



Council of the Cherokee Nation

Meeting Minutes

Rules Committee

Thursday, August 30, 2007

1:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Frailey called the meeting to order at 1:09 p.m.

INVOCATION

Councilor Snell gave the invocation.

ROLL CALL

Present 17 - 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; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

APPROVAL OF MINUTES

Councilor Bill John Baker moved for the approval of July 26th regular session. Councilor Cowan Watts seconded the motion. Motion carried.

Councilor Bill John Baker made a motion to amend the agenda to move new business before reports. Councilor Crittenden seconded the motion. Motion carried.

OLD BUSINESS

NEW BUSINESS

1. Business Entities (Brief Overview)

Cherokee Nation Enterprise – David Stewart gave a brief overview of CNE's properties, initiatives/strategies, strategic long-term forecast, and staffing forecast.

Cherokee Nation Industries – Bryan Collins gave a brief overview of CNI's manufacturing, distribution, and services.

Cherokee Nation Businesses – Brad Carson gave a brief overview of Cherokee Nation Businesses as well as discussion of where they are going forward.
2. Election of Advisory Board Members to CN Business Entities Boards

CNE: Councilor Buel Anglen nominated Councilor Cowan Watts.
Councilor Jack Baker stated he would be interested in serving.
Councilor Fullbright stated she would be interested in serving.

Councilor Cowan Watts moved to accept the three nominees for the CNE Advisory Board Members. Councilor Anglen seconded the motion. Motion carried.

CNI: Councilor Garvin nominated Councilor Crittenden.
Councilor Cowan Watts nominated Councilor Snell.
Councilor Anglen nominated Councilor Buzzard.

Councilor Cowan Watts moved to accept the three nominations for the CNI Advisory Board Members. Councilor Anglen seconded the motion. Motion carried.

CNB: Councilor Cobb nominated Councilor Frailey.
Councilor Jack Baker nominated Councilor Soap.
Councilor Cowan Watts nominated Councilor Cobb.
Councilor Anglen moved to accept the three nominations for the CNB Advisory Board Members. Councilor Jack Baker seconded the motion. Motion carried.

3. A RESOLUTION CONFIRMING THE APPOINTMENT OF CALLIE MARIE CATCHER AS TREASURER OF THE CHEROKEE NATION

Councilor Anglen moved for approval of appointment. Councilor Cowan Watts seconded the motion. Motion carried.

4. A RESOLUTION CONFIRMING THE APPOINTMENT OF MELANIE KNIGHT AS SECRETARY OF STATE OF THE CHEROKEE NATION

Councilor Crittenden moved for the approval of appointment. Councilor Jack Baker seconded the motion. Motion carried.

5. A RESOLUTION CONFIRMING THE NOMINATION OF TROY WAYNE POTEETE AS A JUSTICE OF THE CHEROKEE NATION SUPREME COURT

A motion was made by Councilor Jack D. Baker and seconded by Councilor Cara Cowan Watts, that this matter be Approved and Forwarded to Council. The motion carried by the following vote:

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

Nay: 4 - Bill John Baker; S. Joe Crittenden; Tina Glory Jordan and Chuck Hoskin, Jr.

6. A RESOLUTION CONFIRMING THE RENOMINATION OF ROBERT JENKINS AS A COMMISSIONER OF THE CHEROKEE NATION TAX COMMISSION

A motion was made by Councilor Harley Buzzard and seconded by Councilor Cara Cowan Watts, that this matter be Approved and Forwarded to Council. The motion carried by the following vote:

Yea: 14 - S. Joe Crittenden; 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: 2 - Tina Glory Jordan and Jodie Fishinghawk

Not In Room: 1 - Bill John Baker

7. A RESOLUTION CONFIRMING THE RENOMINATION OF MARK FREDRICK GREEN AS A MEMBER OF THE CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION

Councilor Garvin moved for the approval of the nomination. Councilor Cowan Watts seconded the motion. Motion carried.

8. A RESOLUTION CONFIRMING THE NOMINATION OF BARBARA DAWES MARTENS AS A BOARD MEMBER FOR THE SEQUOYAH HIGH SCHOOL BOARD OF DIRECTORS

Melanie Knight stated Chief Smith respectfully withdraws Barbara Dawes Martens nomination. Unfortunately Mrs. Martens will not be able to serve due to time constraints.

