



Council of the Cherokee Nation

Meeting Minutes Rules Committee

Thursday, August 27, 2009

1:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Frailey called the meeting to order at 1:05 p.m.

INVOCATION

Councilor Crittenden gave the invocation.

ROLL CALL

Present 14 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard; Chris Soap; Chuck Hoskin, Jr. and Julia Coates

Absent 1 - Bradley Cobb

Late Arrival 2 - Janelle Fullbright and Curtis Snell

Councilor Cowan Watts made a motion to amend the agenda to include the resolution nominating Ken Purdy to the Cherokee Nation Waste Management board as well as move all nominees to the front of the agenda. Councilor Garvin seconded the motion. Motion carried.

NEW BUSINESS

2. A RESOLUTION CONFIRMING THE NOMINATION OF BLAKE FLETCHER AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION WASTE MANAGEMENT, LLC

Mr. Mike Miller announced Chief Smith's wishes to withdraw the nomination of Mr. Fletcher and substitute it for Mr. Ken Purdy.

3. A RESOLUTION CONFIRMING THE NOMINATION OF RICK DOHERTY AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION WASTE MANAGEMENT, LLC

Councilor Cowan Watts moved to approve. Councilor Garvin seconded the motion. Councilor Glory-Jordan asked if Mr. Doherty if placed on this board if he is willing to ensure there are confident and qualified people with a good track record in running a landfill in the leadership positions. Mr. Doherty

stated he would and felt they would all go into this with an open mind. Motion carried.

5. A RESOLUTION CONFIRMING THE NOMINATION OF KEN PURDY AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION WASTE MANAGEMENT, LLC

Mr. Purdy announced he has the distinct pleasure of representing two organizations. He stated his primary interest oversight of the landfill operation is from that of his non profit organization that works with local governments through out a fourteen county service region in North East Oklahoma. This organization was set up more than fifteen years ago to be identical to the jurisdiction of the Cherokee Nation. The organization, Solid Waste Institute of North East Oklahoma, provides a variety of technical and advisory services to local governments in the arena of solid waste management. Councilor Glory-Jordan posed the same question to Mayor Purdy as she did to nominee Doherty. Mr. Purdy stated he would absolutely do everything he could to make sure it happens. Councilor Cowan Watts requested assurances he would abstain due to conflict of interest if necessary. Mr. Purdy stated he didn't think there would be much of a risk of it. From the organizational standpoint they do not have a direct financial interest or operational interest with any other municipal or county government within the service region. Their primary service contract is with the State of Oklahoma through the Department of Environmental Quality and it is to provide only technical and advisory services. He gave his word that if that situation should arise he would certainly abstain from anything that could possibly represent a conflict.

Councilor Cowan Watts moved to approve. Councilor Glory-Jordan seconded the motion. Councilor Fishinghawk commented there has been a bad habit of the landfill being open twenty-four hours a day. Motion carried.

Councilor Fishinghawk inquired who the third nominee is for the Cherokee Nation Waste Management. Mr. Miller stated Chief Smith is in the process of being determined and will be submitted shortly.

APPROVAL OF MINUTES

Councilor Bill John Baker made a motion to approve the July 14th sub committee and the July 30th regular session minutes. Councilor Jack D. Baker seconded the motion. Motion carried.

REPORTS:

1. Marshal Service - Sharon Wright

Ms. Wright offered to answer questions from her written report. Ms. Wright stated you can not camp on trust property. An exception has been given at Sallisaw Creek with permission and must have self-contained camper. No citations have been given although request to leave the property have been issued.

2. Office of the Attorney General - Diane Hammons

Ms. Hammons announced they have participated in ongoing settlement discussions in the poultry lawsuit. This case hasn't been settled and will go to trial on the remaining claims of the State on the 22nd of September. The findings, facts and conclusions of law are due in the Tribal Court Freedman case next week. A new

lawsuit was filed in recent weeks against CNE by two individuals who were card dealers regarding an alleged violation of the Fair Labor Standards Act. They are claiming CNE incorrectly calculated their wages. Councilor Crittenden inquired as to the status of the ICI case. Ms. Hammons stated they are in bankruptcy and a decision was made to not enter into bankruptcy. They allege the Cherokee Nation owes more than their indebtedness. Councilor Fishinghawk inquired as to the status of the bond put up for the Fayetteville contract. Ms. Hammons stated the bond is still there.

