



# Council of the Cherokee Nation

Cherokee Nation Complex  
17675 S. Muskogee Ave.  
Tahlequah, OK 74464

## Tribal Council Minutes - Final TRIBAL COUNCIL

*Meredith Frailey, Speaker*

*Recording Secretary, Shelli Brittain*

*Phone: 1-800-995-9465*

*E-mail: council-public@cherokee.org*

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Monday, July 12, 2010

6:00 PM

Council Chambers

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### CALL TO ORDER

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

### INVOCATION

**Councilor Soap gave the invocation.**

### ROLL CALL

- Present** 15 - Buel Anglen; Cara Cowan Watts; Don Garvin; Jack D. Baker; Meredith Frailey; S. Joe Crittenden; Bradley Cobb; Chris Soap; Curtis Snell; Harley Buzzard; Janelle Fullbright; Jodie Fishinghawk; Julia Coates; Tina Glory Jordan and Bill John Baker
- Absent** 2 - David Thornton Sr. and Chuck Hoskin

### APPROVAL OF MINUTES OF PREVIOUS MEETINGS

**Councilor Anglen moved to approve the June 14th regular session minutes. Councilor Cowan Watts seconded the motion. Motion carried.**

**Councilor Cobb moved to amend the agenda to include items 12 through 18 which passed out of committees earlier today. Councilor Cowan Watts seconded the motion. Motion carried.**

### STATE OF THE NATION

*Principal Chief Chad Smith requested a moment of silence to remember friends and loved ones who have passed over the last month. Veterans honored this month were brothers Richard Foster and Larry Foster. In program updates our Career and Environmental Services Groups partnered with Cherokee CRC to provide jobs in the Gulf cleaning the oil spill. The employee appreciation events were held with approximately 3,000 employees and their families in attendance. The 3rd Annual Day of Champions sponsored by Cherokee Nation Behavioral Health was held with 140 participants learning life leadership lessons from some of the top collegiate coaches and former NFL players. The Behavioral Health Program was the recipient*

*of two Indian Health Service awards for Outstanding Community Mobilization and Outstanding Implementation of Behavioral Health Integration. He recognized B. J. Boyd as the Behavioral Health Program Director. Various summer camps have been held including wrestling, basketball, volleyball and summer learning. The Summer Learning program was voluntary with over 300 participants in the 4th through the 12th grade. A new Cherokee tag office has opened in Jay with a ribbon cutting ceremony scheduled for July 21st at 10:00 a.m. Chief Smith reminded everyone there is still time remaining to submit nominations for National Treasure. A Special kickoff event is planned for July 28th for the twenty-four mile Leach self-help waterline. He recognized the NSU Cherokee History and Culture class in attendance and gave appreciation for their presence. Two weeks remain to be counted in the U. S. Census if you have yet to do so. The census provides the Federal Government grounds to apportion and to make funding recommendations but also provides us with critical data to make decisions for the future. Chief Smith announced he, Councilors Jack D. Baker and Cowan Watts along with other citizens of the Cherokee Nation will have an opportunity on August 9th to go to Scotland to open the Highland Games. No tribal funds will be used for the trip.*

#### ACTION OF UNFINISHED BUSINESS

1. **AN ACT AMENDING LEGISLATIVE ACT 06-10 REVISING TITLE 26 ("ELECTIONS") PROVIDING FOR APPORTIONMENT**  
Councilor Jack D. Baker stated due to the recent court case and the ongoing court case as well as legislation passed earlier today in Rules Committee that will be addressed later this evening, if there is no objection from other Council members, he would like to withdraw this Act at this time. With No objections the Act was withdrawn.
  
2. **AN ACT AMENDING LEGISLATIVE ACT #21-09 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2010 - MOD 8; AND DECLARING AN EMERGENCY**  
Councilor Jack D. Baker made a motion to sustain the veto. Councilor Cowan Watts seconded the motion. Motion carried with Councilor Bill John Baker opposed.