9. A LEGISLATIVE ACT DEFINING NEPOTISM, AND DEFINING ACCEPTABLE PARAMETERS FOR EMPLOYMENT AND CONTRACTING AND AMENDING TITLE 28, "ETHICS", ADDING NEW SECTIONS, AND REPEALING CERTAIN SECTIONS OF THE CHEROKEE NATION CODE ANNOTATED

Councilor Cobb stated the purpose of this Act is to codify the issues relating to conflicts of interest pertaining to employees and appointed and elected officials of the Cherokee Nation; use of businesses owned wholly or partially by Cherokee Nation employees appointed and elected officials; employment of relatives of elected officials, including the prohibition of nepotism; and the parameters under which Cherokee Nation employees and officials must operate with respect to conflicts of interest.

Chair Frailey recognized Todd Hembree and Melanie Knight to begin going through the Legislation.

Todd Hembree stated they have gone through a great amount of negotiations and amendment process and from discussions with other Council members amendments have been proposed. They have gone through those amendments with Councilor Cobb and he has accepted most of them as friendly amendments. The Legislation that was just handed out to the Committee has the proposed amendments included and he would suggest the Committee go point by point of the Legislation. He stated the purpose of the Act is to further clarify and be unambiguous about the conflicts between elected officials, appointed officials and employees of Cherokee Nation. The idea of the Act is to point out potential conflict of interests, have appropriate disclosures if those conflicts arise and have a means available to deal with conflicts and potential conflicts. That is set forth in compliance with Article 10, Section 10 of the Cherokee Nation Constitution.

A friendly amendment that has been added is the definition of "an official". Official is frequently used throughout this document but did not have a clear definition. They have defined "Official" as "any elected or appointed person to any governmental entity, instrumentality, commission or board of the Cherokee Nation government or its instrumentalities as defined by this Act." This Act would strike in Substantive Provisions, Title 19; section 4, title 51; section 4, title 51; section 14, and title 21; section 481. This also helps clarify the ambiguity of the law because there were four acts that dealt with conflict of interests and or nepotism and three different titles. They repeal all of those sections and replace it with one comprehensive Act.

They have added a new title 28; section 10 which includes and A, B & C. After much discussion it was considered that the Act would be much more palpable and less cumbersome if A, B & C were deleted and replaced with one paragraph which would read: "Any employee or official that does business with or attempts to do business with the Cherokee Nation or its instrumentalities shall file a written statement of all outside business owned, wholly or partially, by the employee or official with the Cherokee Nation Secretary of State. Said statement must be filed prior to such business contracting or doing business with the Cherokee Nation or its instrumentalities. Such statement shall be a public record and shall include the name of the business, the address of the outside business and the percentage of the business owned by the employee or official."

Title 28; Section 11 - No Conflict under Certain Circumstances; Solicitation Prohibited: This section sets out employee or immediate family ability to contract with the Cherokee Nation and what disclosures would need to happen and in which instances there would not be a conflict. The section reads:

Melanie Knight stated there is a typo in the next to the last paragraph. The word "were" should read "where".

Todd Hembree stated in the original Legislation the Council received in their packet there was a section D included that has now been deleted. This was in response to Attorney General Hammons opinion about a potential conflict of interest between a Councilor and the participation of the Housing Authority. The main thrust of his opinion about that opinion is the Cherokee Nation Tribal Councilors were in the decision making process and this amendment would take out the Councilors of the decision making process because it would require them to abstain. However in discussions it is the consensus that regardless of what was in this Act still there would need to be an exemption which is allowable under HUD for the process to go forward. It was determined that it would be redundant therefore it was deleted and would allow any person of a governing body to if they so wish to seek a HUD exemption to go ahead apply for one.

Chair Frailey stated due to the constraints of time she would entertain a motion to accept written reports from the departments.

Councilor Cowan Watts moved to accept written reports. Councilor Cobb seconded the motion. Motion carried.

Title 28; Section 12 - Involvement in Business Decision; Crime Defined: He stated this is another prohibition that if you do try to solicit for your business either as an employee or an elected official you are subject to not only dismissal but also possible criminal liability. Todd stated there is a scrivener's error in the second to the last sentence. The word "and" should be deleted.

Title 28; Section 13 - Resolution of Conflict of Issues Not Defined by Statute: Paragraph A) This sets forth the procedures of the employee. It will be up to their particular Human Resource Departments to propagate these rules and policies.

Paragraph B) This covers the Secretary of State, Attorney General, Boards and Commissions.

Paragraph C) This covers the Cherokee Nation Tribal Council. Any question of whether or not a conflict exists with regard to a Council member it shall be resolved by a majority vote of a quorum of the Council. Councilor Cobb wants to make sure that a majority just identifies the problem or potential problem.

Todd Hembree recommended the following language for paragraph C, "Shall be resolved by a majority vote of the membership of the Council" and language for the new paragraph E, add a new sentence at the end of the paragraph that would read, "In the case of the Tribal Council, any disciplinary action shall be by two-thirds vote by membership of the Council.