3. GEG Investigation Report - Diane Hammons

Ms. Hammons stated there isn't any new information to report.

4. Election Commission -

Commissioner Roger Johnson apologized for not being present at last month's committee meeting. He announced they had provided a memo in answer of Councilor questions brought forward last month. He offered to answer additional questions.

5. Tax Commission - Sharon Swepston

Ms. Swepston offered to answer questions from her written report. Councilor Hoskin Jr. inquired if the Administration has taken any steps toward the enforcement of the Most Favored Nation Clause in the Compact with respect to some shops in Southwest Missouri. Ms. Swepston stated the information has been communicated to the Administration but is unsure of the status. Councilor Bill John Baker inquired about the different types of Veteran tags. Ms. Swepston stated she contacted the local tag office for information and they have not returned her call. She stated she would follow up. Councilor Bill John Baker commented the question posed is if we are as cheap or cheaper than the State on all of the Veteran tags. Councilor Glory-Jordan inquired if a motion would be needed to make our rates the same as the States. Ms. Swepston announced it is an agenda item for the Commission meeting on the 9th. Councilor Glory-Jordan made a motion to show support for State Veteran tags be the same or less in cost of the State. Councilor Hoskin Jr. seconded the motion. Motion carried.

6. Self-Governance - Vickie Harvey

Ms. Harvey announced they held negotiations with the Federal Highway Administration and believe there is an agreement to go directly with them for roads funding rather than through the BIA. They included the regular on going roads program and the recovery act in the negotiations. They are in receipt of the construction project agreement documents from IHS for the sanitation facilities construction recovery act funding. There are twelve IHS projects and one separate agreement through the EPA as a pass through to the IHS and then to the Nation. They have scheduled Recovery Act training on September 8th to go through reporting requirements. Councilor Buzzard inquired if they anticipate getting the IRR funding agreements signed this year. Ms. Harvey stated the regular funding becomes affective the first of October. The Recovery Act becomes affective as soon as it is signed. They anticipate a very quick turn around. She stated they were cooperative and easy to work with. Councilor Buzzard requested a list of the twelve construction agreement projects and amounts. He questioned the status of the funding formula problem with the large land based tribes. Ms. Harvey stated this will be a topic of discussion at NCAI in October.

7. Gaming Commission - Jamie Hummingbird

No one present to report for the Gaming Commission.

8. Codification - Todd Hembree

Mr. Hembree announced Title 4 is now complete and at least five Titles remain. He stated during the next fiscal year there will be publishing fees for the codification. He suggested during the budget process it is determined who is going to publish and that there is adequate funding available.

OLD BUSINESS

1.

AN ACT AMENDING LA#07-97 AND LA#39-05; REVISING TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED

Sponsors: Councilor Meredith Frailey

Chair Frailey announced the Election Law Sub Committee has completed its work and all amendments are included in the packet under old business both in red line and final version. Mr. Hembree acknowledged the presence of the Election Commission and offered to answer any questions they may have. He announced additional amendments proposed by Councilor Cowan Watts have been handed out. He stated now that the entire body of work has been reviewed this is the time to bring forward any amendments a Councilor may have. He stated the amendments have been provided to the Attorney General for their review. The options are to table or forward to full Council. Councilor Thornton stated he hasn't had the opportunity to go over the amendments brought forward by Councilor Cowan Watts and would like the time to do so. He questioned representation by district stating District 3 should be Redbird and District 4 should be Three Rivers. Mr. Hembree agreed.

