



Council of the Cherokee Nation

Council House
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Meeting Minutes - Final RULES COMMITTEE

Meredith Frailey, Chair

*Recording Secretary, Shelli-Brittain
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Monday, July 12, 2010

10:00 AM

Legislative Conference Room

Special Session

CALL TO ORDER

Chair Frailey called the meeting to order at 10:20 a.m.

INVOCATION

Councilor Crittenden gave the invocation.

ROLL CALL

Present 13 - Bill John Baker; Buel Anglen; Cara Cowan Watts; Chris Soap; Curtis Snell; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright; Jodie Fishinghawk; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan

Absent 1 - David Thornton Sr.

Late Arrival 3 - Bradley Cobb; Chuck Hoskin and Julia Coates

1.

A LEGISLATIVE ACT REVISING SECTION 5, AMENDING REPRESENTATIVE DISTRICTS, OF TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED (9 Districts)

Chair Frailey announced the purpose for this special meeting is to arrive at a decision in redistricting. A plan has been provided for nine districts, five districts and fifteen districts. She announced Councilor Fishinghawk agreed to sponsor the nine and fifteen district plans to get them on the agenda.

Councilor Fishinghawk moved to table item 1. Councilor Cowan Watts seconded the motion. The motion carried with the following roll call vote:

Yea: 8 - Buel Anglen; Cara Cowan Watts; Curtis Snell; Harley Buzzard; Jack D. Baker; Jodie Fishinghawk; Meredith Frailey and Tina Glory Jordan

Nay: 6 - Bill John Baker; Chris Soap; Chuck Hoskin; Don Garvin; Janelle Fullbright and S. Joe Crittenden

Late Arrival: 2 - Bradley Cobb and Julia Coates

2. AN ACT AMENDING LEGISLATIVE ACT 06-10; REVISING TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED; AMENDING § 5, ADDING PROVISIONS FOR APPORTIONMENT; AND DECLARING AN EMERGENCY

Chair Frailey stated she sent out a map with the population at 110,000 and another at 122,000. Councilor Fishinghawk commented she had requested maps of 107,000 and 108,000 as they are the numbers the Registrar provided. Chair Frailey inquired if the requested maps had been provided. Mr. Hembree announced Mr. David Justice who compiles the maps has been out sick all week. Chair Frailey stated she is in favor of the five districts. The five district plans provided keep communities of interest together.

Councilor Jack D. Baker moved to table until after discussion of item 3 pertaining to fifteen districts. Councilor Cowan Watts seconded the motion. The motion carried with the following roll call vote:

Yea: 9 - Buel Anglen; Cara Cowan Watts; Curtis Snell; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright; Meredith Frailey and S. Joe Crittenden

Nay: 5 - Bill John Baker; Chris Soap; Chuck Hoskin; Jodie Fishinghawk and Tina Glory Jordan

Late Arrival: 2 - Bradley Cobb and Julia Coates

3. A LEGISLATIVE ACT RELATED TO TITLE 26 "ELECTIONS", AS AMENDED BY LA#39-05 AND LA-14-08; AMENDING REPRESENTATIVE DISTRICTS (15 Districts)

Mr. Hembree stated he has reviewed the numerous fifteen district maps looking for ones close to the 10% variance the Judge has stated in his order he would like to see. He provided a reminder that the 10% is not an absolute rule. Today it needs to be determined if there will be five, nine or fifteen and come to a consensus on the methodology. If the vetoed item on the Council agenda tonight is overridden that would be the methodology to follow. The methodology needs to best represent the number of citizens that live within the Cherokee Nation. Judge Fite stayed the portion of his Order stating 122,000 is the correct number. The last number submitted by the GEO Data department and the Election Commission is 110,000. Chair Frailey inquired if the Registrar, Lela Ummerteskee, is available for questions. Councilor Fishinghawk requested to determine the number to be used prior to looking at maps. Mr. Hembree stated the 102,000, 110,000 and 122,000 are the numbers that have come from the Election Commission and the Court. Councilor Hoskin Jr. inquired about the possibility for all parties to join together in a request to extend the time restraints placed by the Judge. Ms. Paula Ragsdale commented it is her understanding that all maps requested have been produced at one time or another and are just unable to re-print with the absence of Mr. Justice.