#### COMMITTEE REPORTS

##### Monthly Reports:

##### Housing Authority - David Southerland

*Mr. Gary Cooper reported in the absence of Mr. Southerland. The July board meeting has been moved to July 14th at noon. The staff continues to be busy administering the Stimulus funds. The NAHASDA Stimulus funding is 100% obligated and is over 50% spent at this time. They have hired two temporary positions to assist in administering the Stimulus funds. A portion of the road improvements have been completed within the housing additions using these funds.*

## Cherokee Nation Business, Inc - David Stewart

*Mr. Stewart reported it has been a good month for at Cherokee Nation companies. CNE improved its profit by just over 5% from last year. The grand opening at Ramona went very well and has created a significant number of jobs in the area. All rooms at the West Siloam hotel are now open and have been well received by our guests. CNE and CNB employees have packaged over 500 boxes of supplies for our troops in Iraq and Afghanistan with the assistance of Deputy Chief Joe Grayson. CNI had a net income of \$70,000 for the month of April and had a year to date net income of just over \$600,000. The new acquisition of ITX is going well with a net income of \$94,000 for the month of April. CCRC had a net income of \$120,000. Their work in the gulf is a great example of the Cherokee Nation and our businesses together to train and create jobs. They have just over 25 people working in Alabama, Louisiana, Mississippi and Florida. They have several acquisitions being reviewed by the Board and updates will be provided as they become available. The CNB credit line continues to remain at \$31ml. Councilor Glory-Jordan inquired about the sewer problems at the Ramona facility. Mr. Stewart stated an intermediate step has been taken to pump out the tanks every several days until the City of Ramona completes their aspect of the infrastructure improvement. Councilor Glory-Jordan requested a copy of the contract with who is removing the sewage.*

## OLD BUSINESS

*None pending.*

## NEW BUSINESS

Community Services Committee

1. **A RESOLUTION AUTHORIZING THE SUBMISSION OF A HOUSING PRESERVATION GRANT APPLICATION**  
Councilor Buzzard moved to approve items 1 through 6 in Toto. Councilor Cowan Watts seconded the motion. The motion carried unanimously by consent.  
Enactment No: R-58-10
  
2. **A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION OF AN AMENDMENT TO THE FISCAL YEAR 2005 INDIAN HOUSING PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
Councilor Buzzard moved to approve items 1 through 6 in Toto. Councilor Cowan Watts seconded the motion. The motion carried unanimously by consent.  
Enactment No: R-59-10

3. **A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION OF AN AMENDMENT TO THE FISCAL YEAR 2006 INDIAN HOUSING PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Councilor Buzzard moved to approve items 1 through 6 in Toto. Councilor Cowan Watts seconded the motion. The motion carried unanimously by consent.

Enactment No: R-60-10

4. **A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION OF AN AMENDMENT TO THE FISCAL YEAR 2007 INDIAN HOUSING PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Councilor Buzzard moved to approve items 1 through 6 in Toto. Councilor Cowan Watts seconded the motion. The motion carried unanimously by consent.

Enactment No: R-61-10

5. **A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION OF AN AMENDMENT TO THE FISCAL YEAR 2008 INDIAN HOUSING PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Councilor Buzzard moved to approve items 1 through 6 in Toto. Councilor Cowan Watts seconded the motion. The motion carried unanimously by consent.

Enactment No: R-62-10

6. **A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION OF THE FISCAL YEAR 2011 INDIAN HOUSING PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Councilor Buzzard moved to approve items 1 through 6 in Toto. Councilor Cowan Watts seconded the motion. The motion carried unanimously by consent.

Enactment No: R-63-10

Rules Committee

7. **A RESOLUTION CONFIRMING THE NOMINATION OF JAY CALHOUN AS A BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION**

Councilor Coates moved to approve. Councilor Cowan Watts seconded the motion. Motion carried.