Councilor Garvin made a motion on Section 21 C 5 – to insert or 2013 after 2011 election. He stated this would give the At Large voters two times to change their voter registration. Councilor Fullbright seconded the motion. Councilor Cowan Watts offered in lieu of or 2013 to add a sentence in Section C 2 which would read "when redistricting occurs, At Large voters who elected to remain a voter in a district pursuant to Article VI Section 3 of the Cherokee Nation Constitution, will be notified by the Cherokee Nation Election Commission by mail to choose a new district within the jurisdictional service area. If reregistering does not occur by the end of March deadline, said voter will be made an At Large voter." Mr. Hembree stated to comply with Roberts Rules of Order we have a motion and a second and are now in discussion. Councilor Cowan Watts has proposed another amendment but have not moved that amendment and is still part of the discussion therefore what is germane is Councilor Garvin's amendment. Councilor Cowan Watts stated she is offering alternative language to Councilor Garvin's amendment. Councilor Thornton inquired if there is an age limit with Section 5 and how does this differ from what is in the Constitution now. Mr. Hembree stated you must have complied with Article 6 Section 3 of the Constitution. He stated at times during redistricting districts may be combined or split. This amendment gives an At Large voter voting within a district the opportunity to pick a district within that area. Councilor Garvin's amendment would give this opportunity until 2013 and Councilor Cowan Watts would give the opportunity any time redistricting occurs. Councilor Bill John Baker voiced concern for a choice being given every two years and changing from side to side to which one is during election. Councilor Coates stated her understanding is that this is a one time up to the March deadline of an election year if redistricting has taken place.

Councilor Jack D. Baker concurred with Councilor Coates and Councilor Bill John Baker. Councilor Cowan Watts stated this sets the standard for the Election Commission if and when redistricting occurs. Councilor Bill John Baker voiced concern for the At Large voters who do not respond within the given time frame to default back to At Large due to the Constitution giving them the right to choose that the Constitution gave them. Councilor Glory-Jordan requested clarification of what motion is on the table. Mr. Hembree stated what is up for vote is Councilor Garvin's motion to add "or 2013". Councilor Fullbright stated she doesn't agree with Councilor Cowan Watts amendment of not choosing and automatically becoming an At Large voter. Councilor Coates stated she disagreed with the sentiment that these voters won't make the choice. She stated she has great confidence that the Election Commission will make notification, if the voter moves it is up to them to make the effort and at some point the voter must step up. Councilor Cowan Watts called for the question.

Councilor Garvin's motion to amend to add "or 2013" failed by the following roll call vote:

Yea: 4 - David Thornton Sr. ; Don Garvin; Buel Anglen and Janelle Fullbright

Nay: 12 - Bill John Baker; S. Joe Crittenden; Meredith Frailey; Cara Cowan Watts; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard; Curtis Snell; Chris Soap; Chuck Hoskin, Jr. and Julia Coates

Councilor Cowan Watts made a motion to approve the hand written amendment to Section C 2. Councilor Bill John Baker seconded the motion with a friendly amendment to change "will be made an At Large voter" to "default to the other part of the district". Councilor Jack D. Baker stated you wouldn't know which side is the other. Councilor Bill John Baker stated the ones who do not respond to a district are assigned to the district which is not up for election. Mr. Hembree stated a motion has been made and the proper way is for someone to second and then ask the author if they would accept a friendly amendment. If the author doesn't accept the friendly the second has the opportunity to withdraw their second. Councilor Cowan Watts didn't accept the friendly amendment but offered alternate language to insert "the preceding election" before the wording March deadline. Councilor Bill John Baker inquired as to what would happen to the people who do not respond. Councilor Cowan Watts stated they would go At Large. Councilor Bill John Baker didn't agree. Councilor Cowan Watts called point of order and inquired if Councilor Baker would accept the alternate language as a friendly amendment. Councilor Bill John Baker accepted the friendly amendment.

Councilor Bill John Baker made a motion to amend to change the last sentence stating "be made an At Large voter" to "assigned to the next election cycles district". Mr. Hembree gave clarification that before the body is a main motion with a friendly accepted and now Councilor Bill John Baker has made a motion to amend the amendment. He stated we must dispense with Councilor Baker's motion prior to voting on Councilor Cowan Watts motion. What is germane now is Councilor Baker's amendment to the amendment. Councilor Jack D. Baker moved to table to allow time for language to be determined. Councilor Garvin seconded the motion. Motion carried.

Mr. Hembree stated he would defer to Councilor Cowan Watts to go through her proposed amendments handed out. Councilor Cowan Watts went through her amendments provided on the handout.

§ 3-A (1)

Councilor Cowan Watts suggested additional language for the definition of

Registration by referencing the Constitutional requirements. Mr. Hembree stated it is Article 6 Section 3. Councilor Cowan Watts moved to approve the amendment. Councilor Bill John Baker seconded the motion. Motion carried.

