



Council of the Cherokee Nation

Tribal Council Minutes Tribal Council

Monday, March 16, 2009

6:00 PM

Council Chambers

CALL TO ORDER

Speaker Frailey called the meeting to order at 6:03 p.m.

INVOCATION

Councilor Cobb gave the invocation.

ROLL CALL

Present 17 - 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. ; Julia Coates and Bill John Baker

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Councilor Cobb made a motion to approve the February 17, 2009 regular session minutes. Councilor Cowan Watts seconded the motion. Motion carried.

Councilor Cowan Watts made a motion to amend the agenda to include 5 additional items passed out of committees earlier today. From Community Services Special Session 1) A resolution approving an amendment to the 2008 Indian Housing Plan. From Executive and Finance Special Session 2) Mod 5b stimulus package. From Resource Committee 3) a authorizing a grant application to be submitted for a resolution for a community oriented policing service 4) a resolution authorizing CNB to submit a grant application for a renewable energy development grant in Indian country, and 5) a resolution authorizing the placement of land in trust at the Three Rivers Health Center in Muskogee. Councilor Garvin seconded the motion. Motion carried.

STATE OF THE NATION

Deputy Principal Grayson gave the State of the Nation. Deputy Grayson announced Chief Smith was in Washington visiting legislators and the leadership council on civil rights and the new Secretary of the Interior. He requested a moment of silence to honor the Cherokee citizens Walter Holt and Willie Pritchett whom we have lost since the last Council meeting as. He honored the Veterans in the Color Guard as: Crystal Craig, Lee Harris, John Henderson, Sarah Hurst, Jeff Phillips, Frank Squirrel, Greg Squirrel, John Stayathome, Don Stroud, and Warner White. Deputy Grayson stated you must be a veteran and a volunteer to be a member of the Color Guard. The Cherokee Nation Marshal Service and the Washington County Sheriffs Department formalized a cross deputization agreement to become the 12th in the fourteen Counties within the Cherokee Nation jurisdiction. Sequoyah Schools have had numerous achievements over the last month. Juanita Pettit a junior has been named a United States National Award Winner in Mathematics. Shane Boyd has

received official notification that he has been appointed to the United States Air Force Academy in Colorado Springs, Colorado. Sequoyah Schools has received special recognition from Gates Millennium Scholarship Program for their college preparation practices. In 2008 Sequoyah had the second highest number of Gates Scholars in the United States. Augustus Smith, College Preparatory Teacher and Librarian was recently selected as the Educator of Distinction by the National Society of High School Scholars. He announced Jay Hannah was the Master of Ceremonies at Northeastern State University and Chief Smith was featured as the speaker at the Centennial Plaza for NSU's 100 year anniversary. Last month Dr. Charles Grim was named as Senior Director of Health Services. Cherokee Nation Education Services recently hosted the 3rd Annual Science and Engineering fair where students from local schools entered more than 135 projects. The Cherokee Nation will observe Native American HIV and AIDS Awareness Day by hosting a community program on March 26th at 10:00 a.m. in the Council Chambers. He congratulated Sequoyah Schools basketball team's coaches and players for their hard work. The teams have have a consistent presence at the Oklahoma State Basketball Tournament over the past ten years.

Speaker Frailey requested Sharon Wright come forward and recognize her officers who were involved in the Standing Rock peace keeping mission. Ms. Wright announced the BIA has a peace keeping direction to give Standing Rock some support. Different agencies were requested to help with the extreme high crime rate. The people of Standing Rock were very pleased with the assistance given. The officers were on the mission a month at a time. The five officers who volunteered are John Timothy, Rodney Kingfisher, Chad McCarter, Faron Pritchett, and Daniel Mead.

ACTION OF UNFINISHED BUSINESS

None.

COMMITTEE REPORTS

Monthly Reports:

Housing Authority - David Southerland

Mr. Southerland announced the board met last Friday and had a light agenda. There were no findings on the 2008 audit. The board approved a revision to the FY2009 MEPA budget to add \$300,000 to make it to the end of the year. The board also discussed cooperation agreements in effect with Cherokee and Adair County. These agreements are required to do business with HUD funds. The stimulus funding should be available in the next few weeks.

Cherokee Nation Enterprises - David Stewart

Mr. Stewart reported CNE had the best January in the history of the company. They are seeing some rebound in the economy and are optimistic the results will continue. The employment is at 60% throughout all management levels of the company. The total employment is 3387. They will soon begin the job fairs for the Catoosa expansion. The construction is on target with plans to soft open the casino, hotel and convention space with the Hard Rock brand on January 1st with the theatre following several months later. The grand opening will be held in July.

