



Council of the Cherokee Nation

Meeting Minutes Executive and Finance Committee

Thursday, April 30, 2009

3:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Jack D. Baker called the meeting to order at 3:05 p.m.

INVOCATION

Councilor Snell gave the invocation.

ROLL CALL

Present 16 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Tina Glory Jordan; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

Late Arrival 1 - Jodie Fishinghawk

APPROVAL OF MINUTES

Councilor Frailey made a motion to approve the March 16th special session, March 17th sub committee, and the March 26th regular session minutes. Councilor Thornton seconded the motion. Motion carried.

REPORTS:

Financial Report/Treasurer Report - Callie Catcher

Ms. Catcher announced the 2008 audit has been completed and the annual report has been delivered. They will be bringing the final carry over reconciliation in the May mod. She anticipated it to be an additional \$5.9ml. She provided an update on the American Reinvestment Recovery Act. The central point of contact for tracking and reporting has been assigned to Marvin Jones for NAHASDA and ICDGB funding, Vickie Hanvey is the contact for all other funding. They are tracking these funding opportunities and grant applications in a master list which is being maintained by Ms. Hanvey. The grant proposals are being evaluated through the normal internal process through the strategic budget committee. In addition Ms. Hanvey, Mr. Jones and Reva Crawford are working with Jay Calhoun and Stephanie Condiff at CNB to ensure the other business entities are coordinated with to apply for any grants that may be beneficial. She stated there are a lot of special reporting requirements with these AARA funds. OMB has issued some interim guidance on the 3rd of April which is quite in depth. NCAI has been an invaluable resource in disseminating information. She announced a copy of the spreadsheet could be provided upon

request. She announced another opportunity in the realm of tribal finance with tax exempt bonds. There are a lot of provisions in AARA and the three that seem to be the most beneficial to the Cherokee Nation are: 1) The Build America Bonds. This is different than the normal tax exempt bond in that the interest is taxable to the bond buyer but a credit equals 35% of the interest is given back to the issuer. These bonds must be issued in 2009 or 2010, can not be private activity bonds and 100% of the bond must be used for a capitol project. 2) Bank Qualified Bonds – which would be immediately beneficial. These are bonds that financial institutions can buy from small qualified issuers. The limit on these bonds with AARA is \$30ml. There isn't an under writing fee or a cost for issuance, they also must be issued in 2009 or 2010. These are tax exempt bonds therefore a lower tax rate. 3) Tribal Economic Development Bonds. The big change with these bonds is the essential governmental function restriction has been removed. This change would allow a business expansion to be financed with tax exempt bonds. There is a restriction that it can not be for any gaming operations and must be within our jurisdictional area. Existing debt can be refinanced. There is \$2ml available and will be allocated based on a formula determined by the IRS. Comments were submitted to the IRS.

Cherokee Nation Enterprises - David Stewart

Mr. Stewart announced the net income was \$9.6ml for the month and the revenue is up. He stated the net income is not what they had projected with the expansion. The expansions continue. The first dinner was served Saturday in the new convention space with success. The Cherokee employment is at 59% and holding. He announced the turnover has reduced significantly since the implementation of the new minimum wage. They kicked off the Green Team and began a recycling project in December at Catoosa as a pilot project. Last month they decided to move the recycling project into all other locations. They will be doing away with all foam cups and plastic dishes company wide. Construction continues at both properties and is on schedule. July 1st will be the official opening at Catoosa. The theatre will be the last portion which will be complete in approximately a year. They will be running simulation this weekend where some of the staff will stay at the hotel to work out any bugs. A finance conference will be held on Monday where almost all of the tribes in Oklahoma will be in attendance at the facility. Councilor Thornton requested a few minutes for a tribal member who is a business owner to say a few words regarding CNE. Chair Jack D. Baker gave the approval. Mr. Dan Carter announced he and his wife feel the Siloam facility and food is top notch and he is very impressed. He gave appreciation to both the Council and the facility staff. Mr. Stewart announced the sales tax situation with Toby's has been worked out with the Tax Commission. Councilor Buzzard inquired if progress had been made on the issues with the sign. Mr. Stewart stated they have made progress. The actual sign will not say Cherokee on the outside but do have the right to use Cherokee Nation underneath Hard Rock. They haven't finalized but he is very optimistic. Mr. Stewart provided the Cultural Tourism strategic plan, the mission statement, and a rack card for the Council members. He stated the program is going very well. The Supreme Court Exhibit Concept Plan was also placed in the Council members boxes. He stated the plan goes room by room and talks about what is being considered. They are working on a marketing plan and a sales effort which will include a radio, TV and print element. They will present this plan at the next Education & Culture meeting. Councilor Frailey inquired if the strategic information is confidential. Mr. Stewart stated he didn't believe anything is confidential however he requested it not be copied and circulated.

