



# Council of the Cherokee Nation

## Meeting Minutes Rules Committee

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Thursday, March 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

Councilor Garvin gave the invocation.

### ROLL CALL

**Present** 14 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Don Garvin; Meredith Frailey; Buel Anglen; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Janelle Fullbright; Harley Buzzard; Curtis Snell; Bradley Cobb and Julia Coates

**Absent** 1 - Chuck Hoskin, Jr.

**Late Arrival** 2 - Cara Cowan Watts and Chris Soap

### APPROVAL OF MINUTES

Councilor Jack D. Baker made a motion to approve the February 17, 2009 sub committee and the February 26, 2009 regular session minutes. Councilor Thornton seconded the motion. Motion carried.

### REPORTS:

*Councilor Fishinghawk requested the reports be provided earlier to allow time to review. She stated she has been given a stack today and hasn't had an opportunity to review them. Chair Frailey inquired as to why they are provided late. Ms. Melanie Knight stated they were not provided in time for the packets but were sent over to be emailed out. She stated it is her responsibility to ensure they are provided and would do better next month. Councilor Glory-Jordan inquired if the packets are prepared 10 days ahead of time. Recording Secretary Brittain responded the agendas are posted 10 days prior to the meeting but the packets can not go out the same day. Councilor Glory-Jordan inquired as to when the reports needed to be provided to be included in the packet. Ms. Brittain stated at least 10 days prior to the meeting on posting day to copy and put in the packets for mail out the next day. Ms. Knight stated the deadline they try to meet is the same day as legislation which is prior to the agendas being posted. Councilor Glory-Jordan requested she remind the group leaders of the 10 day rule.*

1. Marshal Service - Sharon Wright

*Ms. Wright offered to answer questions from her report. She apologized for the lateness of her report. Councilor Buzzard inquired as to the reasoning for loosing Marshals. Ms. Wright stated she needs to re-evaluate the positions to make changes in the pay scale. She stated once she obtains full staff she would have an issue with*

*funding. She stated with the staff at the level it is now she should be able to get their pay where it is competitive with the rest of the law enforcement world. Councilor Buzzard inquired as to how many positions are open at this time. Ms. Wright replied at this time there are 7 open positions. She stated they had 5 different panels for 3 marshal positions and none of the participants could either the background or the physical fitness tests. She stated due to the pay level they are not getting the higher grade applicants as they have had in the past. Councilor Fishinghawk stated she still hasn't received the Adair County incident report. Ms. Wright stated she would email the written results once she receives them at this time she has only been given a verbal response. Councilor Fishinghawk questioned two bids on the web site at this time. One of the bids is requesting a 2005 Chevy Tahoe and the other is a 2007 Dodge Durango both for the Marshal Service. She requested the specifics requested in the bids. Ms. Wright gave an explanation as to why the specifics are needed. Councilor Fishinghawk questioned if the vehicles had already been picked out. She stated this is supposed to be a competitive bid process. Ms. Wright stated the vehicles are refurbished due to the low price. There are two different places to get refurbished vehicles that she is aware of. She stated they have a style of vehicle car picked out. Councilor Fishinghawk inquired as to why they didn't sole source the vehicle if they already had them picked out. Ms. Wright stated they do not like sole source on capital acquisitions. She stated they do go out and look for something in the price range they can afford. She stated they have tried to do a sole source in the past and the request is kicked back out. Councilor Buzzard stated he doesn't see a problem as long as the bid is open to everyone on the market. Councilor Fishinghawk inquired if they would take a Ford if it was comparable. Ms. Wright stated they would.*

2. Justice Department - Diane Hammons

*Chair Frailey requested he also report on GEG during his report. Mr. Nason Morton stated he doesn't have any new information regarding GEG. He offered to answer questions in regard to the report provided. Councilor Glory-Jordan questioned where they are with GEG and why is it staying at the same point for such a long period of time. Mr. Morton stated it is still under investigation. Ms. Wright stated this isn't actually our investigation it is a Federal investigation. They have allowed them to have one investigator signed to their team. The case hasn't moved quickly but it remains open. Approximately three months ago they issued more subpoenas for additional records. Councilor Glory-Jordan inquired as to how long the investigation has been ongoing. Ms. Wright replied almost two years. Councilor Fishinghawk requested an update on the ICI lawsuit regarding the landfill. Mr. Morton stated he would check on the status. He stated it is his understanding there is a bankruptcy in the case.*

3. GEG Investigation Report - Diane Hammons

*Addressed in the Justice Department report.*

**Councilor Bill John Baker made a motion to amend the agenda to include a resolution honoring Sam Bradford. Councilor Cowan Watts seconded the motion. Motion carried.**