§ 3-A (3)

Mr. Hembree stated the proposed amendment is the addition of "and is qualified. Councilor Coates moved to word similar to the definition of registration as described in the Constitution. Councilor Cowan Watts seconded the motion if Mr. Hembree agreed to bring back the language next month. Mr. Hembree stated it is within Section 34 of residency. Motion carried.

§ 3-A (3)

Councilor Cowan Watts moved to strike the words "computer technology" as it is a typo at the end of the definition of Candidate. Councilor Coates seconded the motion. Mr. Hembree stated this is scrivener's error and no motion needs to be made it just needs to be stricken.

§ 3-A (4)

Mr. Hembree stated this amendment would be to strike the word computer and replace with electronic. Councilor Cowan Watts moved to approve. Councilor Coates seconded the motion. Motion carried.

Councilor Cowan Watts questioned the language clarity of § 3-A (15) the definition of Initiative Petition. Chair Frailey inquired as to what she felt wasn't clear. Councilor Cowan Watts replied the difference between an initiative petition and a referendum petition. Mr. Hembree read the definitions and didn't know of other language. Without a clear alternative to offer Councilor Cowan Watts moved on.

§ 11 (D) (18)

Councilor Cowan Watts stated this amendment adds the "Cherokee Nation" before law enforcement. Councilor Jack D. Baker seconded the motion. Chair Frailey inquired if this would eliminate Federal law enforcement. Mr. Hembree stated Section 18 deals with the duties of the Election Commission. He read the language and stated it would not keep them from contacting the Federal law enforcement but it does have a minimum duty to report to our attorney general and law enforcement. Motion carried with Frailey opposed.

Councilor Cowan Watts made a motion to table until next month. Councilor Crittenden seconded the motion. Motion carried.

NEW BUSINESS

1. A RESOLUTION AUTHORIZING CHEROKEE NATION TO BECOME A MEMBER OF THE NATIONAL CONGRESS OF AMERICAN INDIANS AND TO APPOINT THE TRIBAL DELEGATE AND ALTERNATES

Sponsors: Councilor Meredith Frailey

Councilor Jack D. Baker made a motion to approve. Councilor Cowan Watts seconded the motion. Motion carried.

4. REQUEST TO CHANGE THE TUESDAY MORNING COMMITTEE MEETINGS

Sponsors: Councilor Tina Glory Jordan, Councilor David Thornton, Councilor Janelle Fullbright, Councilor Jodie Fishinghawk, Councilor Chuck Hoskin,, Councilor S. Joe Crittenden and Councilor Curtis Snell