Cherokee Nation Businesses - David Stewart

Mr. Stewart reported they have utilized \$29ml of the line of credit. The subsidiaries are doing very well. CSG a subsidiary of CNB is working with CNI to facilitate a

couple of contracts from an 8A standpoint. CCRC and APSE are exceeding budget and are profitable. The waste management company is finalizing construction on the landfill and is scheduled to open the first of June. In regard to future plans there have been governance requirements installed where CNB will be looking at all subsidiaries and providing expertise from accounting and IT standpoints. The IT acquisition is in its final stages with expectations to close in the next 30 days. They have finalized the industry teams which included realty and health care meet and work to identify business opportunities. Councilor Fishinghawk inquired if they can say the landfill will be open on the first of June. Mr. Stewart replied they could say it is scheduled to be open then. Councilor Buzzard inquired as to the status of the Ramona property. Mr. Stewart stated the application is complete and has been through the Muskogee office and now is in the Washington office.

Cherokee Nation Industries - Robert Drvostep

Mr. Drvostep announced CNI's revenue for the month of March totaled \$7,638. The operating loss for the month totaled \$155,000 versus the forecast of a loss of \$135,000. The profit was \$276,000. The unfavorable variance versus budget was due to a shortfall in revenue in construction and Tellcom technology.

Career Services/Employment - Diane Kelley

Ms. Kelley announced they are adding on to their building in Jay and are going to add on space for the tag office as well. The building trades program will be doing the work for the expansion. They will be moving from Catoosa to the Claremore housing building sometime in June. She provided a map of slot for summer youth. She announced they have had an overflow of applications for the summer youth program. Next month they will be combing the bid center and TERO reports. The National TERO Conference will be held in Catoosa at the Cherokee Casino during the last week of July. The bid fair will also be held there in July. They continue to work with the Census. They will be opening a Tahlequah office at 117 South Muskogee. A meeting is scheduled with them tomorrow to help them identify people to work. They hope to have their office open by August. A job fair was held at the Indian Capitol Technology Center yesterday in Adair County with over 500 people attending. She announced they would be in the Watts area within the next month working with AERT. Councilor Hoskin Jr. inquired if it would be possible for advertisement in South Coffeenville for the Summer Youth applications. Ms. Kelley stated they could schedule something. Councilor Glory-Jordan requested assistance at a monthly meeting of a youth group in Hulbert. Ms. Kelley responded they would be glad to. Councilor Cobb requested someone from the Career Service group to attend their community meeting on June 10th in Catoosa at 7:00 p.m. in the new convention center.

Commerce - Anna Knight

Ms. Shay Smith offered to answer questions from their written report.

Historical Society - Carey Tilley

No one present.

CONSENT ITEMS:

T.E.R.O. CERTIFICATIONS

Councilor Bill John Baker moved to approve as recommended. Councilor Thornton seconded the motion. Motion carried.

CEMETERY RESTORATION ASSISTANCE APPLICATIONS

Mr. Evans announced there are additional cemetery requests.

