that they would likely complete the job in three to four weeks.

So far, he said, the tax officials had not found any violators. First American Tobacco had not been inspected as of last week, he said.

Oklahoma's new cigarette tax, which took effect in 2005, aims to curb smoking habits and raise money for health initiatives.

After years of disagreement with the state over the new tobacco compact, the Cherokees suffered a damaging blow by an arbitration ruling that says the tribe violated the compact and should be held accountable for damages to the state. The arbitration ruling was released in March.

The ruling may slow the sale of low-tax cigarettes by Cherokee stores; however, smoke shops licensed by the Creek Nation continue to sell cigarettes with 6-cent stamps throughout the Tulsa area.

The World bought cigarettes at 14 Creek-affiliated stores. All were using the low-tax stamps.

A previous World investigation showed that the cigarettes were supplied by Cherokee and Osage stores along the Oklahoma border. Those smoke shops have sold hundreds of thousands of cartons of low-tax cigarettes into the Tulsa area.

Six Cherokee smoke shops can purchase an increased number of 6-cent stamps under a restraining order granted by a Mayes County judge in January 2006.

Miller said the Cherokee Nation was monitoring the stores to ensure that they are not selling low-tax cigarettes into the Tulsa market.

"We're not allowing the shops in the court case to transfer cigarettes to other tax zones," he said. "They are probably not going to buy as many because they can't resell them outside the (low-tax) zone."

Miller said tribal tax agents are also requiring stores in low-tax zones to account for the cigarettes they sell so the tribe can learn whether a store is engaging in retail-to-retail sales.

The Oklahoma Tax Commission has asked Mayes County Judge James Goodpaster to remove the restraining order, records show.

If the Tax Commission's motion is granted Tuesday, it would be authorized to limit the number of low-tax cigarettes the six smoke shops can purchase.

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