



Council of the Cherokee Nation

Meeting Minutes Executive and Finance Committee

Thursday, March 27, 2008

3:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Jack Baker called the meeting to order at 3:12 p.m.

INVOCATION

Councilor Frailey 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 the minutes of the February 28th regular session. Councilor Cowan Watts seconded the motion. Motion carried. Councilor Cowan Watts made a motion to approve the March 10th special session minutes. Councilor Thornton seconded the motion. Motion carried. Councilor Cowan Watts made a motion to approve the minutes of the March 10th PAC sub committee. Councilor Bill John Baker seconded the motion. Motion carried.

REPORTS:

1. Financial Report/Treasurer Report - Callie Catcher

Attachments: [Fin Res REPORT_FRM_03_08](#)

Callie Catcher provided a written report. She stated they are in the process of finalizing the comprehensive annual financial report with expected delivery on Monday to the Council House.

2. Cherokee Nation Enterprises - David Stewart

Attachments: [CNE Executive and Finance comm rpt 03-2008](#)

Mr. Guy Wolcott stated in February CNE recognized a record net income of \$11.4ml. This is a 12.7% increase over February 2007. The Cherokee employment is 59% with a combined Native American employment of 72.5%. The turnover rate has come down largely in part to the minimum wage increases enacted.

3. Cherokee Nation Industries - Dennis McLemore

Mr. Dennis McLemore stated in January they had \$8.8ml cash, inventory of \$1ml, A/P was \$10.3ml and debt of \$13ml. This debt is a loan from CNB that has been converted and paid into capitol this past month. The net worth at this time is \$9ml and sales year to date is \$20ml. At this time they are experiencing a \$1ml loss. Mr. Doug Evan inquired about a question of Councilor Soap last month regarding the operating budget being approved the board. Mr. McLemore stated it has been approved and will show on the February report.

4. Cherokee Nation Businesses - Brad Carson

Mr. Brad Carson announced they received permit approval for the landfill last week. He assured the Council the best option is to continue operation in a way of an asset to the Cherokee Nation. He stated the landfill will be run with the upmost of professional standards. The plans for CNB for the landfill have been invaluabley aided by many comments and concerns regarding the facility. He stated they are anticipating an approximate \$15ml investment over the next few months while trying to get the landfill back into compliance and to construct a new cell. He stated they have hopes to announce a new project for CNB into the health field over the next few weeks. The project would provide additional services to the Cherokee Nation, some jobs here in Cherokee County as well as be a profitable enterprise. Councilor Buzzard inquired if CNB would run the landfill or contract out. Mr. Carson guaranteed it would be an in house Cherokee Nation operation. Councilor Glory-Jordan inquired about the staff currently at the landfill. Mr. Carson stated the current staff will be evaluated and all staff will be held at the highest to best in class landfill operations.

5. Historical Society - Carey Tilley

Attachments: [Historical Society Ex. Finance - Mar27, 2008](#)

Mr. Carey Tilley announced in the past couple of weeks they made a \$25,000 payment on the long term debt with a remaining balance of \$25,000. They are working with CNE Tourism on some projects. He announced there are 178 kids at the Heritage Center today and expecting approximately 650 tomorrow for Indian Territory Days. He encouraged everyone to come out and see education in action.

6. Career Services/Employment - Diane Kelley

Attachments: [Career Services Emp Mar 08](#)

Ms. Diane Kelley announced Talking Leaves Job Corp celebrated Women's History Month this past Tuesday. She commended Speaker Frailey, Councilor Cowan Watts and Councilor Fishinghawk for speaking at the event. She stated it is rewarding to have well educated women on the Council. She announced a job fair is in progress downtown and the municipal armory. A job fair will be held on April 29th in Mayes County. She provided flyers for the event. She stated the ground breaking for AERT was last Friday. She announced they are working with Facet to secure them more space. They continue to work with the City of Stilwell to repair the lagoon to expand the industrial park. They have apprenticeship training for blue print reading in the evenings at the Job Corp site. She stated this training is funded through TERO fees collected. They will begin electrical apprenticeship training soon. They met with CNL in regard to their aerospace contract and providing short term training for an approximately 160 people. They will network with the Vo-tech so the hours will carry over. Councilor Glory-Jordan stated she had requested Mr. Overacker list the

ownership below each entity on the TERO approval list provided. Ms. Kelley stated they are able to do this request. Ms. Kelley provided flyers for the summer youth employment program now known as the summer career leadership program.

7. Commerce - Anna Knight

Attachments: [Commerce 03-08 EF Report](#)

Anna Knight provided a written report. She announced a couple of corrections on page 2 of the report as \$937,081 IRP lending dollars available, on the ICDGB adult program they have \$614,287 available and the youth has \$258,070 available.