*Adair County:**Ewing Chapel Cemetery**Rock Springs Cemetery**Chuculate Cemetery**Cherokee County:**Joe Leach Keener Cemetery**Cochran Cemetery**Craig County:**Centralia Cemetery**White Oak Cemetery**Deleware County:**Bush Family Cemetery*

Councilor Fullbright announced the Bush Family Cemetery is in Sequoyah County. Mr. Evans stated he would get it corrected. Councilor Buzzard requested he be sent the front page of the application for the Delaware County cemeteries. He stated he wanted to be able to go to the cemetery and see that they are actually doing the work they request funds for. Mr. Evans stated he would let Ms. Mouse know as she is the one who processes the paperwork. Councilor Glory-Jordan requested it be done for all counties. Mr. Evans stated it would be easier for process flow if it was done for all Councilors. Councilor Bill John Baker moved for the approval with additions. Councilor Thornton seconded the motion. Motion carried.

LAW ENFORCEMENT REQUESTS

Chair Jack D. Baker announced a revised list has been provided. Mr. Evans announced one additional request for Sperry Police Department in the amount of \$5,300 from Councilor Anglen. Councilor Thornton made a motion for approval. Councilor Bill John Baker seconded the motion. Motion carried with the additions.

COMMUNITY ASSISTANCE

Chair Jack D. Baker announced a revised list has been provided. Mr. Evans announced one additional request for a 12-under girls softball team for Amy Woodruff in the amount of \$750 split between Councilors Bill John Baker, Glory-Jordan and Garvin. Councilor Glory-Jordan made a motion to approve with additions. Councilor Anglen seconded the motion. Motion carried.

ROADS

Chair Jack D. Baker announced a revised list has been provided. Mr. Evans announced there is an extensive list of roads this month. This month includes over \$1.1ml in roads and bridge projects with \$268,800 in motor fuels. He announced

there are a couple of additions to the list provided:

Clouds Creek Road – Councilors Buzzard - \$49,890 & Snell \$31,935.

The motor fuel projects this month will deplete Councilors Bill John Baker, Glory-Jordan, Buzzards motor fuel funding for this year. The motor vehicle projects this month will deplete Councilors Thornton, Fullbright, Garvin, Cobb, Buzzard, Snell's motor vehicle funding for this year.

Councilor Anglen inquired about a Skiatook drainage project for \$40,000 in motor fuels split between himself and Councilor Cobb. Mr. Evans called Mr. Michael Lynn. Councilor Bill John Baker made a motion to approve the revised list along with this added project. Councilor Crittenden seconded the motion. Motion carried.

OLD BUSINESS

None pending.

NEW BUSINESS

1.

AN ACT AMENDING LEGISLATIVE ACT #19-08 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2009 - MOD 7; AND DECLARING AN EMERGENCY

Sponsors: Councilor Jack D. Baker and Councilor Cara Cowan Watts

Councilor Thornton requested assistance from Mr. Evans on the location of \$25k to set aside for the Shriners a new replacement van. Mr. Evans stated three years ago Councilor Garvin sponsored through the charitable donation budget. Councilor Thornton made a motion. Councilor Bill John Baker seconded the motion. Chair Jack D. Baker inquired if the motion was to amend the agenda to add this as item 4 or is the request to amend the budget mod. Councilor Thornton stated to add to the budget mod.

Councilor Bill John Baker made a motion to approve the budget mod. Councilor Thornton seconded the motion and made an amendment to add \$25,000 to the charitable donations from the general fund for a new van for the shriners of Muskogee. Councilor Bill John Baker accepted the friendly. He stated we need to amend to allow Ms. Catcher to set up a savings account so that she can provide a letter of credit to a local non profit Kids Connection. He stated Oklahoma has a grant program for cigarette cessation but to get the grant you must show two months operating capital in the bank. Councilor Bill John Baker made a friendly amendment to add this to the budget mod. Councilor Thornton seconded the motion. Ms. Catcher stated they are not looking for a donation just a line of credit to get the grant. She stated she would open a restricted bank account with access to the funds only if Kids Connection defaults on the loan. Mr. Evans questioned how Kids Connection would utilize a pledge from us as collateral to a third party. Ms. Catcher stated it is because we are guaranteeing the funds. Mr. Evans stated we are co signing a working capital obligation for a grant. Ms. Catcher stated a benefit is the Nation can participate in the smoking cessation program without applying for the grant. The Nation didn't want to waive sovereign immunity to be able to apply for the grant.