4. Election Commission -

*No one present to report.*

## 5. Tax Commission - Sharon Swepston

*Ms. Swepston offered to answer questions from her written report. Councilor Buzzard questioned the border store numbers. Ms. Swepston stated with the new compact the State gets \$2.58 from the border stores and we get \$4.07. She stated the numbers would drop due to Arkansas' new law going into effect on March 1st. The Arkansas border stores are no longer considered border stores with the new Arkansas law and we will now receive \$1.50 and the State will get \$5.15. Chair Frailey inquired as to how the new Federal tax would affect our smoke shops. Ms. Swepston stated it is across the board to everybody therefore any increase we receive all stores would also receive the same increase.*

## 6. Self-Governance - Vickie Hanvey

*Ms. Hanvey in addition to her written report announced they have submitted a prompt payment act claim for IHS funds not received. She stated she just returned from a Roads Coordinating meeting where Question 10 in regard to the definition of reservation roads is in dispute. She stated this is becoming a hot topic and they have begun addressing these issues. She stated there is a lot information coming out in regard to the stimulus funds. She stated she has been assigned to track and be the central contact for the stimulus funds other than housing which will go through Marvin Jones. Councilor Buzzard voiced concern for the roads issues. He stated what is happening is other tribes are saying Oklahoma shouldn't be eligible for the Indian Reservation Roads funds. Ms. Haney stated Paula Ragsdale will be attending a meeting tomorrow with Senate Staffers regarding this issue. She stated they have also sent information to the Oklahoma Delegation to keep them informed and be able to debate the issue. Councilor Buzzard suggested letters be written to Congress. Councilor Fishinghawk questioned the prompt payment. Ms. Hanvey stated the prompt payment act is a federal act which has stipulations as to how to calculate funds. She stated in this instance it was difficult to calculate the funds due to the third party revenue funds going and sitting in the PNC Bank via IHS until they receive the detail on how to split the funds. They had issue with their new financial system. She stated they have gone invoice by invoice to determine an approximate amount owed along with penalties.*

## 7. Gaming Commission - Jamie Hummingbird

*No one present to report.*

## 8. Codification - Todd Hembree

*Mr. Hembree stated the major progress is that Mr. Hummingbird will submit a new Title 4. Assistant Attorney General Chrissi Nimmo did a complete revision of Title 18. He stated there are a few title remaining.*

## 9. Cherokee Nation Education Corporation - Margaret Raymond

*Ms. Brittain announced this report is on the agenda in error. They report quarterly and are not due until next month.*

## OLD BUSINESS

## 1. MORTGAGE FORECLOSURES (Discussion Only)

*Ms. Frailey stated when this item began it was legal framework and now is more programming and so forth. She suggested the possibility of moving this item to Community Service where Mr. David Southerland reports. Ms. Knight stated there is a Mortgage Foreclosure Purchase Program approved by this Council to be in the IHP which has been internally assigned to David Southerland. She agreed it would be a good idea to move the item to Community Service Committee.*

*Ms. Anna Knight announced they prepare the report in the Commerce Department but would insure Mr. Southerland receives it. She provided a handout from the 4th quarter of 2008 on foreclosures by County.*

**Councilor Glory-Jordan made a motion to move this agenda item to the Community Service Agenda. Motion carried.**

## 2. CHEROKEE NATION TRAVEL/LOCAL MILEAGE POLICY

*Councilor Glory-Jordan suggested a sunset clause be included. Mr. Hembree stated it could either be a sunset clause or a motion to review on an annual basis. Councilor Glory-Jordan made a motion for a friendly amendment on a yearly basis. Councilor Cowan Watts suggested May or June in anticipation of the annual budget review. Councilors Anglen and Cowan Watts accepted the friendly amendment. Chair Frailey questioned the definition of "car allowance". Mr. Hembree stated it is a travel stipend for Tribal Councilors in the amount of \$700 monthly for all travel within the fourteen county jurisdiction. He stated the intent is to not keep logs and charge mileage from location to location. This stipend will be a taxable event. Mr. Doug Evans stated it is his understanding that this would be considered a non accountable plan under the IRS code and would be a taxable reimbursement and it would be up to each Council member to keep mileage logs if they wanted to offset the tax implications on their personal taxes. The Cherokee Nation will treat it as W2 income. Chair Frailey inquired how the \$700 amount was determined to be reasonable. Councilor Anglen stated they took a couple of years and determined an average. Mr. Evans stated the maximum was \$600 which was Councilor Jack D. Baker driving from Oklahoma City. Chair Frailey if this would be considered reasonable in a court of law. Mr. Hembree stated reasonable is in the eye of the beholder. He stated the changing actions of the Councilors should also be taken into consideration. Chair Frailey inquired if there are disclosure requirements when there is a car allowance given. Mr. Hembree stated everything within this policy would be considered a public document in accordance with FOIA. Councilor Bill John Baker stated a first he was in opposition to this policy however there is a great deal of travel that he has never documented or turned in for reimbursement. He stated there are gray areas as to what you can and can not charge for. He questioned if going to Oklahoma City under this policy if he would just charge mileage from Tulsa to Oklahoma City. Mr. Hembree stated mileage would begin at the Cherokee Nation Jurisdiction line. Councilor Jack D. Baker stated he agrees the At Large Councilors are exempt to this however he voiced concern for this not being equitable to the Councilors within the jurisdiction. He stated with this policy driving from Bartlesville to the Cherokee Nation and driving from Tahlequah to the Cherokee Nation the same funds are received. He stated the actual mileage reimbursement is much more equitable. He stated he would be voting against the policy. Councilor Thornton requested clarification on the filing of personal taxes. Mr. Evans gave a brief explanation and offered to visit with any Councilor individually if needed. Chair Frailey stated as an elected official it is important to keep records as a basis for the annual review of this policy.*