Cherokee Nation Business, Inc - David Stewart

Mr. Stewart announced they have kicked off their efforts to establish industry groups. The idea is our business efforts are based on the business expertise we currently

have therefore they have spearheaded this approach to develop expertise in areas and determine where business could be done better. They assisted CNI with the acquisition of Red Wing.

Cherokee Nation Industries - Bryan Collins

Mr. Robert Drvostep announced Mr. Collins is in Washington D. C. He reported Mr. Collins and other executives attended the RES 2009 show in Las Vegas where they met new potential customers. CNI currently has 468 employees with 82% Native American. The books for the month of February were closed last Friday with encouraging results. The revenue was substantially below budget but did exceed the prior year by \$396K. They did have a profit in the month of February in the amount of \$96K.

OLD BUSINESS

None pending.

NEW BUSINESS

Resource Committee

1. **A RESOLUTION AUTHORIZING TO AMEND RESOLUTION NO. 86-08 FOR LEASING TRUST LAND TO BELL DEPENDENT SCHOOL DISTRICT #33**

Councilor Crittenden requested Councilor Fishinghawk be included as a sponsor of this resolution. He announced this is an amendment to Resolution 86-08 for 12.5 acres. This new lease is for 20 acres at one dollar per year for twenty five years.

Councilor Crittenden made a motion to approve. Councilor Cowan Watts seconded the motion. Motion carried unanimously.

Enactment No: R-17-09
2. **A RESOLUTION AUTHORIZING THE PLACEMENT OF LAND IN TRUST - TIAWAH 8.84 ACRES**

Councilor Cowan Watts announced this places the land in trust for the community building for the Rogers County Cherokee Association which resides on 8.84 acres in the community of Tiawah.

Councilor Cowan Watts made a motion for approval. Councilor Cobb seconded the motion. Motion carried unanimously.

Enactment No: R-18-09
3. **A RESOLUTION AUTHORIZING CHEROKEE NATION ENVIRONMENTAL PROGRAMS TO SUBMIT A FORMAL GRANT APPLICAITON TO THE GENERAL ASSISTANCE PROGRAM**

Councilor Cowan Watts announced this grant is to provide recycling and solid waste management training for other tribes.

Councilor Cowan Watts moved for approval. Councilor Bill John Baker seconded the motion. Motion carried unanimously.

Enactment No: R-19-09

Rules Committee

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

Councilor Anglen stated the purpose of this Act is to set rules and procedures for travel expense reimbursement for Cherokee Nation Tribal Council members.

Councilor Anglen moved to approve. Councilor Cobb seconded the motion. The motion for approval carried with the following roll call vote.

Yea: 15 - S. Joe Crittenden; David Thornton Sr. ; Don Garvin; 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: 2 - Meredith Frailey and Bill John Baker

Enactment No: LA-05-09

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

Councilor Cowan Watts moved to approve. Councilor Cobb seconded the motion. Motion carried by acclamation.

Enactment No: LA-06-09

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

Speaker Frailey stated the intent of this legislation is to be pro business and to help businesses who do business with the Cherokee Nation and its entities to promote prompt payment. She stated the problem with prompt payment is Nation wide. A study revealed the average time for contractors to receive retainage was 93 days after completion of the contract. The average time for a subcontractor or supplier is 180 days. Only 10% have received only partial or none of the retainage. This legislation is a step in the right direction to enhance a partnership between large and small businesses with the Cherokee Nation and its entities. The primary goal of this legislation is fairness.

Councilor Cowan Watts echoed the Speakers comments regarding the intent of the legislation. She stated it is imperative for the tribe as our tribal businesses grow that we set the expectation and accountability to provide prompt payment. This is good government to set the expectation to make sure we are accountable to each other.

