

MOTION #2 - Phil Rilatos Jr. moved to approve the General Council minutes from November 5, 1994. Seconded by Selene Rilatos. Motion carried.

TRIBAL COUNCIL CONCERNS:

ED BEN

I come before you, the General Council, to voice some serious concerns. The opinions I share with you are those of an individual tribal elder. I ask only that you pay close attention and respect to the message, regardless of whether or not you respect the messenger.

We have gathered here today to cast our vote for 3 Tribal Council members. As we prepared for this election, much has been said about the need for change. The change desired by many members seems to be to establish a Tribal Council that makes major tribal decisions in concert with the membership. A Tribal Council can best demonstrate a commitment to that concept by referring those decisions that have a major impact on the tribe to a vote of the people.

Voting on decisions that have a major impact on our tribe is our tribal tradition. Article II, Section 1. (C) of our Tribal Constitution grants our right to exercise our traditions. Article VII, Section 2 of our Tribal Constitution prescribes the formula for the Tribal Council to provide the opportunity for us to exercise those traditional voting rights.

Some would ask "What do you consider a major impact?". Two examples of major impact come to mind.

- 1) Any decision that changes or has the potential to change the trust relationship between the tribe and the U.S. Government
- 2) Any decision that depletes or has the potential to deplete tribal assets.

These are only 2 examples and certainly are not all inclusive.

Past Tribal Councils have made major impact tribal decisions that should have been referred to a vote of the people.

Let us look first at the decision to adopt Self Governance. The point is not whether Self Governance is good or bad. The original Self Governance pilot project should not have been accepted without approval by a vote of the people. Self Governance has been touted by some proponents using the term "self determination". Without tribal voter approval there is no "self determination", but rather what you have is the "determination of nine". The mistake was compounded when the decision was made to extend Self Governance beyond the pilot project without approval by a vote of the people.

Some would ask "What is the problem?". The problem is that a precedent has been set on how the U.S. Government administers federal policy as it relates to the tribe. It is conceivable that in the future a Tribal Council could negotiate the termination of our tribe. Some would tell you "That would never happen". No one present here today can give you that assurance. Twenty years ago at the height of our Restoration movement our tribal representatives traveled to Washington, D.C., to testify to the devastating effect U.S. Government experiments such as the Allotment Act, Relocation Act, and

Termination had on our people. If you would have asked me then if, in my lifetime, we would elect a Tribal Council that would subject out people to another U.S. Government experiment without the approval of the membership I would have told you no. As evidenced by recent actions by Tribal Council I would have been wrong.

Next let us look at how our cash assets have been administered. The initial funding to establish and subsequent funding to sustain STEDCO should not have been appropriated without approval by vote of the people. The point is not whether STEDCO is good or bad but rather that the funding was in violation of our tribal constitution and not in keeping with our tribal traditions.

Article IV, Section 1 of our Tribal Constitution empowers the Tribal Council the "...authority to prevent the sale, disposition, lease, or encumbrance of tribal lands, interest in lands, or other tribal assets without the consent of the tribe..." The key words in this section is "consent of the tribe". Consent of the tribe can only be granted by the membership in these issues. The Tribal Council has the responsibility to seek the consent of the tribe in administering Tribal Council authority as it applies to tribal assets. It is not proper for them to make these decisions based on assumed or implied consent.

The decision to establish gaming also involves the appropriations of vast tribal assets. Without membership approval, the Tribal Council cannot guarantee to anyone a continuing commitment to the project or availability of related funding. Because the Tribal Council chose to pursue gaming without seeking voter approval of the concept they have placed the project at risk of being canceled at any time by referendum petition and subsequent vote of the people. It simply does not make good "business sense" to me for the Tribe or a management company to find themselves in such a precarious position.

The actions of past Tribal Councils leads one to believe that some members have attempted to function with limited comprehension of our Tribal Constitution. Some of them act as though they have not acquainted themselves beyond Article IV, Section 1, that states in part, "The Tribal Council is empowered to exercise all legislative and executive authority of the government". Some of them have interpreted this to mean we establish a government based on paternalism. As one who assisted in drafting the Tribal Constitution, I can assure you that was never my intent.

Past Tribal Councils have demonstrated that they are not fully aware of the purpose and provision of Article VII, Section 2 of our Tribal Constitution. I draw that conclusion based on the fact they have used this provision only to obtain Tribal Council compensation and a raise in compensation. In those instances it was required by the constitution.

The provisions of this section was intended to address more than Tribal Council compensation approval. It was written based on the theory that some decisions affecting the tribe are larger than nine council members or even a citizens committee can responsibly make. Much of that wording resulted from the concerns regarding disposition of tribal assets prior to termination and the decision to terminate.

In addition to providing the Tribal Council the process to refer issues to a vote of the people, it also provides the process for the membership to take

command and require a vote of the people. The process as it relates to the membership is burdensome and should be necessary only as a last resort. As I have stated before, this section provides a qualified Tribal Council lacking in institutional arrogance, who possesses knowledge of tribal traditions, and has the humility to recognize there are decisions larger than 9 people can responsibly make, the means to govern in concert with the membership.

When these 9 Tribal Council chairs are filled after today's election, the occupants must be made to understand that they must demonstrate the change desired to many members. They must demonstrate that the concept of "Self Determination" that they have subscribed to applies to the entire tribe and not the determination of 9 individuals. If this does not happen then the people must take on the task to exercise their rights under Article VII, Section 2 of the Tribal Constitution to insure that the will of the people is properly represented.

In closing, this being a General Council meeting and there existing no rules to the contrary, I request that my presentation be included, unedited, in the General Council meeting minutes of February 4, 1995. To that end, I so move.

MOTION #3 - Ed Ben moved to have his statement included, unedited, in the General Council meeting minutes of February 4, 1995. Seconded by Joe Lane. Motion carried.

INCENTIVE AWARDS

Mike Darcy presented the following awards:

Employee of the Year - Mike Kennedy
Special acts and services - Cheryl Ben
Special acts and services - Howard Roy
Special acts and services - DeAnn Brown
Employee of the Quarter - Walt Klamath
Outstanding Service - Salem Area Office
Outstanding Service - Ronald Butler
Outstanding Service - Joella Cain
Outstanding Service - Debbie Williams
Outstanding Service - Connie Hoffman
Outstanding Service - Matt Kenta
Outstanding Service - Shari Husberg

TRIBAL COUNCIL CONCERNS:

Gilbert Towner wants the elders to work together to get things going on the Oregon Indian Council On Aging and contacting the other tribes. The Governor's from each State is allowing three extra spots in the Washington, D.C. conference on aging, so you elder people may want to appoint someone to go to this Conference in may.

He has concerns about the Tribal Council and about the homeless. Some of our Tribal Members and Veterans are homeless. Elders that visit the sights and one of the Area Directors was overheard saying "I hope we don't have anymore Tribal members coming in hear to gripe around". The offices are to serve the people.

After the Rogue River Wars there was a lot of gold found along Gold Beach. President Lincoln, Honest Abe took all of the gold that he could get to help the North fight the South with a promise to repay the people of that area, our people, our ancestors. Lincoln did not repay any of the money to our people.

Gilbert does not know if the new constitution is a legal thing or if it was put up to a vote by the

(Continued on page 16) → →