Councilor Glory-Jordan stated over the course of the last two years they have watching some of the cost incurred with meetings on three different days. She stated it cost is approximately \$6,000 a year for the overnight stays. She stated this is a request to move the two Tuesday Health and Community Service meetings to Monday at 1:00 and 2:00 p.m. She stated they have also noticed a hardship that has been placed on at least one member of both of those committees due to a prior commitment on Tuesday mornings. She stated some meetings have been moved before for other Council members. Councilor Glory-Jordan made a motion to move Health to 1:00 and Community Service at 2:00 on Monday. Councilor Thornton seconded the motion. Councilor Coates stated she recognizes the hardship that has been cause to Councilor Hoskin Jr. for the last two years and this body has made great consideration to him by moving a meeting he was particularly interested in to Tuesday afternoon. She stated this caused for two years a two hour lag in time. This same meeting was then moved to Monday afternoon which Councilor Hoskin Jr. is able to attend however as Chair of this committee it presents an inconvenience to her. She stated when she has an event on Sunday she is unable to get here by 3:00 p.m. on Monday which causes her to fly half way and stay over. She stated moving the Tuesday morning meetings to Monday at 1:00 and 2:00 will allow Councilor Hoskin Jr. to attend but will not allow her to attend. In the coming year she will be traveling at least 50% if not more of the weekends. This is a dilemma and pointed out the activities she is engaged in over the weekends are tribal business. She stated as a professor she teaches on Mondays and Tuesdays and has had great cooperation of her colleagues at the University to cover her classes when needed. She stated she and Councilor Hoskin Jr. have spoken about this and doesn't know the solution. Councilor Cowan Watts stated this is problematic for a number of reasons. She stated the additional time allowed with the meetings spread out allows time for sub committees and special sessions. She stated she does stay in a hotel on Monday night and pays for her own meals. She suggested the possibility of starting the Tuesday morning meetings an hour later and could still be done by noon. She stated in her circumstances mileage to and from her home is more expensive than a stay at a hotel. She stated she is unable to support as is and made a motion to amend to Tuesday morning's beginning at 10:00 and 11:00 which is an hour later. Councilor Glory-Jordan agreed with the amendment to Tuesday if they are moved to the afternoon when Councilor Hoskin Jr. can attend. Councilor Cowan Watts agreed. Councilor Hoskin Jr. requested clarification of the motion with amendments. Councilor Glory-Jordan restated the motion as Community Service at 1:00 and Health on 2:00 on Tuesday. Councilor Hoskin Jr. stated he has great respect for Councilor Coates and understands she has a career outside of the Council as he does and they are tough to balance. He stated he hasn't been a member of two committees for two years and wishes it wasn't the case but doesn't wish it upon someone else. Maybe this is a compromise. Councilor Thornton offered a friendly amendment to eliminate the Tuesday meetings and move those meetings to the last Thursday of the month the day of Rules and Executive & Finance. This would have Community Service at 10:00 and Health at 11:00 a.m. Councilor Garvin seconded the motion. Councilor Glory-Jordan accepted the friendly amendment. Mr. Hembree requested the secretary read the motion with the two friendly amendments. Ms. Brittain read the motion as leaving Monday as is, no meetings on Tuesday and the last Thursday of the month have 10:00 Community Service, 11:00 Health, 1:00 Rules and 3:00 Executive & Finance. Councilors Thornton and Glory-Jordan agreed with the motion as read. Councilor Coates stated this doesn't work for her at all. She

stated this would make a third day of the month she would depend on colleagues. Not having meetings on Tuesday don't allow her the opportunity to work due to flight time back to California from the Monday night meetings. She stated this would actually create more of a burden. Councilor Thornton called for the question. Councilor Cowan Watts called point of information and requested the motion be read one more time. Ms. Brittain restated the motion.

The motion to move the Tuesday morning meetings to the last Thursday of the month at 10:00 and 11:00 a.m. had the following roll call vote:

Yea: 8 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Tina Glory Jordan; Jodie Fishinghawk; Janelle Fullbright; Curtis Snell and Chuck Hoskin, Jr.

Nay: 7 - Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Chris Soap and Julia Coates

Abstain: 1 - Harley Buzzard

Councilor Cowan Watts commented the motion would of failed due to needing a majority of those present which would be 9 votes. Mr. Hembree stated an abstension is a non vote. He referred to Roberts Rules of Order. Chair Frailey inquired if there were any announcements while Mr. Hembree studies Roberts Rules of Order.

Councilor Jack D. Baker made a motion to reconsider. He requested the times be changed back to Tuesday afternoon at 1:00 and 2:00 p.m. Councilor Hoskin Jr. seconded the motion. Motion carried unanimously.

Councilor Cowan Watts for clarification of the record stated if there is no objection from the body or the Chair that we accept that motion to reconsider then the action would stand. Chair Frailey asked if anyone objected. Chair Frailey requested the vote be taken again. Councilor Jack D. Baker made a motion to reconsider. Councilor Hoskin Jr. seconded the motion. Chair Frailey inquired if there was any discussion or objections. Motion carried with no objections.

ANNOUNCEMENTS

ADJOURNMENT

Councilor Garvin made a motion to adjourn. Councilor Cowan Watts seconded the motion. Motion carried at 3:10 p.m.

STAFF PRESENT:

*Sharon Wright
Gregg Simmons*

*Mike Miller
Sharon Swepston*

*Will Chavez
Vickie Harvey*

VISITORS PRESENT:

*Charles Dry
Curtis Rohr
Martha Calico*

*Ken Purdy
Roger Johnson
Gina Olaya*

*Rick Doherty
Todd Hembree
Brenda Walker*

APPROVAL / DISTRIBUTION

Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator

Motion to approve minutes made by: David Thornton

Minutes attested and concurred by: Brendith Frailey

Date: 9/24/09