Councilor Soap inquired if the Administration would like to comment on any issues that this legislation might cause. Secretary of State, Melanie Knight, they do have concerns regarding this Act: 1) they question what problems are trying to be addressed or what objectives are trying to be achieved. She stated the problems that have been brought forward to them are payments from contractors to subcontractors. She stated the contracts the Nation has with the contractors allow them to deal with this issue if needed or even the passage of legislation if necessary. She stated this

Act doesn't address this primary concern. Councilor Bill John Baker called point of order. He stated the rules are technical advice, questions answered but not debate the issue. Ms. Knight stated she didn't intend to debate but was asked for the opinion of the Administration on this Act. Councilor Soap requested a yes or no answer as to if this Act would cause problems. Ms. Knight stated from her standpoint yes it would. Ms. Callie Catcher stated it would cause problems on the governmental side. She stated anything paid with federal dollars they can not make late payments on therefore they would need to appropriate general funds. She stated she would be happy to visit with members of the Council and provide reports showing the average number of days it takes to pay a vendor. She stated most vendors are paid within 30 days.

Councilor Crittenden moved to approve. Councilor Glory-Jordan seconded the motion. Motion carried with the following roll call vote:

Yea: 11 - S. Joe Crittenden;David Thornton Sr. ;Meredith Frailey;Cara Cowan Watts;Tina Glory Jordan;Jodie Fishinghawk;Harley Buzzard;Curtis Snell;Bradley Cobb;Chuck Hoskin, Jr. and Bill John Baker

Nay: 6 - Don Garvin;Buel Anglen;Jack D. Baker;Janelle Fullbright;Chris Soap and Julia Coates

Enactment No: LA-07-09

7.

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

Councilor Cowan Watts stated this resolution would put forward a constitutional amendment on the regular 2011 election ballot regarding term limits for the Principal Chief and Deputy Chief. The people would vote yes to remove these term limits and a no vote would leave the constitution as is.

Councilor Bill John Baker made a motion to table that this issue is before the courts at this time. Councilor Glory-Jordan seconded the motion. Motion to table failed with the following roll call vote:

Yea: 8 - S. Joe Crittenden;David Thornton Sr. ;Meredith Frailey;Tina Glory Jordan;Jodie Fishinghawk;Chris Soap;Chuck Hoskin, Jr. and Bill John Baker

Nay: 9 - Don Garvin;Cara Cowan Watts;Buel Anglen;Jack D. Baker;Janelle Fullbright;Harley Buzzard;Curtis Snell;Bradley Cobb and Julia Coates

Councilor Cowan Watts moved to approve. Councilor Fullbright seconded the motion. Motion carried with the following role call vote:

Yea: 13 - David Thornton Sr. ;Don Garvin;Meredith Frailey;Cara Cowan Watts;Buel Anglen;Jack D. Baker;Janelle Fullbright;Harley Buzzard;Curtis Snell;Chris Soap;Bradley Cobb;Chuck Hoskin, Jr. and Julia Coates

Nay: 4 - S. Joe Crittenden;Tina Glory Jordan;Jodie Fishinghawk and Bill John Baker

Enactment No: R-20-09

8. **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**

Councilor Cowan Watts stated again this would be a vote of the Cherokee people on the regular 2011 election ballot. She stated should this pass it will be up to the people in two separate questions to decide the issue of term limits. She stated although there are issues pending within the court system it is important to remember nothing in the Cherokee Constitution that is retroactive. If the Supreme Court rules many of us are term limited then we would not be able to run in the 2011 election in their current seat. She stated her constituents have voiced strongly that they want to vote on this issue separately. In 2003 the constitutional questions were all or none vote.

Councilor Cobb stated he is in favor of term limits however the reality as an elected official he has a constituency and some of them are for term limits and some are not. He stated this issue is much bigger than he is as Councilor and the people have the right to decide.

Councilor Thornton stated he has run for three terms and has won each. The people voted on the new constitution which is in effect and it states we will be term limited. He stated the judges will determine if he is able to run again. He stated it should be up to the people to decide.

Councilor Cowan Watts moved to approve. Councilor Coates seconded the motion. Motion carried with the following roll call vote:

Yea: 13 - David Thornton Sr. ;Don Garvin;Meredith Frailey;Cara Cowan Watts;Buel Anglen;Jack D. Baker;Janelle Fullbright;Harley Buzzard;Curtis Snell;Chris Soap;Bradley Cobb;Chuck Hoskin, Jr. and Julia Coates

Nay: 4 - S. Joe Crittenden;Tina Glory Jordan;Jodie Fishinghawk and Bill John Baker

Enactment No: R-21-09

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

Speaker Frailey stated a recent ruling by the Court of Appeals for the Federal Circuit dismissed the Cherokee Nation in the Vann vs. Kempthorne case covering the citizenship of freedman in the Cherokee Nation. To settle this long standing controversy it is desirable for a Federal Court to determine the construction of the 1866 treaty language and any federal law determining the federal rights if any of the freedman and their descendants. This filing allows the Federal Court to reach a decision on the merits without compromising our sovereignty and without setting a precedent not only for the Cherokee Nation but for Indian Country in general.

