



# Council of the Cherokee Nation

## Meeting Minutes Rules Committee

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Thursday, February 26, 2009

1:00 PM

Legislative Conference Room

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### CALL TO ORDER

Chair Frailey called the meeting to order at 1:12 p.m.

### INVOCATION

Council Attorney Todd Hembree 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; Curtis Snell; Chuck Hoskin, Jr. and Julia Coates

**Late Arrival** 3 - Janelle Fullbright; Chris Soap and Bradley Cobb

### APPROVAL OF MINUTES

Councilor Jack Baker made a motion to approve the January 12, 2009 sub committee and the February 5, 2009 regular session minutes. Councilor Anglen seconded the motion. Motion carried.

### REPORTS:

1. Marshal Service - Sharon Wright

*Ms. Wright announced the BIA gave them a car yesterday. The polar plunge is scheduled for this Saturday at the Arrowhead Resort. The cross deputization for Washington County will take place on Monday with a press release and photo opportunity on Wednesday. Councilor Fishinghawk requested information regarding the man being ran over in Adair County. Ms. Wright stated an individual in Adair County was drunk and high on paint among other things. He had a knife and said he had a gun and was threatening to kill people and officers. The investigation is complete but hasn't gone before the board. To control him one of the officers used a vehicle to move closer and bumped him. The individual is in the hospital due to injuries received when he fell backwards. MTOA says this is a viable less use of force because it was a controlled maneuver. Councilor Fishinghawk stated she realizes the individual was messed up but inquired as to when it goes from tazer, pepper spray, or mace to running him over with a vehicle. Ms. Wright replied they do not have most of the items questioned. To use the spray they would of had to be in closer contact. Councilor Fishinghawk stated this is the same individual who was involved in a shooting in Adair County. She questioned the Marshal's role when called upon by the county. She stated Adair County doesn't have a lot of man power therefore they request backup. When they request backup it goes to all law enforcement agencies. Councilor Fishinghawk questioned why if we were back up did we run him over instead of Adair County. Ms. Wright stated the individual's family*

was present and agreed the best course of action was taken. Councilor Glory-Jordan questioned the liability in regard to the cross deputization agreement. Ms. Diane Hammons stated the insurance or protection carried by an agency carries over into your actions in responding to the other agency. Councilor Glory-Jordan questioned if we were being taken advantage of by Adair County. She voiced concern for our Marshals being the one running over the individual or firing the shot. Ms. Wright stated their officers are trained at the federal level which gives them the ability to work through a situation more trained than anyone else of the scene. She stated one of the selling points of cross deputization is the training levels. Councilor Buzzard questioned the differences in salaries of our Marshals and other police departments. Ms. Wright stated our salaries have drifted below the normal. She stated she has lost officers to Tahlequah police department at the two year mark due to the difference in pay. She stated they are supposed to pay at the same standard as the BIA. She stated she is in the process of raising the pay scale. She stated they are below staffing levels at this time but will not put out a panel to hire until the pay scale can be adjusted. Councilor Thornton stated originally the Marshal Service was put in place to protect our tribal and restricted lands. He stated it just takes a few seconds to be killed by a knife 18 feet away. He thought they were right in what action was taken and gave his appreciation. Councilor Snell inquired as to the status of the hunting issues. Ms. Wright stated they are working with Natural Resources to make sure signs are up. They are trying to cross deputize with the State in hope they wouldn't ticket once they leave tribal lands. They are watching the ingress and egress on the bigger parcels of land. Councilor Fishinghawk inquired if the call to Rocky Mountain was on restricted land. Ms. Wright said the initial call said it was however they now believe it not to be after a check with realty. Councilor Fishinghawk requested a copy of the report. Chair Frailey gave appreciation for the assistance in Mayes County with the two shootings. Councilor Cowan Watts gave appreciation for the help in Foyil on a drug issue.

2. Justice Department - Diane Hammons

Ms. Hammons introduced Robert Garcia a new intern and Chrissi Nimmo a Attorney General Assistant. Mr. Hembree requested a briefing to the Council on the Salazar case. Ms. Hammons stated she doesn't believe it to have a direct effect on the Cherokee Nation because it deals with Indian reorganization tribes. This case very much effects tribes in existence after 1934 and their ability to place land in trust. Without going in to much detail in a public setting she stated it may be good for the Cherokee Nation in litigation with another tribe which this does effect and they are attempting to take land within our jurisdiction. Chair Frailey inquired if there is an update regarding GEG. Ms. Hammons stated she hasn't received any new information. Councilor Buzzard requested an update on the Cossey case. Ms. Hammons stated they filed a petition for rehearing Monday. The Chickasaws have also done the same. The Choctaws have started the arbitration process. She thought there may at some point be a need for legislation.