RECESS

Councilor Glory-Jordan made a motion for a fifteen minute recess to allow time for the maps to be produced. Councilor Bill John Baker seconded the motion. The motion failed with the following roll call vote:

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

Nay: 9 - Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chris Soap; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright and Meredith Frailey

Late Arrival: 1 - Julia Coates

A LEGISLATIVE ACT RELATED TO TITLE 26 "ELECTIONS", AS AMENDED BY LA#39-05 AND LA-14-08; AMENDING REPRESENTATIVE DISTRICTS (15 Districts)

Councilor Cowan Watts made a motion to include all tribal citizens at their last known addresses in the apportionment data. Councilor Buzzard seconded the motion. Councilor Glory-Jordan inquired what data base the last known address would come from. Councilor Cowan Watts stated the only data that should be used is tribal registration. Councilor Glory-Jordan stated she is unable to vote on this without Ms. Ummerteskee. Several Councilors voiced concern for the 21,000 bad addresses in that without knowing how many are inside or outside of the jurisdiction the question remains as to if they should be counted or not. The Constitution is very clear in that it states you can only count those citizens within the jurisdictional boundaries. Mr. Hembree stated this has basically already been done. The 102,000 did geo-coding along the borders and did not include bad addresses. In Mr. Justice's letter he stated he had made a mistake and had inadvertently left out the bad addresses and with them added back in the number changed to 110,000. Councilor Fishinghawk inquired as to the number referred to in Councilor Cowan Watts motion. Councilor Cowan Watts stated there isn't a number; the motion is to set principles on how we look at data for tribal citizenship.

Councilor Glory-Jordan requested to wait until Ms. Ummerteskee arrives to vote. Chair Frailey called for a five minute recess.

Chair Frailey called the meeting back to order. Chief Smith stated the data base used is required by the Constitution and statute which is the citizenship registration data base. This data base contains the name, address, county and bad addresses. Ms. Ummerteskee has only provided the data for a certain date. Mr. Justice uses this information from that certain date to run reports. The only thing he has done independently is add GIS location. Councilor Glory-Jordan inquired if Ms. Ummerteskee could provide the number of bad addresses within the jurisdiction. Chief Smith stated she doesn't manipulate the data. The problem exists when the town, county or zip code is along the jurisdictional lines. The form in which the information is derived doesn't ask if the citizen resides inside or outside of the jurisdictional boundaries. The problem with the bad addresses is there isn't a methodical way or a procedural way to keep track of them consistently. The 110,000 number includes bad addresses within the jurisdiction and gets close to the border counties but isn't precise. Councilor Glory-Jordan inquired why Chief Smith feels the five districts are most appropriate. Chief Smith stated under any data method the five districts work. Mr. Hembree commented the 110,000 is probably the most accurate number. Chief Smith stated he would like to work with everyone to decide language for the next election to help the counties get their 911 data working properly. Councilor Buzzard voiced concern for the five districts. He stated the districts would be spread out over a hundred miles and the representation for the people would suffer. Councilor Cowan Watts stated in regard to her motion on the floor, concerning the inclusion of all tribal citizens whether they have a bad address or not, it doesn't address the border zip code issue, it is principles we should consider adopting for consideration of the data for the proper apportionment of our tribal citizens. Councilor Bill John Baker commented a fifteen district map has not been created that is within the 10% deviation. He stated at this point the number doesn't really matter. The election is coming and the Election Commission needs time and direction.