Councilor Jack D. Baker moved to approve. Councilor Cobb seconded the motion. Motion carried unanimously.

Enactment No: R-22-09

Executive and Finance Committee

10. **AN ACT AMENDING LEGISLATIVE ACT #19-08 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2009 - MOD 5; AND DECLARING AN EMERGENCY**
- Councilor Jack D. Baker stated Mod 5 has a \$1.5ml increase on our budget authority. Primarily \$276k in cash match for grants, \$616k in housing proceeds from sales, and \$773k housing budget carry over funds from the 2004, 2005, 2006, 2007 and 2008 Indian Housing Plans.*
- Councilor Jack D. Baker moved to approve. Councilor Cowan Watts seconded the motion. Motion carried by acclimation.**
- Enactment No: LA-08-09
11. **A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION OF THE AMENDED FISCAL YEAR 2008 INDIAN HOUSING PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**
- Councilor Buzzard made a motion to approve. Councilor Crittenden seconded the motion. Motion carried unanimously.**
- Enactment No: R-23-09
12. **AN ACT AMENDING LEGISLATIVE ACT #19-08 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2009 - MOD 5 Stimulus Package; AND DECLARING AN EMERGENCY**
- Councilor Jack D. Baker stated Mod 5b is for the economic stimulus package that we are expecting to receive initially in the amount of \$42ml. There is over \$12ml for roads, \$846k for Natural Resources in forestry, \$900k for the summer youth program, \$6.7ml for maintenance and improvement to Indian Health Services, \$10ml for water and sewer for Indian Health Service and \$11.9ml increase in housing funds.*
- Councilor Jack D. Baker moved for approval. Councilor Bill John Baker seconded the motion. Motion carried by acclimation.**
- Enactment No: LA-09-09
13. **A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, FOR FUNDING UNDER THE TRIBAL RESOURCES GRANT PROGRAM 2009**
- Councilor Jack D. Baker made a motion to approve. Councilor Soap seconded the motion. Motion carried unanimously.**
- Enactment No: R-24-09
14. **A RESOLUTION AUTHORIZING CHEROKEE NATION BUSINESSES, LLC TO SUBMIT A GRANT APPLICATION TO THE UNITED STATES DEPARTMENT OF ENERGY, OFFICE OF ENERGY AND ENERGY EFFICIENCY DEPARTMENT FOR RENEWABLE ENERGY DEVELOPMENT IN INDIAN COUNTRY**

Councilor Jack D. Baker stated this is for a wind energy project on the Chilocco property. This will allow for Cherokee Nation Businesses to apply for up to a \$1ml grant for a pre construction project on the wind energy farm. There is a 100% match however the funds have already been approved by CNB.

Councilor Jack D. Baker made a motion to approve. Councilor Cobb seconded the motion. Motion carried unanimously.

Enactment No: R-25-09

15.

A RESOLUTION AUTHORIZING THE PLACEMENT OF LAND IN TRUST - THREE RIVERS HEALTH CENTER, MUSKOGEE

Councilor Garvin stated this resolution is correcting the legal description in a previously approved resolution.

Councilor Garvin moved for approval. Councilor Bill John Baker seconded the motion. Motion carried unanimously.

Enactment No: R-26-09

ANNOUNCEMENTS

Councilor Hoskin Jr. gave congratulations to the Vinita Lady Hornets who are the State Champions of Class 4A basketball. He introduced District 9 Youth Councilor Dylan Cuckaluck's family in attendance as Savannah, Damon and Coleen Chuckaluck.

Councilor Jack D. Baker reminded everyone the Joint Council meeting with the Eastern Band would be held April 16th through the 18th in Red Clay, Tennessee. He encouraged everyone to attend.

Danielle Holt, President of the Youth Council, announced they will be hosting the 2nd Annual pow wow on March 28th at the Old Sequoyah High School Gym beginning at 2:00 p.m.

ADJOURNMENT

Councilor Bill John Baker moved to adjourn. Councilor Garvin seconded the motion. Motion carried at 7:00 p.m.

Next Tribal Council meeting will be held on April 13, 2009, 6:00 p.m. at the tribal headquarters, W.W. Keeler Complex.

**Meredith A. Frailey, Speaker
Council of the Cherokee Nation**