Councilor Hoskin Jr. inquired as to why the lateness of the two items. Mr. Carson stated drafts of the BOA lending agreements have been prepared for weeks now and was ready at the 10 day requirement at which time outside forces requested 11th hour changes. Therefore rather than submit not in final form they choose to incorporate the changes before submittal. He stated he wouldn't be here presenting this if it wasn't of fundamental importance. Councilor Hoskin Jr. inquired as to the consequences if the agenda isn't amended to consider this request today. Mr. Carson stated the timeliness is demanded by the changing credit markets and there is a need to close the loan to meet internal requirements. Ms. Callie Catcher addressed the lateness to add the items to the budget mod by stating the first is for contract health. She stated during budget hearings they were provided with 5 months of funding based on historical usage and they are at a point of what has been obligated they would need more budget authority. The second item is for the constitutional defense fund where there has been some activity and funds need to be appropriated. Councilor Hoskin Jr. inquired as to the consequences if this isn't done today. Ms. Catcher stated for Contract health they would have to stop obligating funds and the constitutional defense fund is related to ongoing attorney fees that would held up. Attorney General Hammons stated they have paid everything but the February bill and their isn't enough funds to pay it. They have \$101,000 available and the bill due now is \$173,000. Councilor Hoskin Jr. called point of order stating right now it is to consider whether or not to amend the agenda. Councilor Cowan Watts called for the question.

Councilor Frailey moved to amend the agenda to include item 2 under new business a request to add certain items to the budget mod as handed out and add item 3 under new business as a Bank of America lending agreement. Councilor Garvin seconded the motion. Motion to amend the agenda carried.

CONSENT ITEMS:

CEMETERY RESTORATION ASSISTANCE APPLICATIONS

Councilor Cowan Watts made a motion to approve all the applications in the packet as well as the additional applications handed out today. Councilor Crittenden seconded the motion. Motion carried.

T.E.R.O. CERTIFICATIONS

Attachments: [TERO procurement report 03-08 EF](#)

Councilor Anglen made a motion for approval as submitted. Councilor Soap seconded the motion. Councilor Cowan Watts made a friendly amendment to put Crosslin on hold pending a newspaper article regarding a take over from a non Indian company. Councilors Anglen and Soap accepted the friendly

Self Help Emergency Assistance is requesting a funding increase of \$200,070 related to weatherization program administered by the Community Services Group. The Rural Fire Stations are requesting \$2,609 in spending authority to include Inola Volunteer Fire Department. Land Development is requesting a \$411,110 increase to combine the Natural Resources Force Account budget with this budget as well as recognize the debt service payments related to long-term debt. The Indirect Cost Pool has an increase of \$52,757 for the evaluation and compliance department to absorb 1 additional FTE associated with the transfer of the Housing Authority employees. Mr. Evans noted the previous mod package reflected a net decrease of \$45,099 in the indirect cost pool. This pool is designed to budget a break even though the IDC Recovery Budget. The net increase of this request of \$52,757 less last months decreases of \$45,099 results in a net increase of \$7,658. This budget needs an increase in the IDC Recovery Budget of the <\$7,658> to ensure the pool stays in budgeted balance. He stated this is a technical issue he and Ms. Catcher can work out. The Tribal Force Account Fund again has a reduction of \$170,318 to remove this budget and transfer to the land development account as well as provide for the prior years deficit of \$198,619. He noted historically the force accounts do not cover their expenses. The EPC projects is increasing \$20,000 for inter-tribal services to the Realty Department. The USDA funds are increasing \$300,000 for a new planning grant. The grant amount is \$150,000 with the remaining \$150,000 being matched by a transfer from the NAHASDA fund 2006 IHP community planning. Resident Services Career Services is requesting an increase of \$144,916 related to the unexpended balance from the prior year. Elderly Housing and Protective Services is a decrease of \$2,045 as a slight carry over adjustment. Resident Services Human Services is requesting a decrease of just over \$4500. Mr. Evans inquired if the \$200,000 just approved for the LIHEAP program needed to be added to this mod. Chair Jack Baker agreed it needed to be added to this modification. Mr. Evans announced with this \$200,000 for the LIHEAP program the remaining balance available in the gen fund will be \$38,666 in appropriations for the remainder of the year by this body. He stated there is an item to be considered for carry over for \$4.5ml but there is also a request to appropriate those funds. He stated with 6 months left in this year we will have to re-program previously approved budgets to provide for any appropriation needs you may have for the rest of this fiscal year.