Councilor Cobb accepted the language presented by Todd Hembree as a friendly amendment.

Paragraph D) this is a new section that was inserted to cover the Principal Chief and Deputy Principal Chief.

Paragraph E) Strike the words "the business" in the first sentence and insert the words "the transaction". Councilor Cobb accepted this as a friendly amendment.

Title 28; Sections 14, 15, 16, 17 & 18 are reserved for future use.

Councilor Cobb offered a friendly amendment to Section 29; Sub-Section 10, paragraph A, to address a warranted concern about an individual disclosing all financials of all businesses. The original intent of this bill was basically to have the business entity doing business with the Cherokee Nation. Todd Hembree stated to satisfy the legislative intent the word "only" could be inserted in the last sentence of the paragraph. The last sentence would read as follows: "Such statement shall be a public record and shall only include the name of the business, the address of the outside business, and the percentage of the business owned by the employee or official." Councilor Cobb accepted the amendment as presented by Todd Hembree.

Title 28; Section 19: Nepotism Prohibited: Melanie Knight stated the definition of hiring authority defined at the beginning of the Act and is essentially the body authorized to do the hiring. The Legislative Branch would do their own hiring; Executive branch would do their hiring, and so forth with the Judicial Branch. It also defines boards and entities as the hiring authority for their respective businesses. Nepotism is defined that you cannot hire an employee that turns out to be your relative or immediate family. The Legislative Branch cannot hire someone that is a relative of someone in the Legislative Branch but the Executive Branch could hire them in the Executive Branch. It is the branch that is making the decision. This Act does not speak to supervision of a relative but the Human Resource Policy does. It states an employee cannot supervise a close relative of their own.

Title 28; Section 20: Employment of Relatives of Elected Officials Permitted, when: Todd Hembree recommended a friendly amendment to change the term "relative" to "immediate family member." Councilor Cobb accepted the language of the friendly amendment. Paragraph B was deleted to make it consistent with paragraph A which was the requirement that they would recuse.

Title 28; Section 21: Solicitation of Employment and Appointment of Relatives of Appointed and Elected Officials Unlawful. No questions.

Title 28; Section 30: Right to Judicial Review Not Abrogated: No questions.

Councilor Jack Baker expressed a concern under Title 28, Section 3, paragraph F. Cherokee Nation Historical Society is not an entity of Cherokee Nation and he moved to have it stricken because Cherokee Nation does not own the Cherokee National Historical

Society. Todd Hembree stated this Act is designed to specifically identify these entities as an instrumentality that would be covered under this Act. Councilor Jack Baker stated the Cherokee National Historical Society, Inc. does not fall within the definition of instrumentality.

Todd Hembree stated that he and Melanie Knight would come up with the language to amend this section for full council if Councilor Cobb would accept this idea as a friendly amendment. Councilor Cobb accepted the friendly amendment.

Councilor Cobb moved for the approval of the Act. Councilor Garvin seconded the motion.

Yea: 10 - Don Garvin; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb and Julia Coates

Nay: 4 - S. Joe Crittenden; David Thornton Sr. ; Meredith Frailey and Chuck Hoskin, Jr.

Abstain: 3 - Bill John Baker; Tina Glory Jordan and Jodie Fishinghawk

REPORTS:

Written reports were accepted.

ANNOUNCEMENTS

Cherokee Holiday Parade is this Saturday at 9:30 a.m.

Next Regular meeting is tentatively scheduled for September 27th at 1:00 p.m.

ADJOURNMENT

Councilor Bill John Baker moved for adjournment. Councilor Crittenden seconded the motion. Motion carried.

STAFF PRESENT:

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|-----------------------|--------------------------|------------------------|---------------------|
| <i>Sharon Wright</i> | <i>Jamie Hummingbird</i> | <i>Sharon Swepston</i> | <i>Vicki Harvey</i> |
| <i>Melanie Knight</i> | <i>Diane Hammons</i> | | |
| <i>Becky Johnson</i> | <i>Norma Merriman</i> | <i>Jeanine Hale</i> | |
| <i>Troy Poteet</i> | <i>Callie Catcher</i> | | |

VISITORS PRESENT:

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|---------------------|----------------------|-----------------------|
| <i>Raymond Vann</i> | <i>David Stewart</i> | <i>Patsy Morton</i> |
| <i>Jim Ketcher</i> | <i>Bryan Collins</i> | <i>Mike Miller</i> |
| <i>Brad Carson</i> | <i>Todd Hembree</i> | <i>Robert Jenkins</i> |

APPROVAL / DISTRIBUTION

Minutes submitted by: Gayle Miller, Recording Secreatry

Motion to approve minutes made by: _____

Minutes attested and concurred by: _____

Date: _____