Mr. Evans gave his review of the Mod. He stated the mod has ten budgets slightly over \$4.3ml. Councilor Fishinghawk inquired as to why they are requesting additional funds in the Health Group when they have only expended \$1ml of their \$3ml budget

to this point. Mr. Evans stated he has been provided with an IT list. He stated there is \$3.5ml in the system now which most of carried over from last year with a \$1ml obligated for IT work that needs to be done. Ms. Catcher stated the existing budget as Mr. Evans stated is the equipment replacement fund from last year. Health has expended approximately \$1ml of those funds. They have a list of equipment needs which was sent to Mr. Evans this morning. She questioned the Health group as to if they could spend the entire \$3.5ml this year. The reply was that was the intention. She stated the additional \$3ml is primarily related to an IT project that would significantly increase the band width at all of the clinics and at Hastings. Mr. Evans stated he highly expected a majority of this budget to carry over into 2010. Ms. Catcher stated this is a part of the system that needs to be looked at because when funds are committed to a major project such as this IT upgrade the funds need to be committed until completion. The current system is on September 30th the budget expires and carry over must be requested. Chair Jack D. Baker requested she work with Mr. Evans. Councilor Glory-Jordan inquired about the \$75,000 increase to the district court when there is already a budget of \$225,000. Ms. Catcher stated the previous amount was \$150,000 and we are requesting to add \$75,000 to bring it to a total of \$225,000. Councilor Glory-Jordan inquired as to what the increase is for. Mr. Hembree stated he could find out the information. Ms. Catcher stated it is to add additional court days to the docket. She stated their current compensation is based on the number of court days. Mr. Evans stated this is his understanding as well. Councilor Glory-Jordan requested confirmation and to hold off on the approval of the mod until the information is received. Councilor Glory-Jordan stated the question is they hiring and additional judge or compensating the existing two judges. Ms. Catcher stated it is just the two existing judges. With the current contract they are paid based on docket days. Councilor Glory-Jordan inquired as to what they are being paid daily. Ms. Catcher stated she could obtain the information. Councilor Glory-Jordan requested waiting on the budget mod until the information is received. Chair Jack Baker stated we could come back to this item. Councilor Fishinghawk inquired if we were about to bring funds forward. Mr. Evans stated there is \$6.5ml of the \$14ml that is already in the budget now. Of this 6.5ml, \$3.5ml is the health equipment replacement which leaves \$7.5ml not on the table. This budget is requesting another \$3ml for a total budget of \$6.5ml for this year. Mr. Evans stated he did have an itemized list of the equipment of where the funds will be expended. Councilor Fishinghawk requested to view the list. Mr. Evans stated we are constantly challenged with trying to combine an operating budget with a capital budget and we lump them together and treat them as one when the operating side is directly tied to appropriations of the fiscal year. The operating side we have to make special concessions with every year because it doesn't have a twelve month cycle it is project related. If we could ever get to a point where we have a distinct capital budget and a governmental operating budget. Mr. Evans stated there are no other technical issues with the mod.

Councilor Glory-Jordan made a motion to table to the last item of this meeting. Councilor Fishinghawk seconded the motion. Motion carried.

2.

HUMAN RESOURCES EMPLOYMENT PRESENTATION

Mr. Michael Botello announced the Human Resource Group was asked to bring information about the employment process. He stated they have a power point presentation from the project team to improve the employment process. Councilor Buzzard stated he is the one who requested the item on the agenda. He stated he has received complaints about the lengthy process of hiring. He stated the hopes this presentation will explain why it takes so long and if there is anything we can do as a Council to remedy the situation. Councilor Bill John Baker inquired if the Cherokee Nation is in a hiring freeze. He stated numerous people get 3 or 4 interviews then never receive word back yet the job remains open. Mr. Botello stated