Chair Jack Baker requested Ms. Catcher address the items the agenda were amended to consider. Ms. Catcher stated the first item is contract health in an increase of \$5ml with the source of funds being \$3ml un-appropriated carry over from gen fund and transferring \$2ml from the tobacco sur tax budget to be used for contract health related diabetes and cancer treatment. The existing budget for contract health was for \$3ml during budget hearing to cover an approximate 5 months. This request would give contract health the funds to finish out the year. The constitutional defense fund is requesting an increase of \$1.5ml from the gen fund un-appropriated carry over. Councilor Glory-Jordan inquired as to how much un-appropriated funds we started the year with. Both Mr. Evans and Ms. Catcher stated they would have to look. Councilor Glory Jordan inquired of the \$3ml already appropriated how much has been spent. Ms. Gower stated all of it as follows: Cancer 60%, Return to Work 22.5%, dentures 12.2%, eyeglasses 2.75% and the medical equipment resource program 1.96%. Mr. Evans stated we started the year with \$6.9ml in available funds. Councilor Glory-Jordan questioned the additional funds for the constitutional defense fund. Ms. Hammons stated the litigation costs increased and the hourly wages increased. Councilor Hoskin Jr. Inquired as to what the constitutional defense funds cover. Ms. Hammons stated media response, public relations, lobbying at both the state and federal level, as well as litigation. Councilor Hoskin Jr. stated he needed a compelling reason to give this increase. She stated at the district level they are on their third amended complaint in which they have had to answer, fight a stay, file an appeal, the appellate brief in the circuit court, a reply brief,

the litigation is proceeding but the biggest thing we have accomplished other than not getting any stays entered in action against our government is District Court Judge Kennedy who initially ruled against us has stayed any further action against us in his court pending the appeal in the circuit court. We have oral arguments set May 8th in circuit court. Ms. Melanie Knight stated of the amounts paid so far out of the fund total there are 2 smaller contracts that deal with what we government relations work primarily which have received just under \$200,000 for this fiscal year. Those amounts are set in the contract and have been obligated in the constitutional defense fund and have not changed. What has changed is the amount of hourly billing for the litigation portion of the contract. The amount actually paid on the firm that is doing the litigation has been just under \$1ml. We have only paid through January on this contract and need to pay a February invoice. She stated they have obligated the base contracted amount for the year and have those funds set aside. Councilor Glory-Jordan inquired if \$500,000 would bring the account current. There is \$232,000 outstanding on litigation at this time. Councilor Glory-Jordan stated they need to gain control of the situation. She suggested giving them \$500,000 at this time and requesting justification for the remainder. She stated this is all that is left for an emergency.

Councilor Glory-Jordan made a motion for \$500,000 for the constitutional defense fund, the \$5ml for contract health, hold the \$1ml till next month and approve all other budget items. Councilor Bill John Baker seconded the motion. Councilor Frailey inquired if this would hamper negotiations. Ms. Hammons stated she didn't feel it would. Chair Jack Baker re stated the motion as approving all budget requests with the exception of a reduction of the constitutional defense fund to \$500,000 from \$1.5ml.

Yea: 10 - Bill John Baker; David Thornton Sr. ; Don Garvin; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard; Curtis Snell; Chris Soap; Chuck Hoskin, Jr. and Julia Coates

Nay: 4 - Meredith Frailey; Buel Anglen; Jack D. Baker and Bradley Cobb

Not In Room: 3 - S. Joe Crittenden; Cara Cowan Watts and Janelle Fullbright

3.

A RESOLUTION AUTHORIZING A CERTAIN LENDING TRANSACTIONS INVOLVING CHEROKEE NATION BUSINESSES, A CHEROKEE NATION TRIBAL LIMITED LIABILITY COMPANY AND AUTHORIZING A LIMITED WAIVER OF SOVEREIGN IMMUNITY

Sponsors: Councilor Frailey

Mr. Brad Carson provided a status update on the BOA agreement by stating they are near finalizing the agreement and hope to close by the second week of May. He stated the credit markets are softening and is becoming more difficult to get these type of agreements to go through. He stated there are a cranes building all across North Eastern Oklahoma with Mr. Stewart's capitol projects and those must be financed. He stated they do not have enough cash flow at this time. He stated the document in front of you has been drafted by the bank's council and is a bit more elaborate than presented a few months ago. This is a syndicated bank deal. He stated the loan is of size that several banks are going to have to participate. Mr. Evans stated the body considered the financing document in September or October and at that time it was a \$125ml line of credit with 2 increase options of \$25ml each. He questioned if that loan had been closed. Mr. Carson stated this is the same loan. Mr. Evans inquired if the delays are due to the total increasing from \$175ml total to \$225ml and becoming a syndicated loan. Mr. Carson stated the delays have been due to the complicatedness of this type in Indian country. He stated they have spent weeks negotiating various covenants, requirements, and provisions that are sometimes unprecedented. Mr. Carrington stated the most recent resolution main