Enactment No: R-64-10

8. **A RESOLUTION RECOGNIZING AND COMMENDING UNIVERSITY OF OKLAHOMA STUDENT AND CHEROKEE CITIZEN CALEB BUSHYHEAD**

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

Enactment No: R-65-10

9. **A LEGISLATIVE ACT AMENDING LA#08-04; THE WORKERS' COMPENSATION ACT**

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

Enactment No: LA-20-10

Executive and Finance Committee

10. **A RESOLUTION AUTHORIZING CAREER SERVICES TO DEVELOP AND SUBMIT A THREE-YEAR PLAN FOR 102-477 PROGRAM ACTIVITIES**

Councilor Bill John Baker moved to approve. Councilor Glory-Jordan seconded the motion. Motion carried.

Enactment No: R-66-10

11. **AN ACT AMENDING LEGISLATIVE ACT #21-09 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2010 - MOD 9; AND DECLARING AN EMERGENCY**

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

Enactment No: LA-21-10

12. **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**

*Speaker Frailey stated after much deliberation an Act has been agreed upon that provides for redistricting. She read the six major amendments to the election law. Councilor Bill John Baker moved to approve. Councilor Glory-Jordan seconded the motion. Councilor Jack D. Baker commented after much discussion during committee today on the fifteen districts it was not passed due to five of the districts on the map having more than a 10% deviation. The five district map approved today has a district with over 22% deviation. He made a motion to substitute the language to fifteen districts and substitute the fifteen district map he provided. Councilor Cowan Watts seconded the motion. Councilor Glory-Jordan called for point of order stating the fifteen districts was tabled in committee today. She questioned the need for a 2/3rds vote to bring it off of the table. Councilor Cowan Watts called for point of information requesting the opinion of Mr. Hembree. Mr. Hembree stated Robert's Rules of Order and our Rules of Procedure dictates that a matter must be passed through committee before it is brought to the Full Council. He stated in this instance*

it has happened. On the floor in Full Council the Act can be amended and only takes a majority to do so. Councilor Glory-Jordan stated this map splits the heart of the Cherokee Nation in five different ways and she would not be voting in its favor. The five district map places people together that think alike. Councilor Bill John Baker commented the better part of the day had been spent on determining a fair way to split up the Cherokee Nation not only for the soon upcoming election but also what is best for the Cherokee people. The fifteen district map contains a district with a 19% deviation which is worse than the five district map before us today. It was determined today that there isn't a perfect map but this could get us through the next election. The five district map passed out of committee today doesn't change county lines it combines counties together and would be much easier for the Election Commission. Councilor Cobb commented the validity in the argument for the fifteen district map is sound but is unable to support it. He stated after much discussion with his constituency he is in favor of the fifteen districts. The Act proposed today allows the Council to go back and review at a specified time. He voiced concern that without action tonight this will be left in the hands of the Courts. Councilor Fishinghawk stated she is not in favor of the five districts but it seems to be the best option now. She reminded everyone that they were told earlier today that a fifteen district map would be vetoed. Councilor Fishinghawk read a letter of regret from Councilor Hoskin Jr. for his absence. He stated in the letter that he agreed with the resolution of this issue as acceptable in view of what is practical under the circumstances. The reduction to five districts in the long run will do injury to the Council as an institution and does not serve the best interest of the people. This will leave the smallest communities behind in terms of representation and they will be drowned out politically by the more populous areas. In the letter he stated the current legislation is only acceptable because it will lead to the demise of the five district plan in 2012 at which time we can more precisely draw a map using precise population data. Councilor Cowan Watts stated it is because of the clear voice of her constituents that she is taking this one last opportunity to keep the smaller community ties with fifteen districts. She stated this fifteen district map is better in that the ruling the Judge gave states the deviation must be within a 10% deviation. Councilor Glory-Jordan commented if this fifteen district map was to be given validity it should have been discussed during the committee today. She stated the five district map passed out of committee today is in her opinion the best until the amendments in the legislation read earlier are addressed. Councilor Buzzard stated he is in support of the fifteen districts due to concern of large areas to cover with the five district maps. He voiced concern for the rural areas needing waterlines versus the urban areas not.

