

Response to Chief's Smith eMail sent to all Employees on Jun 26 17:29:35 2006

I thought I'd respond to some of the drivel in this message, just so that it is more accurate in its portrayal of the situation.

Chad said: You may have read in the newspaper this weekend an article about a lawsuit filed by seven CN council representatives against me.

David says: **This statement is pretty typical of Chad. Its all about him. You'll notice he doesn't even mention the other two men. I guess he's already hanging them out to dry by distancing himself from them altogether.**

Chad said: The lawsuit, as well as the corresponding rhetoric, is simply politics. It is getting to be that time. Election time.

David says: **Chad has been campaigning for the next election since he got into office. Its been election time (can't touch this, LOL) since 2003. Politicians will always blame their shortcomings on politics. I'm reminded of the difference between a politician and a statesman (wasn't it Chad who made that distinction?). A statesman would have addressed the allegations, declared his innocence and offered to work with the seven Councilors to get to the bottom of the problem. But like his predecessors, Byrd and Mankiller, Chad takes the low road and calls it politics.**

Chad said: The Council's attorney refused to file the suit on behalf of the dissident Council members because they do not have the authority to do so.

David says: **The Council's attorney was unable to file the lawsuit because a suit filed in the name of the whole council must have at least a majority signed on. We all know that Chad controls his slate of councilors and there is no way they would have signed onto a lawsuit to expose corruption against the man who pulls their strings. Most certainly, the Councilors did not have the authority to file a lawsuit in the name of the whole council. And they did not do that. They have filed their suit in the name of their own capacity as councilors and stewards of the Cherokee people's assets. Fortunately for the Cherokee people, they don't have to depend upon the slate councilors to do what is right.**

Chad said: This group of dissident Council members held an illegal meeting without notifying other council members. This is in violation of the open meetings act. They claim to be acting as a Council. They are not. The Council has fifteen members.

David says: **The seven council members are not dissidents. They are patriots with the best interest of the Cherokee people at heart. They have taken a risk to their own safety by going. Smith uses the word dissident to try and discredit the councilors because he knows that that word has a negative connotation. However, its true meaning, according to Webster's Dictionary is:**

Main Entry: dis-si-dent
Function: adjective
Etymology: Latin dissident-, dissidents, present participle of dissidEre to sit apart, disagree, from dis- + sedEre to sit -- more at SIT
: disagreeing especially with an established religious or political system, organization, or belief
- dissident noun

These patriotic and loyal councilors do disagree with the political system set up by Chad Smith. He governs with fear, cronyism, and corruption. Perhaps he is right, they are dissidents, but what pride they should take in their disagreement with the political system Smith has established.

Chad said: Relevant to the other misinformation, the GEG stock is trading at about the same level that it was when the stock was purchased.

David says: **I don't know a whole lot about securities, but it seems to me if stock was worthless when it was purchased, and its trading at about the same level now, then its still worthless. Chad is simply trying to play on the fact that most people don't know about securities. He can't try this issue in the Complex. He has played with the big boys and that's where this is going to be decided.**

Chad said: If a faction of the Council believes that there was any wrong doing on the part of CNI officials, there are appropriate actions that can be taken to investigate.

David says: **I believe part of the problem that precipitated the lawsuit is the fact that the Councilors who sit on the Board and the rest of the Board, were NOT given information about the purchase. You can't investigate something you don't know about.**

Chad said: Clearly, the purpose of the law suit is not to try to straighten out any perceived problems. The purpose is to grab headlines. It will not surprise you to find out that the law suit was sent to the newspapers before it was served on me.

David says: **Filing a federal lawsuit is a serious matter. It is costly and time consuming. It is an endeavor not to be undertaken lightly. Chad tries to make a point that the lawsuit was designed to "grab headlines" by sending the suit to the media "before he was served." The fact is, the reporters for all three of the large newspaper have reporters who check the federal court filings daily. I have worked for the**

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Cherokee People Want To Know "Where is all the Money Going?"

boundaries of the tribe. The most legitimate reason for the federal government to inject taxpayer money into the tribe is the argument that Cherokee Nation will provide better services to Cherokee people than either the state or federal system can or will.

There are literally thousands of stipulations to how dollars can be spent inside hundreds of programs. Certain amounts can be used to pay salaries, certain amounts can be attributed to overhead, etc. the remainder going to actual services intended to reach the people.

Of the total the injection by fuel tax dollars amounted to around \$8 million each year. This money is earmarked to be used only for health care, education, law enforcement or roads within the 14 county jurisdiction. Motor Vehicle Tax revenues account for another \$6-\$7 million per year and are also intended to be expended on health care and roads within the 14 counties. Another significant source of funds somewhat specific are the Self Governance compacts.