Councilor Bill John Baker made a motion to table Councilor Cowan Watts motion on the floor. Councilor Fishinghawk seconded the motion. The motion carried with the following roll call vote:

Yea: 9 - Bill John Baker; Chris Soap; Chuck Hoskin; Curtis Snell; Janelle Fullbright; Jodie Fishinghawk; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan

Nay: 6 - Bradley Cobb; Buel Anglen; Cara Cowan Watts; Don Garvin; Harley Buzzard and Jack D. Baker

Late Arrival: 1 - Julia Coates

Councilor Hoskin Jr. inquired if a map had been compiled by county road. Mr. Hembree showed a map with 109,000 citizens with districts divided by county road, zip code, county boundaries, and waterways. Of the fifteen districts five have larger than 10% deviation. Councilor Hoskin Jr. commented the 10% is not an absolute. Mr. Hembree agreed and stated the 10% comes from United States Supreme Court case and if it goes beyond a 10% variance you must have a justifiable reasonable basis for doing so. Councilor Fishinghawk requested clarification in regard to the July 30th deadline for a map to be submitted to the court or the judge would decide the district lines. Mr. Hembree stated if the Legislative process doesn't work by the 30th of July the Judicial process will take over. Councilor Fishinghawk asked Chief Smith if he would veto a map with these deviations. Chief Smith stated if the Council was to override a veto that the judge would also veto due to the large variances. Councilor Soap commented on the considerable amount of time spent on the fifteen districts but still can't seem to make it work. Councilor Fullbright commented she prefers the fifteen districts. Councilor Crittenden stated some of the five district maps are also out of the 10% deviation. Councilor Glory-Jordan Commented it looks as though to meet the Court's deadline we must go with a five districts. She favored the Chief's idea to work with the counties who don't have good 911 to allow us to have better data by the next election. Today we have been presented with a map that gets us within the boundaries the Court has provided. This map appears to keep like people and communities together. Councilor Buzzard once again voiced concern for moving toward the five district map and the representation the rural people would loose. Councilor Hoskin Jr. once again suggested a joint effort to extend time for thirty days to investigate the idea of a fifteen district map using county roads. Chief Smith stated he would not be in agreement. Mr. Justice has provided over 300 maps and it isn't going to get any better. Councilor Fishinghawk inquired if Councilor Hoskin Jr. would be in agreement with five districts until 2013 to allow time to work with the counties who don't have good 911. Chief Smith provided a handout of language to serve as a base which states he would plan a budget and plan for FY2012 for the Council's consideration to assist the counties in completion of their 911 address location and also develop a plan and budget to determine the last known address for every citizen on our base role. Councilor Hoskin Jr. commented the only way he could support is if there is a sunset clause. Chief Smith commented that defaulting to a system that has already been deemed unconstitutional isn't a good public policy. Mr. Hembree reminded everyone that any Act can be amended at anytime. Councilor Hoskin Jr. stated the benefit of a sunset clause moves us to act on a date certain. Councilor Jack D. Baker suggested language directing the Council to redistrict by a date certain instead of a sunset clause. Councilor Hoskin Jr. agreed with Councilor Baker's idea and voiced concern that five districts cause's injury to the institution and shouldn't be tolerated any longer than it has to. Mr. Hembree stated the discussion is not Germaine to the issue. The comments need to remain on the fifteen districts or make a definitive vote on the fifteen districts. Councilor Cowan Watts offered a friendly amendment to the five district legislation on the agenda. She read three paragraphs that would be added language to the existing proposed Act.

RECESS

Councilor Fishinghawk moved to recess for lunch. Councilor Crittenden seconded the motion. Chair Frailey stated we would recess for 30 minutes for lunch.

RECONVENE

Chair Frailey called the meeting back to order at 1:00 p.m.

Present 15 - Bill John Baker; Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chris Soap; Chuck Hoskin; Curtis Snell; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright; Jodie Fishinghawk; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan

Absent 1 - David Thornton Sr.

Late Arrival 1 - Julia Coates

Councilor Cobb moved to amend the agenda to add item 4 to the agenda for an amendment to the resolution for the Vinita clinic. Councilor Cowan Watts seconded the motion. Motion carried.

A LEGISLATIVE ACT RELATED TO TITLE 26 "ELECTIONS", AS AMENDED BY LA#39-05 AND LA-14-08; AMENDING REPRESENTATIVE DISTRICTS (15 Districts)

Councilor Fishinghawk made a motion to table item 3 pertaining to fifteen districts. Councilor Bill John Baker seconded the motion. Motion carried.