*Mr. Hembree stated this policy will not be the law of the land until the vetoed legislation is either sustained or overrode. Right now we are under the LA-23-99 and this policy would take affect when the veto is overridden.*

**Councilor Anglen made a motion to approve the travel policy with the friendly amendment to have an annual review in May of each year. Councilor Cowan Watts seconded the motion. The motion passed with the following roll call vote:**

**Yea:** 9 - David Thornton Sr. ; Don Garvin; Cara Cowan Watts; Buel Anglen; Tina Glory Jordan; Janelle Fullbright; Harley Buzzard; Curtis Snell and Bradley Cobb

**Nay:** 7 - Bill John Baker; S. Joe Crittenden; Meredith Frailey; Jack D. Baker; Jodie Fishinghawk; Chris Soap and Julia Coates

**3. A RESOLUTION SETTING DATES FOR CHEROKEE NATION TRIBAL COUNCIL COMMITTEES**

**Sponsors:** Councilor Bradley Cobb

**Councilor Cobb withdrew this resolution.**

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

*Councilor Soap inquired as to how long he has been on this board and others. Mr. David Ballew stated this is totally separate from the nominations listed under new business. He stated he has been on the board of CNI for approximately four years and is the Chairman. He stated at the CNB level they have asked that all of the chairs of the other boards to at least have the chair and one representative from that board at the CNB level which is the holding company level. This will adequately allow them to represent the other businesses. He stated on the CNB board he serves as the audit chairman as he is a CPA. He has been on the CNB board for approximately two years. Councilor Glory-Jordan inquired if the other boards listed in new business are non paying positions. Mr. Ballew stated they are non compensated. Chair Frailey called point of order that we are just now discussion the CNB appointment. Councilor Glory-Jordan stated it makes a difference on how she votes for this appointment. She stated she needs more information that this one gentleman is being considered for eleven boards. Chair Frailey stated the items in new business are subsidiaries of CNI and this item is CNB. Mr. Ballew stated he is only compensated for CNB and CNI. Councilor Cowan Watts requested clarification on how these boards are structured. Mr. Ballew stated the structure for the new companies within CNI is primarily driven for the need to have 8A structure in place. He stated he would defer to Mr. Jim Carrington for explanation of all of the other appointments. Mr. Carrington stated under the small business administration tribes are given great advantages. He stated the best way to take advantage of the SBA program is to have several small businesses. He stated they are taking CNI which has many divisions and spinning those out into separate legal entities so that each one can apply to become an 8A company. He stated currently there are CNI, CND and CMS with CND and CMS being 8A companies. These three companies have one board meeting all together. This would also apply to all of the other 8A's as well. Chair Frailey inquired if there are common board members between the boards if it gives rise to any derivative liability. Mr. Carrington stated as a subsidiary they will look for commonalities. He stated they must be really careful to follow the corporate rules. The CNB board has a supervisory role in the situation. Councilor Snell requested a business plan for CNI and inquired as to how it would be brought*

*forward. Mr. Ballew stated they will have a board meeting on the 30th where they meet with Mr. Stewart and outline a five year plan and determine how and where CNI fits.*