The Cherokee Nation has made agreements with the Federal Government to essentially combine several program contracts into what are called "compacts." The Federal government funds them in a lump sum each year. The Indian Health Service (IHS) as well as the Department of the Interior (DOI) each fund compacts. The IHS compact is approximately \$35 million annually and the DOI (including the road funds) will contribute another \$35 million.

A very small portion of these compacts are considered "earmarked." Earmarked funds are required to be expended for the purposes determined by the funding source, not the tribe. All other funds are essentially at the tribe's discretion so long as they go toward the same general purpose the original contracts were intended, for example using IHS funds for healthcare.

The most discretionary of all funds are what is called Tribal General Funds and can be appropriated and used for most anything within the tribe. This type of revenue is accumulated by certain government functions such as taxes, lease income and dividend income from the casinos, which is the largest.

Cherokee Nation Enterprises, (CNE), the wholly owned tribal corporation operating the casinos, reported a gross profit of almost \$290,000,000 on 2005 financials after all winner payouts. The corporation financials itemized \$200,000,000 in operating expenses to leave approximately \$90,000,000 in net profit before depreciation. Only \$18,000,000 of the revenues from gaming was paid as a dividend to the tribe to use for services.

Cherokee Nation Industries, another wholly owned corporation, reported a net income before audit of approximately \$1 million for its recent year ended FY2006. However, audit adjustments due to required write-off's of investment losses from GEG and other surrounding ventures will amount to a staggering loss of approximately \$6 million. The Council will undoubtedly be forced to authorize financing for CNI secured by tribal assets to avoid bankruptcy.

The total operations of the tribe including corporations tallied in at almost three quarters of a billion dollars last year. Yet an untold number of tribal members attempted to access assistance

from tribal programs to find a shortage in program dollars hearing "There is no money."

So where is all of the money going?

Out of the \$348 million in the FY2007 annual budget, over \$102 million, (one-third) is spent on salaries and benefits for the employees. Another \$73 million is expended on employee travel and operational costs. A different type of expenditure the administration is consistently increasing in the budget is services that are contracted out to external companies. Professional services totaling \$94 million including lawyers, construction contractors and consultants is budgeted into the next fiscal year numbers. Another \$45 million is planned for capital outlays for long-term fixed assets such as buildings and equipment. This leaves \$32 million of transfers into other departments. Although these transfers must be recognized under our accounting system as budget items that requires budget authority and included within the annual fiscal budget, they are not actually additional money.

Some significant changes over the past few years worth noting are as follows: Since 1999 the employment base has increased from approximately 1800 to 2200 or 22%. The average salaries have changed from around \$28,000 to approximately \$35,000 per year, a 25% increase.

Overhead has grown disproportionately under the Smith administration. The overhead rate for Cherokee Nation called "indirect costs" went from 12% in 1999 when Smith took office up to as high as 20.5% in 2004 and is presently at 18%. This represents a 50% increase in overhead rate, or indirect costs, (IDC). IDC are the support costs related to getting program dollars out to the people.

From these figures it is clear that one thing we have accomplished over the past seven years is to building a larger and top heavy bureaucracy, which is consuming service money at an alarming rate.

However, jobs are not services. A certain number of employees are necessary to administer and provide services. Yet an excess of high paid employment beyond a sufficient amount to dispense services, quickly drains the bank.

Some of the items within the \$200 million declared as expenses by CNE also warrant discussion. All buildings are being paid in full upon completion rather than spreading the cost over a reasonable life expectancy period. Retiring the cost over a schedule of time would allow a tremendous amount of money to flow through into services for the people. Any prudent businessman would amortize the cost of such sizable long-term investments over time and depreciate them out so that cash flow remains adequate to pay dividends to the stockholders.

Yet a decision by CNE Officials to pay in full investments such as buildings rather than finance them over a reasonable period expends millions for assets that will last decades while making Cherokee citizens wait in line for services that could provide a better quality of life.

Over the past 7 years a series of CNE expansion projects have expended over \$150 million. Project reports show a questionable pattern on numerous contracts where corporate officials selected companies submitting significantly higher bids than other companies offering the work at lower prices. One example is the sign in front of the Catoosa Casino. Several companies responded to the solicitation including two local companies who bid

approximately \$4 million. Yet officials selected a company from Las Vegas with a higher bid of \$4.5 million costing the Cherokee people and extra \$500,000.

The Catoosa Casino/Hotel was estimated to be built for \$36 million but exceeded \$80 million dollars when finished. Flintco, the general contractor of the project, strangely has been awarded most of the major Cherokee Nation construction contracts in the past seven years. Change orders alone exceeded \$10 million on the construction project.