goal was to swap the parties from CNE to CNB and the resolution in front of you is a redraft of the one prior to that which was very detailed when CNE originally asked for the loan. Mr. Evans inquired as to the time sensitiveness of this document yet historically we have never utilized these lines of credit for capitol expansions. There are indications of a continued material adverse effect of what is not being termed as a non interference agreement that has to be agreed to by the Cherokee Nation and the bank to where the Nation's abilities to make governing decisions. Mr. Carson stated time is of the essence due to the estimation of having to dip into this loan and take it to its very maximum according to the budget at least in a short amount of time. He stated there is cash on the balance sheet but it is in the strategic cash fund. We are choosing right now to not avail ourselves of that. He stated if we don't have this approved in early May we will have to look at our capitol plans. He stated CNE signed a credit agreement with the BOA and the Nation signed a non interference agreement. He stated it is a fairly benign document and are asking for the same thing here. It basically states the Nation can not be enacting things that put the business enterprises default under the agreement. Mr. Evans inquired if the Council chooses to raise the dividend rate would the interference agreement engage or be interpreted as having a material adverse effect on the bank if you were still able to maintain the covenant ratios. Mr. Carson stated no. Councilor Hoskin Jr. voiced concern with not seeing the non interference agreement. He stated the exchange with Mr. Evans just now has been eye opening in regard to the dividend. Mr. Carson stated it has been the subject of constant negotiations and have had several drafts of the term sheet before you today. He stated they have definitive documents which will be signed to memorialize this agreement that we just received yesterday. He stated they believe they have negotiated a very good agreement for the Nation. If the bank had their choice the Nation would have no dividend at all because it takes away from the cash flow available to them. He stated in previous agreements we were not able to pay a single dollar of dividends to the Nation if in default. Now they have the right to pay 30% of the dividend even if in default which is extraordinary unusual. The definitive documents will define what default is and will say something to the effect of having the right to pay the 30% when in default. If the Council chooses to raise the dividend the bank wouldn't be greatly concerned unless by raising the dividend it puts it into default. Councilor Hoskin Jr. stated we don't have to be fearful that there is an artificial ceiling mandated by BOA we just have to satisfy ourselves that we are not putting CNB into default. Councilor Glory-Jordan inquired about the ability to appeal an arbitrators' decision. Mr. Jim Carrington stated the documents are not final at this time and he would research this request. Councilor Glory-Jordan inquired if this request is for an additional \$50ml line of credit. Mr. Carson stated we have cash in the bank today invested in various securities and this is not the time to liquidate those therefore BOA has agreed to give us a fully secured loan against those investments or we can have the cash today with a very minimal interest rate. Councilor Glory-Jordan clarified this body approved \$125ml and they are asking for another \$50ml today along with the approval of this document. Mr. David Stewart stated there are actually 3 trounces; \$50ml for the Columbia fund, \$125ml plus an option for another \$50ml. The Columbia Fund is to facilitate the liquidity dollars that we already own that may or may not be liquidated due to the market. The other funds are for capitol expenditure. Mr. Evans pointed out we are in a pattern of increasing lines of credit, granite we have a history of never using them but now we have a document that may or may not affect the Council's ability to increase dividends in the future depending on the definition of default. He recommended we all get a good understanding of what default here means. He stated four months into this fiscal year we have expended \$20ml in capitol assets.

Councilor Anglen made a motion for approval. Councilor Frailey seconded the motion. Motion carried with Councilor Bill John Baker opposed.

ANNOUNCEMENTS

None.

ADJOURNMENT

Councilor Anglen moved for adjournment. Councilor Garvin seconded the motion. Motion carried at 4:48 p.m.

STAFF PRESENT:

<i>Diane Hammons</i>	<i>Anna Knight</i>	<i>Todd Enlow</i>
<i>Callie Catcher</i>	<i>Melanie Knight</i>	<i>Sonja Glory</i>
<i>Jon Overacker</i>	<i>Diane Kelley</i>	<i>Angela Drewes</i>
<i>Nason Morton</i>	<i>Melissa Gower</i>	

VISITORS PRESENT:

<i>Raymond Vann</i>	<i>Gwen Henry</i>	<i>Dennis McLemore</i>
<i>Guy Wolcott</i>	<i>David Stewart</i>	<i>Bryan Collins</i>
<i>Mike Miller</i>	<i>Gina Olaya</i>	<i>Carey Tilley</i>
<i>Emily Bushyhead</i>	<i>Shawn Slaton</i>	<i>Jim Carrington</i>

APPROVAL / DISTRIBUTION

Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator

Motion to approve minutes made by: _____

Minutes attested and concurred by: _____

Date: _____