Councilor Jack D. Baker called for the question.

**The motion was restated as substituting the five districts for the fifteen districts according to the map passed out. The motion failed with the following roll call vote:**

**Yea:** 4 - Buel Anglen; Cara Cowan Watts; Jack D. Baker and Harley Buzzard

**Nay:** 11 - Don Garvin; Meredith Frailey; S. Joe Crittenden; Bradley Cobb; Chris Soap; Curtis Snell; Janelle Fullbright; Jodie Fishinghawk; Julia Coates; Tina Glory Jordan and Bill John Baker

Enactment No: LA-22-10

Councilor Cowan Watts provided an alternate five district map for consideration. She made a motion to substitute this five district proportioned map because we do not risk the judge overturning our decision tomorrow by being outside of the plus or minus 10% deviation. Councilor Garvin seconded the motion. Councilor Cobb stated he will not be able to support this map. The map passed out of committee has Tulsa, Washington and Rogers County in one district which happens to be the district throwing the deviation off. The map proposed by Councilor Cowan Watts has Tulsa

and Rogers Counties in one district and moved Washington with Nowata, Craig and Mayes. He voiced concern for this grouping and seeing a skewed representation to population centers. He stated the lesser of the two evils would be to group Tulsa, Washington and Rogers Counties together. Councilor Fishinghawk voiced concern for the difference in the numbers from one map to the other. Councilor Cowan Watts requested everyone consider the original map presented that provides appropriate representation for Cherokees, based on actual population data. Councilor Bill John Baker stated we do not have good numbers. The Chief has agreed to place funds in the budget to assist the Counties without good 911 to allow us the ability to know where each person lives. He stated the map passed out of Committee is the best for the Cherokee people in the districts as it keeps rural Cherokees together and city Cherokees together. Councilor Crittenden stated he preferred the nine district map but would support what was passed out of Committee. He suggested while Administration is assisting with 911 addressing in the Counties that assistance is also provided to help Registration get caught up on their back log of applications. Councilor Fishinghawk commented she would be in support of the five district map until a fifteen district map can be created using registration data. Councilor Fullbright stated she would be in support of the map provided this evening with the less than 10% variance but voiced concern with the very large district 4. Councilor Cobb requested Mr. Hembree reiterate what he said earlier in regard to the judge and the deviations. Mr. Hembree stated the 10% variance rules comes from United States Supreme Court cases that deal with redistricting and apportionment. The decisions state if you deviate more than 10% then the burden comes on to you to justify why. If there are legitimate reasons and or interests that dictate or justify the variance then courts would approve that type of variance. The debate surrounding the map passed out committee was to keep urban with urban and keep rural with rural. If we have to have five districts then they should be of collective interest. Councilor Cobb stated he would not be able to support the new map primarily because the people living within Craig and Nowata Counties would not be represented fairly and Washington County's interest are different. He provided the example of other Counties needs for roads and waterlines while the number one need in Washington County is scholarships. Councilor Cowan Watts stated this body the Courts and the Election Commission have yet to determine one set of numbers. She commented if a map is submitted with a greater than 10% variance there is a risk that the judge will over turn it and draws the lines any he sees fit. Councilor Cowan Watts called for the question. Speaker Frailey stated there seems to be confusion due to the lack of good solid data. Various numbers have been considered on the maps. She asked if there is a deviation that exceeds 10% would the lack of good data and communities of interest be the extenuating circumstances the judge would consider to be acceptable. Mr. Hembree stated these are the types of situations that the Courts have considered. Extenuating circumstances that have been used are to keep political subdivisions together, Counties together, communities of interest together and to ease voter confusion. He stated in this instance one of the major concerns is the data. Speaker Frailey stated she would not be in support of the map proposed tonight. Councilor Soap stated he does support a five district Cherokee Nation as it puts everyone on equal footing. He agreed with points made by Councilor Cobb and stated he would be supporting the map with Washington, Tulsa and Rogers Counties together as one district.