4. Election Commission -

No one was present from the Election Commission however their report was provided.

5. Tax Commission - Sharon Swepston

No one was present from the Tax Commission to report.

## 6. Self-Governance - Vickie Harvey

*Mr. Don Vaughn announced the report had been provided and offered to take questions or concerns back to Ms. Harvey.*

## 7. Gaming Commission - Jamie Hummingbird

*Mr. Hummingbird offered to answer questions from his report provided. The National Tribal Gaming Conference is March 9th through the 11th and invited the Council to attend. Councilor Soap inquired if the process has improved in regard to the communication process with incidents at the casinos. Mr. Hummingbird stated he does still have a few concerns. The time frame of notification has shortened but not where they need to be just yet.*

## 8. Codification - Todd Hembree

*Mr. Hembree announced the codification group had another productive meeting last week. Councilor Jack Baker requested a time line. Mr. Hembree stated they had hoped for a draft this month. He stated they are now looking at the first of April.*

## 3. GEG Investigation Report - Diane Hammons

*This item was addressed in the Justice's report.*

**Councilor Glory-Jordan moved to amend the agenda to include a resolution pertaining litigation in the Eastern District. Councilor Bill John Baker seconded the motion. Motion carried.**

## OLD BUSINESS

## 1. MORTGAGE FORECLOSURES (Discussion Only)

*Mr. Nason Morton stated they are in the process of providing a more detailed report. He stated it may be feasible to purchase the property when we are the first mortgage holder. He voiced concern that it may cost too much to purchase the properties where we are the second mortgage holder. Councilor Glory-Jordan stated she likes the new report format. Councilor Buzzard inquired if any have been purchased. Mr. Morton stated to purchase they have to have a letter of credit and the authority prior to the actual sale. Mr. Enlow stated there are several people reviewing this and the possibility of using NAHASDA funds. Councilor Thornton questioned if the Housing Authority proceeds of sale funds could be used. Mr. Enlow stated they are reviewing this as a possibility as well.*

## CONSTITUTIONAL AMENDMENTS COVERING TERM LIMITS (Discussion only)

**Sponsors:** Councilor Cara Cowan Watts, Councilor Buel Anglen, Councilor Janelle Fullbright and Councilor Julia Coates

*Councilor Cowan Watts gave a reminder that these three items would not call for a special election these would be items that the people would vote on during the regular election in 2011.*

## 2a. A RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE VI SECTION 3 OF THE CHEROKEE NATION CONSTITUTION, PURSUANT TO ARTICLE XV SECTION 2, CHANGING THE DATE BY WHICH REGISTERED VOTERS MAY CHOOSE TO VOTE IN A COUNCIL DISTRICT WITHIN THE BOUNDARIES OF

## THE CHEROKEE NATION

**Sponsors:** Councilor Buel Anglen, Councilor Cara Cowan Watts, Councilor Janelle Fullbright and Councilor Julia Coates

*Councilor Cowan Watts stated this allows At Large voters to have another opportunity to re-register in their home district. Councilor Bill John Baker stated he would oppose this mainly due to the confusion. The Constitution said one opportunity would be give and this gives yet another opportunity. These voters have already voted in an election as At Large voters and are now acclimated. A second opportunity would provide more confusion. The At Large voters aren't missing out as they still get to vote for the chief, deputy chief and two council members instead of one. Councilor Jack Baker questioned the 5th Whereas being in direct violation of the 1st Whereas. Mr. Hembree agreed. Councilor Jack Baker offered a friendly amendment to strike the sentence beginning with All Citizens. Councilor Cowan Watts and Anglen accepted the friendly amendment. Councilor Glory-Jordan stated she would oppose this and questioned why we would want to change the brand new Constitution that the people have just voted in. These voters were given a one time opportunity to choose. She voiced concern If this is implemented it would cause more problems than trying to fix. Councilor Cobb agreed with Councilor Glory-Jordan in that this was just voted in but voiced concern for the citizens not receiving the paperwork to make the choice in a timely manner. Councilor Fullbright stated she is in support due to the people not receiving the information to make the change. She stated before the changes were all or nothing and didn't agree with all of them. Councilor Thornton we have At Large councilors and the At Large voters should vote At Large.*

**Councilor Cowan Watts made a motion for approval. Councilor Anglen seconded the motion. The motion failed with the following role call vote:**

**Yea:** 7 - Cara Cowan Watts; Buel Anglen; Janelle Fullbright; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

**Nay:** 10 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Don Garvin; Meredith Frailey; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard and Curtis Snell

2b.

A RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE VII SECTIONS 1 AND 3 OF THE CHEROKEE NATION CONSTITUTION, PURSUANT OT ARTICLE XV SECTION 2, ELIMINATING TERM LIMITS FOR THE OFFICE OF PRINCIPAL CHIEF OF THE CHEROKEE NATION AND DEPUTY PRINCIPAL CHIEF OF THE CHEROKEE NATION

**Sponsors:** Councilor Cara Cowan Watts, Councilor Buel Anglen, Councilor Julia Coates and Councilor Janelle Fullbright

*Councilor Cowan Watts stated this is a separate ballot issue for the 2011 regular election. This would eliminate term limits for the Principal Chief and Deputy Chief. Councilor Hoskin Jr. stated he is against term limits. He voiced concern for the possibility of special election. Mr. Hembree read the last Whereas clause and stated the intent is for the 2011 general election. Councilor Glory-Jordan once again voiced concern that the people have already voted to have term limits. Councilor Cobb stated term limits are a good thing and the people have a right to decide. Councilor Fullbright stated she is in support of this item that she is against term limits. She stated all elected officials are term limited any time they are up for election through voting. Councilor Cowan Watts stated she was against the all or nothing constitutional changes process. Community members have mixed feelings but feel they should have the right to decide one item at a time. Councilor Fishinghawk stated she is opposed. She stated if the people feel strongly they can get a petition and change the law.*

**Councilor Cowan Watts made a motion for approval. Councilor Anglen seconded the motion. Motion carried with the following roll call vote:**

**Yea:** 11 - David Thornton Sr. ; Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Janelle Fullbright; Harley Buzzard; Chris Soap; Bradley Cobb and Julia Coates

**Nay:** 6 - Bill John Baker; S. Joe Crittenden; Tina Glory Jordan; Jodie Fishinghawk; Curtis Snell and Chuck Hoskin, Jr.

2c.

A RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE VI SECTION 3 OF THE CHEROKEE NATION CONSTITUTION, PURSUANT TO ARTICLE XV SECTION 2, ELIMINATING TERM LIMITS FOR THE OFFICE OF CHEROKEE NATION TRIBAL COUNCIL

**Sponsors:** Councilor Cara Cowan Watts, Councilor Buel Anglen, Councilor Julia Coates and Councilor Janelle Fullbright

*Councilor Cowan Watts stated this is a similar vote of the people on the 2011 general election and would not be a special election. This would eliminate term limits for the Legislative branch. Councilor Thornton stated he is confused with these amendments. He inquired if these items are in front of the courts now and if they determine some of the elected officials are in their second term and can not run again how would it affect these amendments. Mr. Hembree stated there is a case pending asking for a determination as to if this is the first or second term under the 1999 constitution. He stated with the previous vote that they wouldn't want to put the Legislative branch at a disadvantage of being term limited if the Executive branch is given the opportunity to not to be term limited.*

**A motion was made by Councilor Cara Cowan Watts and seconded by Co Chair Buel Anglen, that this matter be Approved and Forwarded to Council. The motion carried by the following vote:**

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

**Nay:** 1 - Bill John Baker

3.

CHEROKEE NATION TRAVEL/LOCAL MILEAGE POLICY

*Mr. Hembree stated this item was tabled last month to consider legislation. He requested this policy be tabled until action is taken on the legislation pertaining to travel and mileage.*

**Councilor Glory-Jordan made a motion to table to the March meeting. Councilor Jack Baker seconded the motion. Motion carried.**

## NEW BUSINESS

1.