**Councilor Jack D. Baker made a motion to approve. Councilor Cowan Watts seconded the motion. Motion carried.**

#### NEW BUSINESS

1. A RESOLUTION EXPRESSLY WAIVING THE SOVEREIGN IMMUNITY OF THE CHEROKEE NATION AND OF CHEROKEE NATION HOME HEALTH SERVICES TO THE EXTENT IT MAY EXIST, AS IT APPLIES TO THE BANCFIRST AND CHEROKEE NATION HOME HEALTH SERVICES LOAN AGREEMENTS  
**Sponsors:** Councilor Harley Buzzard and Councilor Curtis Snell  
**Councilor Buzzard made a motion to approve. Councilor Cowan Watts seconded the motion. Motion carried.**
2. A RESOLUTION CONFIRMING THE RENOMINATION OF WAYNE DUNHAM AS A COMMISSIONER OF THE HOUSING AUTHORITY OF THE CHEROKEE NATION BOARD OF COMMISSIONERS  
*Mr. Wayne Dunham stated he has been on the board since 2001. He stated he is the current Mayor of Jay. He gave appreciation to the Cherokee Nation with the assistance provided with the recent water issues.*  
**Councilor Buzzard made a motion to approve. Councilor Crittenden seconded the motion. Motion carried.**
3. A RESOLUTION CONFIRMING THE NOMINATION OF BRAD CARSON AS AN HONORARY BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION  
**Councilor Bill John Baker made a motion to approve nominations 3,4, and 5 in Toto. Councilor Thornton seconded the motion. Motion carried.**
4. A RESOLUTION CONFIRMING THE NOMINATION OF DUANE KING AS AN HONORARY BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION  
**Approved in Toto with new business items 3 and 5.**
5. A RESOLUTION CONFIRMING THE NOMINATION OF WILMA MANKILLER AS AN HONORARY BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION  
**Approved in Toto with new business items 3 and 4.**
6. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF MANAGERS OF CHEROKEE MEDICAL SERVICES, LLC  
*Mr. Bryan Collins gave a brief explanation of each company.*  
**Councilor Garvin made a motion to approve in Toto new business items 6 through 16. Councilor Jack D. Baker seconded the motion. Motion carried.**

7. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION AEROSPACE AND DEFENSE, LLC  
**New business items 6 through 16 were approved in Toto.**
8. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION CONSTRUCTION SERVICES, LLC  
**New business items 6 through 16 were approved in Toto.**
9. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF MANAGERS OF CHEROKEE NATION DISTRIBUTORS (CND), LLC  
**New business items 6 through 16 were approved in Toto.**
10. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION DISTRIBUTION, LLC  
**New business items 6 through 16 were approved in Toto.**
11. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION HEALTH GROUP, LLC  
**New business items 6 through 16 were approved in Toto.**
12. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION HEALTHCARE SERVICES, LLC  
**New business items 6 through 16 were approved in Toto.**
13. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION LOGISTICS, LLC  
**New business items 6 through 16 were approved in Toto.**
14. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION RED WING, LLC  
**New business items 6 through 16 were approved in Toto.**
15. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION TECHNOLOGY SOLUTIONS, LLC  
**New business items 6 through 16 were approved in Toto.**
16. A RESOLUTION CONFIRMING THE NOMINATION OF DAVID BALLEW AS A MEMBER OF THE BOARD OF DIRECTORS OF CHEROKEE NATION TELECOMMUNICATIONS, LLC

New business items 6 through 16 were approved in Toto.

17.

A RESOLUTION RECOGNIZING AND COMMENDING UNIVERSITY OF OKLAHOMA STUDENT AND CHEROKEE CITIZEN SAM BRADFORD

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

*Councilor Jack D. Baker requested Mr. Bradford or his parents be present at the Council meeting when this item is passed. Ms. Knight stated they would make sure the invitation is given.*

**Councilor Bill John Baker made a motion to approve. Councilor Crittenden seconded the motion. Motion carried**

ANNOUNCEMENTS

*Councilor Bill John Baker announced he had received notification from Councilor Hoskin Jr. that he was unable to attend meetings today due to car trouble.*

ADJOURNMENT

**Councilor Jack D. Baker moved to adjourn. Councilor Crittenden seconded the motion. Motion carried at 2:32 p.m.**

STAFF PRESENT:

<i>Sharon Wright</i>	<i>Nason Morton</i>	<i>Melanie Knight</i>
<i>Doug Evans</i>	<i>Shay Smith</i>	<i>Anna Knight</i>
<i>Rick Richards</i>	<i>Amy Woodruff</i>	<i>Mike Miller</i>
<i>Gregg Simmons</i>	<i>Vickie Hanvey</i>	<i>Jon Overacker</i>
<i>Diane Kelley</i>		

VISITORS PRESENT:

<i>Charles Dry</i>	<i>David Ballew</i>	<i>Todd Hembree</i>
<i>Bryan Collins</i>	<i>Jim Carrington</i>	<i>Wayne Dunham</i>

APPROVAL / DISTRIBUTION

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

**Motion to approve minutes made by:** *Jack Baker*

**Minutes attested and concurred by:** *Meredith Frailey*

**Date:** *4/30/09*