Numerous questions surrounding decisions on significant dollar amounts are currently being scrutinized. Sources report that the original furniture ordered for the Catoosa project was burned in a warehouse fire, yet officials from the furniture company will not confirm a fire ever occurred. CNE officials placed a second order to procure furniture through a different company. Documentation has yet to be produced by CNE for an evaluation of any variance in price. An Oklahoma vender that proposed a much lower bid than selected was the Oklahoma Correctional Department. The local vender had also included assembly of the furniture and a two year warranty on their products at no additional charge and significant savings.

Other construction projects have consumed tremendous pools of Cherokee revenue over the past five years. In 1998, \$4 million was appropriated by Council to build the gymnasium at Sequoyah High School yet the finished project has cost the Cherokee people over \$8 million. Officials at the Keys High School just three miles south of Sequoyah report that their gymnasium which seats approximately the same number and was built during the same period cost around \$1.2 million.

The softball diamond just west of the Sequoyah gym was proposed for \$36,000 of improvements last winter. That project is still unfinished at a cost of \$500,000.

Decisions made and prices paid by CNE officials on certain real estate purchases are another area surely to raise eyebrows in amazement. CNE recently paid \$900,000 for a small hole in the wall restaurant owned by the same individual for over 25 years. The property just next to the new casino in Sallisaw is being used as a parking lot for semi trucks. Another apparent gold mine recently purchased for \$2 million, was two bare acres of land across the highway from the Siloam Springs Casino. CNE bought a run down motel next to the Catoosa Casino. I understand that we paid nearly double the price the new owner had just acquired it for only months before. CNE then expended several hundred thousand more into remodeling the property.

Nevertheless, buildings and jobs are NOT services. These decisions are but a few examples that help to explain where all the money is going. Huge amounts of the Cherokee peoples' money are being spent by decisions made within the upper hierarchy of management without any Council oversight.

If the primary function for the tribal government to exist is to provide services to the Cherokee people, the philosophy of the corporations must parallel the tribe's fundamental reason for existence or the corporate structure becomes a monster building an empire of high paid jobs rather than providing money for services to the people.

This past April Council learned, long after the bid had been submitted, that Cherokee Nation Businesses, (CNB), which is a new corporation created under the

Smith administration to invest in venture businesses, had pledged \$24 million to buy the Muskogee Phoenix. Financial experts' estimated it would have taken the tribe 15 years to pay for the investment, if everything went well. In 2002 CNB promoted another investment of \$4 million into a company named Cherokee Connex, a wireless Internet company. That investment is currently teetering on insolvency and expected to crumble in a scenario similar to GEG in the coming months.

CNB has no current means for self-sufficiency and the tribe is presently expending \$100,000 a month into corporate salaries and overhead with no hope seen for repayment anywhere in the near future. Salaries of the officials within the new CNB Corporation are astronomical.

With the phenomenal influx of dollars into the tribe, it is critical that Council builds our Legislative Branch into a body that can perform the specific constitutional duties delegated to them (i.e. responsibilities of oversight, legislation and appropriations). Otherwise we should expect that incompetence and corruption will become rampant and magnitudes of money beyond anyone's belief will be wasted and pilfered, while growing sectors of Cherokee people in the middle of America continue suffering in ignorance and dying in poverty.

Is there any wonder why it is almost impossible to find out, "Where is all the money going?"



Constitution discussed at Rocky Ford

From: Marvin James Summerfield summerfield@datalinkok.com
Date: Sunday, August 27, 2006 07:54 AM

Ed.Note: This article was found in the Cherokee Nation News dated 1973. Notice the third paragraph regarding the two houses in the tribal new government. What happened to those two houses in the 75 constitution? Also the fourth paragraph states that the original 1838 constitution be read and compared with the new draft during the next meeting. There must have been a few reservations concerning the final draft.

by Mildred Mellowbug

The Rocky Ford Community meeting May 14 [1973], opened with a prayer by Bill Yellowbird.

Johnson O'Field was the first speaker concerning the revised draft on the Constitution and By-Laws for the Cherokee Nation, to explain the draft and discuss the guide lines to follow, in the revision of the by-laws and Constitution.

Chairman of the Elected Community Representatives of the Cherokee Nation also spoke to the group explaining that when the new Constitution is approved it will be in use. The final draft, for the people to examine, came out March 27, 1973. [Sam]Hider spoke of the preamble, he explained, Federal regulations, Bill of Rights, suffrage, which was the main issue, distribution of power and legislation which will consist of two houses (upper and lower house). This is what was discussed and explained and it is now to be studied thoroughly before a vote is taken on the change of rules.

There will be another meeting June 11 at which the discussion will be continued. The community asked that the original constitution be read and compared with the new draft. 30 adults were present at the meeting.

The rabies clinic, May 10 [1973] was a busy place. 48 dogs and three cats were vaccinated by Mike Sacaman and Bobby Leach.

Closing prayer was given by Iraac Grass.