AN ACT REPEALING LEGISLATIVE ACT 23-99 ALLOWING FOR REIMBURSEMENT OF TRAVEL EXPENSES OF MEMBERS OF THE CHEROKEE NATION TRIBAL COUNCIL

**Sponsors:** Councilor Buel Anglen

*Chair Frailey announced there are three different items being presented. Mr. Hembree stated based on conversations with the sponsors travel act #1 is in the packet, travel act #2 is a slight modification of #1 by changing the amounts and travel*

act #3 repeals LA-23-99 and states the Tribal Council will determine their mileage and travel expense through policy and procedures. He stated if item #2 or #3 are to be considered it would need to be moved to substitute for #1 in the packet. Councilor Anglen stated he would move to substitute for #3 which is the repeal of LA-23-99 and the development of policy and procedures. Councilor Glory-Jordan seconded the motion. Councilor Bill John Baker requested clarification of LA-23-99. Mr. Hembree stated he didn't view the legislation to be for one term in fact it has been followed from 1999 to 2007. He stated the most prudent course of action for this Council is to repeal LA-23-99 and create policies. Ms. Callie Catcher stated half of the Council's funding is from indirect cost and reference it is subject to any federal guidelines. Councilor Cowan Watts inquired how the language is for the Chief and Deputy. Ms. Catcher stated they follow the travel policies which conform to A87 requirements. Mr. Doug Evans stated in addressing one line item in the budget the disagreed with Ms. Catcher and the need to put language in this act or remove language that addresses the A87 implications. There will be IRS stipulations when a travel allowance is given. Councilor Glory-Jordan called for the question.

**Councilor Anglen made a motion to approve version 3 repealing LA-23-99. Councilor Glory-Jordan seconded the motion. Motion carried with Councilors Bill John Baker, Thornton and Crittenden opposed.**

2.

AN ACT ESTABLISHING AUTHORITY AND JURISDICTION FOR CHEROKEE NATION DISTRICT COURTS AND THE CHEROKEE NATION SUPREME COURT TO EXERCISE AND DETERMINE DECLARATORY JUDGMENTS

**Sponsors:** Councilor Meredith Frailey

*Chair Frailey stated during the Judicial Conference the Justices requested we establish authority for them to exercise declatory judgments. Mr. Hembree stated this item has been given to the Attorney General for review. He agreed with the changes requested by the Attorney General as stated them as follows: 1) in the substantive provision insert a hyphen between non and liability, 2) correct the spelling of tortious, 3) page 2 item b at the end of the sentence change however to provided, and 4) delete the last sentence.*

**Councilor Jack Baker made a motion to approve with amendments. Councilor Garvin seconded the motion. Motion carried.**

3.

AN ACT AMENDING LEGISLATIVE ACT 38-05 TRIBAL EMPLOYMENT RIGHTS ORDINANCE, PROVIDING FOR PROMPT PAYMENT OF VENDORS

**Sponsors:** Councilor Meredith Frailey, Councilor Cara Cowan Watts, Councilor Buel Anglen, Councilor Bill John Baker, Councilor Harley Buzzard, Councilor S. Joe Crittenden, Councilor Jodie Fishinghawk, Councilor Janelle Fullbright, Councilor Don Garvin, Councilor Tina Glory Jordan and Councilor David Thornton

*Chair Frailey stated a lot of contractors haven't been paid in a timely manner. She stated she has been contacted by the Chief and he has requested this item be tabled. Chief Smith is in the process of contacting contractors and sub contractors to determine the problem. Part of the issue is not being paid the retainer fee.*

**Councilor Garvin made a motion to table. Councilor Cobb seconded the motion. Motion failed with the following role call vote:**

**Yea:** 8 - Don Garvin; Meredith Frailey; Buel Anglen; Jack D. Baker; Janelle Fullbright; Chris Soap; Bradley Cobb and Julia Coates

**Nay:** 9 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Cara Cowan Watts; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard; Curtis Snell and Chuck Hoskin, Jr.

*Ms. Catcher voiced concerns in regard to the implementation of this act as written. She questioned the interest penalties. She stated from the payment side this would be difficult to implement and track. Her other major concern is federal dollars are used in any of these contracts and they are not allowed to pay penalties. She stated she wasn't aware of the problem. She requested time to visit with the vendors to determine the problem rather than legislation. Councilor Thornton called for the question.*

**Councilor Bill John Baker made a motion to approve. Councilor Thornton seconded the motion. Motion carried with the following roll call vote:**

**Yea:** 10 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Meredith Frailey; Cara Cowan Watts; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard; Curtis Snell and Chuck Hoskin, Jr.