they are hiring. He introduced Ms. Brenda Lance the employment manager. He stated Ms. Lance has been heading up the project team. He also introduced Alana Casteel the director of Human Resources. Ms. Lance stated several months back a committee was evolved or developed to look into the processes, to see where they are the most effective and determine where most of the hold ups are. She provided a power point presentation of the committee's findings. She stated they are continually making changes to the process. Chair Baker voiced concern for the inability to fill positions at the Heritage Center. He stated they have requested to tweak a position to make it fit the needs of the Heritage Center but are told you can't then the position is advertised for something that isn't what is needed. Mr. Botello stated they would check into the situation. Councilor Fullbright stated she would like to hear the Human Resources side in regard to hiring a cook at Marble City. Mr. Botello stated he was unable to go into it in this forum but would supply a formal response. Councilor Fishinhawk stated she has received complaints from people being told they have to complete an application online. The people who don't know how on line request help or request a paper application say the staff is hateful. She also complained the phone is never answered. Ms. Lance stated they do provide paper applications when asked however they do encourage online. If they complete the application online they can track the application from anywhere. The receptionist will sit with an applicant and assist in filling out the application online. Councilor Cobb inquired if people not hired are informed if they are not hired. Ms. Lance stated if they are interviewed they do receive notification. Last year they accepted approximately 400 applications per month.

3.

DISCUSSION ONLY PERTAINING TO THE FOLLOWING RETAIL TOBACCO ISSUES:

- 1 - The impact of the new tobacco compact on retail smoke shops
- 2 - The status of Chief Smith's effort to resolve the "exception shop" issue under the new compact.
- 3 - Should the Cherokee Nation license retail smokeshops to sell alcohol and/or operate gaming machines

Councilor Hoskin announced he would try to be as brief as possible with these items with hopes that if additional time is needed it would be tabled to the next month. He stated there are a lot of smoke shops that are suffering since the compact has gone into effect, the economy and the tobacco market. He requested Ms. Swebston to share some of the data compiled concerning smoke shop sales. He announced there are visitors from the smoke shops and at least one has provided documents. He requested she briefly be able to explain what the documents are. Ms. Swebston stated the first document is cartons sold by border shop, what was an exception shop, and the full rate shops. The exception shops have dropped quite a bit since January. Councilor Hoskin Jr. inquired if there is any other explanation rather than the tax structure for the change. Ms. Swebston stated the tax structure has a lot to do with the change. Councilor Hoskin Jr. inquired if the most favored nation clause had been evoked. Ms. Swebston stated she has given it to the Office of the Attorney General for their review. She provided copies of the exception shop letter which has been submitted to the Governor. Councilor Hoskin Jr. stated this letter of December 12th from the Governor to the Chief in response to a call made by the Chief to basically insert language into the compact that would be constant with the historical language in our compacts which is the certain shops that aren't border shops but are considered exception shops. He stated the letter from the governor was defective in that it didn't address the issue in the way needed which it did not restore the intent of the State and the tribe was with respect of the exception shops. The Administration has never fully explained why it has taken this long to get this letter. He voiced appreciation for the letter going out from the Chief back to the Governor. He stated this does take care of the second item on the agenda. Ms. Swebston stated the letter being handed out which has been sent to the Governor from the Chief names the 5