AN ACT AMENDING LEGISLATIVE ACT 06-10; REVISING TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED; AMENDING § 5, ADDING PROVISIONS FOR APPORTIONMENT; AND DECLARING AN EMERGENCY

Councilor Fishinghawk made a motion to put Ottawa, Mayes, and District 9 together and put Districts 7 and 8 together. Chair Frailey requested the motion wait until Mr. Justice provides this map with the correct numbers. She stated the map being referred to was passed out earlier titled Cherokee Nation Five District Example 2. Councilor Bill John Baker seconded the motion.

Councilor Cowan Watts made a motion to amend the legislation to add D, E and F as listed in the handout with one minor change to add "the need for" prior to the word apportion in F. Councilor Jack D. Baker seconded the motion without the "the need for". Councilor Cowan Watts accepted. Councilor Fishinghawk offered a friendly amendment to add a section G stating to use methodology to determine citizens. Councilor Cowan Watts didn't accept.

Councilor Fishinghawk made a motion to add Section G regarding the methodology of determining citizens. Councilor Glory-Jordan seconded the motion. Councilor Soap stated he is unable to support the amendment.

The motion to add a Section G failed with the following roll call vote:

Yea: 7 - Bill John Baker; Chuck Hoskin; Curtis Snell; Janelle Fullbright; Jodie Fishinghawk; S. Joe Crittenden and Tina Glory Jordan

Nay: 9 - Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chris Soap; Don Garvin; Harley Buzzard; Jack D. Baker; Julia Coates and Meredith Frailey

Councilor Cowan Watts called for the question on her motion to add D, E and F.

Motion carried to approve the five district legislation with the amendment to add three sections.

Mr. Hembree referred to the five district map originally provided with the legislation and the map titled Cherokee Nation 5 District Example 2 referred to earlier. The Cherokee Nation 5 District Example 2 map keeps the metropolitan areas of Tulsa, Washington and Rogers together while other districts keep rural interests together. Councilor Cobb stated he is not in favor of the five districts. He went on record to say he believes everyone ultimately wants the same result and what is best for the Cherokee Nation. The difference comes in the methodology of how to get there. He stated he does feel squeezed by a non-elected official of the Court who has placed mandates on the Council. The feeling of community and the feeling of representation by someone of common interests is important. He voiced concern for Washington County being grouped with Craig, Nowata and Ottawa Counties. He requested the Council consider placing Tulsa, Rogers and Washington Counties together as it is the most common interest grouping of this flawed system. Chair Frailey inquired if he was referring to the 5 District Example 2 map. Councilor Cobb agreed. Councilor Hoskin Jr. agreed this map is the one that captures the communities of interest together. Chair Frailey announced Mr. Justice is bringing numbers in relation to this map.

RECESS

Councilor Cobb moved to recess until the numbers arrive. Councilor Cowan Watts seconded the motion. Motion carried at 1:22 p.m.

RECONVENE

Chair Frailey called the meeting back to order at 1:55 p.m.

Present 13 - Bill John Baker; Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chris Soap; Chuck Hoskin; Don Garvin; Harley Buzzard; Jack D. Baker; Julia Coates; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan

Absent 1 - David Thornton Sr.

Late Arrival 3 - Curtis Snell; Janelle Fullbright and Jodie Fishinghawk

AN ACT AMENDING LEGISLATIVE ACT 06-10; REVISING TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED; AMENDING § 5, ADDING PROVISIONS FOR APPORTIONMENT; AND DECLARING AN EMERGENCY

Chair Frailey announced she was given numbers of 110,892 for the Tulsa, Rogers and Washington Counties combined however there are 700 people not accounted for.

Councilor Cobb moved to approve the Cherokee Nation 5 District Example 2 map with the 4 in the corner. Councilor Cowan Watts seconded the motion. Mr. Hembree

stated the map that has been moved and seconded can be defended by keeping political sub-divisions together, keeps identifiable county borders and would ease voter confusion. On a larger scale this also keeps identifiable interest together. He stated in discussion with the Chief in regard to this map and the variances the Chief stated he wouldn't object to this map. Councilor Jack D. Baker stated this map actually has more deviation than the previous fifteen district map. Councilor Buzzard agreed. Councilor Cowan Watts commented the original map provided with the five district map is closer in deviation.