**Councilor Cowan Watts restated her motion is to replace the map provided tonight with the map provided in the book which would keep Craig, Nowata, Mayes and Washington Counties together and Rogers and Tulsa together. The motion for approval failed with the following roll call vote:**

**Yea:** 6 - Cara Cowan Watts; Don Garvin; Jack D. Baker; Harley Buzzard; Janelle Fullbright and Julia Coates

**Nay:** 9 - Buel Anglen;Meredith Frailey;S. Joe Crittenden;Bradley Cobb;Chris Soap;Curtis Snell;Jodie Fishinghawk;Tina Glory Jordan and Bill John Baker

Enactment No: LA-22-10

**Councilor Garvin moved to approve the original map presented. Councilor Glory-Jordan seconded the motion. The motion carried with the following roll call vote:**

**Yea:** 11 - Don Garvin;Meredith Frailey;S. Joe Crittenden;Bradley Cobb;Chris Soap;Curtis Snell;Janelle Fullbright;Jodie Fishinghawk;Julia Coates;Tina Glory Jordan and Bill John Baker

**Nay:** 4 - Buel Anglen;Cara Cowan Watts;Jack D. Baker and Harley Buzzard

Enactment No: LA-22-10

13. **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**

**Councilor Cobb moved to approve. Councilor Bill John Baker seconded the motion. Motion carried.**

Enactment No: R-67-10

14. **A RESOLUTION AUTHORIZING CAREER SERVICES TO DEVELOP AND SUBMIT A GRANT APPLICATION TO THE U.S. DEPARTMENT OF EDUCATION FOR FUNDING THE VOCATIONAL REHABILITATION PROGRAM**

**Councilor Glory-Jordan moved to approve. Councilor Bill John Baker seconded the motion. Motion carried.**

Enactment No: R-68-10

15. **A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES OFFICE OF FAMILY ASSISTANCE, CHILD CARE BUREAU FOR TRIBAL MATERNAL, INFANT AND EARLY CHILDHOOD HOME VISITING GRANT PROGRAM**

**Councilor Buzzard moved to approve. Councilor Crittenden seconded the motion. Motion carried.**



Enactment No: R-69-10

16. **A RESOLUTION REQUESTING THE DONATION OF SURPLUS LUMBER OWNED BY THE CHEROKEE NATION TO ORGANIZATIONS DESIGNATED BY THE PRINCIPAL CHIEF**

Councilor Bill John Baker moved to approve. Councilor Garvin seconded the motion. Motion carried.

Enactment No: R-70-10

17. **A RESOLUTION AUTHORIZING CHEROKEE NATION ENVIRONMENTAL PROGRAMS TO SUBMIT A FORMAL GRANT APPLICATION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR THE DEVELOPMENT OF AN ITEC PESTICIDES MANAGEMENT PROGRAM**

Councilor Cowan Watts moved to approve items 1 through 6 in Toto. Councilor Garvin seconded the motion. The motion carried unanimously by consent.

Enactment No: R-71-10

18. **A RESOLUTION AUTHORIZING CHEROKEE NATION ENVIRONMENTAL PROGRAMS TO SUBMIT A FORMAL GRANT APPLICATION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR THE DEVELOPMENT OF A CHEROKEE NATION PESTICIDES PROGRAM**

Councilor Cowan Watts moved to approve items 1 through 6 in Toto. Councilor Garvin seconded the motion. The motion carried unanimously by consent.

Enactment No: R-72-10

#### ANNOUNCEMENTS

*Councilor Cobb recognized his cousin and family visiting from Orlando, Florida.*

*Speaker Frailey recognized the Chairman of the Cherokee Nation Education Corporation, Ms. Robin Flint Ballenger.*

#### ADJOURNMENT

**Councilor Cowan Watts moved to adjourn. Councilor Jack D. Baker seconded the motion. Motion carried at 7:55 p.m.**

Next Tribal Council meeting will be held on August 16, 2010 at 6:00 p.m. at the tribal headquarters, W.W. Keeler Complex.