exception shops. Councilor Hoskin Jr. requested Ms. Terri Hardgrove provide an explanation of the documents she provided. Ms. Hardgrove announced the documents are their monthly cigarette and tobacco sales report that is sent into Ms. Swepston's office monthly. She compared the carton sales from January, February and March of 2008 to the same months in 2009. In January of 2008 she purchased 17,084 cartons and in January of 2009 she purchased 5,718 cartons. She stated this isn't an isolated case there are other shops in the same situation. Councilor Hoskin Jr. inquired if the employees are feeling the impact of the decreased sales. Ms. Hardgrove stated all of her employees are Cherokee but one. She stated they have cancelled the health insurance and there haven't been any bonuses. She stated she competes with Miami, Oklahoma who has a .58 cent rate therefore there is an approximate \$10 per carton difference. Councilor Hoskin Jr. stated over the next month he may bring forward legislation for a rebate. In regard to number 3 Councilor Hoskin Jr. inquired if there are any sort of legal impediments to any type of gaming in the smoke shops. He thought gaming could increase the traffic at the shops and further utilize the great resource. Mr. Jamie Hummingbird stated in regard to legalities it is within the tribes ability to allow individually owned smoke shop gaming but must be done under a gaming ordinance that is approved by the NIGC. He stated all other rules and regulations would apply to casino gaming under CNE. In the past there has been question and other attempts which was more or less seeking for CNE to locate within an existing smoke shop where CNE would lease space from the owner. Those requests didn't go much further than the initial request. The question of legality is in which path is taken. He stated there would be a laundry list of issue that would have to be resolved. Councilor Hoskin Jr. stated a gaming law could be enacted that would allow us to have gaming in the smoke shops provided it was approved by the NIGC. He inquired if Mr. Hummingbird in his position would be providing the license for the smoke shops. Mr. Hummingbird agreed and stated the facility would have to be licensed, the owners and the employees would have to be licensed. He stated the first and foremost responsibility would fall upon his office to oversee these facilities. Councilor Hoskin Jr. requested Mr. Hummingbird provide within the next few weeks research regarding the regulatory issues. Councilor Cobb inquired if the Gaming Commission staff could handle the additional responsibility or if they would need additional staff. Mr. Hummingbird replied they would not have the resources necessary to oversee this type of extensive disbursement of games. Councilor Snell inquired if the smoke shop property is owned by a native but ran by a non native. Mr. Hummingbird ventured to say yes but suggested asking the Realty department. Ms. Swepston stated it is possible but would need to be negotiated in the lease. Councilor Glory-Jordan requested research of selling alcohol on restricted lands. Ms. Swepston announced they held a special commission meeting where she was asked to research this question. She stated the current law doesn't allow the sale of alcohol. Councilor Thornton stated the State of Oklahoma doesn't consider 3.2 beer as alcohol. Councilor Thornton stated he would like to see all smoke shops treated the same. Councilor Fishinghawk inquired about the funds the Council set aside for smoke shops in trouble. Mr. Evans stated there is a restricted fund balance on the books for \$1ml for tobacco retailers revolving loan fund. Ms. Catcher stated it was done during retail to retail and prior to the repeal of the surtax in May of 2006. Councilor Glory-Jordan agreed the rebate needs to be considered again possibly on next months agenda. Chair Jack Baker requested legislation to place it on the agenda. Councilor Hoskin Jr. stated he planned to submit legislation.

AN ACT AMENDING LEGISLATIVE ACT #19-08 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2009 - MOD 7; AND DECLARING AN EMERGENCY

Sponsors: Councilor Jack D. Baker and Councilor Cara Cowan Watts

Councilor Glory-Jordan made a motion to bring the budget mod off of the

table. Councilor Fishinghawk seconded the motion. Motion carried.

Councilor Glory-Jordan moved to table the portion of the budget mod that pertains to the district courts as they are still trying to obtain additional information. Councilor Cobb seconded the motion. Motion carried.

Councilor Garvin made a motion to approve the budget mod as amended. Councilor Anglen seconded the motion. Motion carried.

ANNOUNCEMENTS

None.

ADJOURNMENT

Councilor Anglen moved to adjourn. Councilor Frailey seconded the motion. Motion carried at 5:12 p.m.

STAFF PRESENT:

Callie Catcher
Shay Smith
Doug Evans
Alana Casteel

Jamie Hummingbird
Michael Botello
Vickie Harvey
Brenda Lance

Sharon Swepston
Jon Overacker
Diane Kelley
Gregg Simmons

VISITORS PRESENT:

David Stewart
Terri Hardgrove
Bob Drovstep

Shawn Slaton
Gina Olaya
Todd Hembree

Joe Leach
Bryan Collins
Dan Carter

APPROVAL / DISTRIBUTION

Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator

Motion to approve minutes made by: Bill John Baker

Minutes attested and concurred by: Jack D Baker

Date: 5/28/09