The motion to approve the five district map carried by the following vote:

Yea: 10 - Bill John Baker; Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chuck Hoskin; Don Garvin; Janelle Fullbright; Jodie Fishinghawk; Meredith Frailey and Tina Glory Jordan

Nay: 6 - Chris Soap; Curtis Snell; Harley Buzzard; Jack D. Baker; Julia Coates and S. Joe Crittenden

Councilor Cowan Watts moved to approve the legislation with the amendments and map and move to full Council tonight. Councilor Cobb seconded the motion. The motion carried with the following roll call vote:

Yea: 12 - Bill John Baker; Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chris Soap; Chuck Hoskin; Don Garvin; Janelle Fullbright; Jodie Fishinghawk; Julia Coates; Meredith Frailey and Tina Glory Jordan

Nay: 4 - Curtis Snell; Harley Buzzard; Jack D. Baker and S. Joe Crittenden

Councilor Garvin inquired if this would be the appropriate time to rename the seats. Mr. Hembree commented it could be done now or at a later time. Councilor Garvin made a motion to name the seats as follows: District 5 – Buel Anglen = A, B and C open, District 4 – Meredith Frailey = A, Chuck Hoskin Jr. = B and C open, District 3 – Joe Crittenden = A, Curtis Snell = B and C open, District 2 – Bill John Baker = A, B and C open, and District 1 – Don Garvin = A, David Thornton = B, C open. Councilor Glory-Jordan seconded the motion with a friendly amendment. She suggested using numbers instead of the alphabet as they are currently Seat 1 and Seat 2. She also suggested District 1 remains District 1, District 2 remains District 2, and so on. Councilor Garvin didn't accept.

The motion to re-number the seats one, two and three carried.

Councilor Glory-Jordan made a motion to re-number the districts as Cherokee and Wagoner as District 1, Adair and Delaware as District 2, Sequoyah, Muskogee and McIntosh as District 3, Craig, Nowata, Ottawa and Mayes as District 4 and Tulsa, Rogers, and Washington as District 5. Councilor Hoskin Jr. seconded the motion.

The motion to change the district names carried.

4.

A RESOLUTION AMENDING RESOLUTION 48-10, AUTHORIZING THE INCURRING OF INDEBTEDNESS IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$24,000,000.00 AND AUTHORIZING A GENERAL OBLIGATION CREDIT FACILITY AND OTHER DOCUMENTS AS MAY BE NECESSARY OR REQUIRED; AUTHORIZING THE LIMITED WAIVER OF SOVEREIGN IMMUNITY OF THE CHEROKEE NATION IN CONNECTION WITH THE CREDIT FACILITY; PROVIDING FOR THE COMPLIANCE WITH APPLICABLE FEDERAL LAW RELATING TO THE EXCLUSION FROM GROSS INCOME FOR FEDERAL INCOME TAXATION PURPOSES OF INTEREST ON THE FACILITY; CONTAINING OTHER PROVISIONS RELATING THERETO; AND DECLARING AN EMERGENCY

Ms. Callie Catcher stated this would amend Resolution 48-10 which approved the financing for the Vinita Clinic. The original resolution didn't authorize them to agree to

pay attorney fees if they were in default. The words "including attorney fees" have been added to this resolution.

Councilor Cobb moved to approve and forward to Council tonight. Councilor Cowan Watts seconded the motion. Motion carried.

ANNOUNCEMENTS

ADJOURNMENT

Councilor Cowan Watts moved to adjourn. Councilor Bill John Baker seconded the motion. Motion carried at 2:20 p.m.

STAFF PRESENT:

*Paula Ragsdale
Mike Miller
David Justice*

*Doug Evans
Chad Smith*

*Callie Catcher
Lela Ummerteskee*

VISITORS PRESENT:

*Todd Hembree
Martha Calico*

*Ollie Starr
Patsy Morton*

Brenda Walker