**Nay:** 6 - Don Garvin; Buel Anglen; Jack D. Baker; Chris Soap; Bradley Cobb and Julia Coates

**Abstain:** 1 - Janelle Fullbright

4.

#### A RESOLUTION SETTING DATES FOR CHEROKEE NATION TRIBAL COUNCIL COMMITTEES

**Sponsors:** Councilor Bradley Cobb

*Councilor Cobb stated this resolution is a result of frustration of the down time on committee days. He stated the resolution is in draft form and he is open for change. This resolution moves all committees to the Monday of Council meeting with the exception of Rules and Executive and Finance committees which would be left unchanged. Councilor Cobb moved for the approval. Councilor Hoskin Jr. seconded the motion. Councilor Glory-Jordan offered a friendly amendment to move Community Service to an earlier time possibly 9:30. Councilor Cobb didn't accept the friendly amendment. Councilor Jack Baker commented Councilor Coates flies in on Mondays and suggested moving Education & Culture to 4:00 on Monday afternoon. He stated he would prefer to have Resource at 3:00 and Education & Culture at 4:00 on Monday then Community Service at 9:00 and Health at 10:00 on Tuesday morning. Councilor Cobb accepted the friendly amendment. Councilor Coates stated she is on all committees therefore it doesn't really matter what time Education & Culture is scheduled. Councilor Bill John Baker stated in the past the Chairs of the committees with input of the members set the day and times of the meetings. He questioned reinvesting the wheel when it is already in the Council rules and procedures. Councilor Coates suggested starting Community Service at 10:00 on Tuesday morning. Chair Frailey asked what the objective is with this legislation. Councilor Cobb stated originally the objective was to eliminate the big gap on Tuesday. He originally in favor of all in one day partly due to cost of hotel expenses. Councilor Cobb stated he thought he heard to have two community meetings on Monday afternoon then two on Tuesday morning beginning at 9:00.*

**Councilor Bill John Baker stated he isn't opposed to shuffling around the meetings but moved to table to allow the Chair an opportunity to determine a workable schedule and if agreeable then don't legislate. Councilor Thornton seconded the motion. Motion carried with the following roll call vote:**

**Yea:** 10 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Cara Cowan Watts; Jack D. Baker; Harley Buzzard; Curtis Snell; Chris Soap; Chuck Hoskin, Jr. and Julia Coates

**Nay:** 7 - Don Garvin; Meredith Frailey; Buel Anglen; Tina Glory Jordan; Jodie Fishinghawk; Janelle Fullbright and Bradley Cobb

5. A RESOLUTION AUTHORIZING CONFIRMATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION BUSINESS, LLC

*Councilor Bill John Baker moved for approval. Councilor Thornton seconded the motion.*

**Councilor Snell made a motion to table. Councilor Jack Baker seconded the motion. Motion carried with Councilors Bill John Baker and Frailey opposed.**

6. A RESOLUTION RATIFYING LITIGATION IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

Sponsors: Councilor Meredith Frailey

**Councilor Garvin made a motion to approve. Councilor Jack Baker seconded the motion. Motion carried.**

ANNOUNCEMENTS

ADJOURNMENT

**Councilor Cobb made a motion to adjourn. Councilor Anglen seconded the motion. Motion carried at 3:05 p.m.**

STAFF PRESENT:

<i>Don Vaughn</i>	<i>Sharon Wright</i>	<i>Diane Hammons</i>
<i>Todd Enlow</i>	<i>Callie Catcher</i>	<i>Gregg Simmons</i>
<i>Jamie Hummingbird</i>	<i>Nason Morton</i>	<i>Anna Knight</i>
<i>Shay Smith</i>	<i>Doug Evans</i>	<i>Chrissi Nimmo</i>
<i>Robert Garcia</i>	<i>Diane Kelley</i>	

VISITORS PRESENT:

<i>Raymond Vann</i>	<i>Mike Miller</i>	<i>Gina Olaya</i>
<i>Todd Hembree</i>		

APPROVAL / DISTRIBUTION

**Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator**

**Motion to approve minutes made by:** \_\_\_\_\_

**Minutes attested and concurred by:** \_\_\_\_\_

**Date:** \_\_\_\_\_