



# Council of the Cherokee Nation

## Meeting Minutes Rules Committee

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Thursday, September 25, 2008

1:00 PM

Legislative Conference Room

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### CALL TO ORDER

Chair Frailey called the meeting to order at 1:10 p.m.

### INVOCATION

Councilor Fishinghawk gave the invocation.

### ROLL CALL

**Present** 13 - S. Joe Crittenden; David Thornton Sr. ; Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard; Curtis Snell; Chris Soap and Chuck Hoskin, Jr.

**Late Arrival** 4 - Bill John Baker; Janelle Fullbright; Bradley Cobb and Julia Coates

### APPROVAL OF MINUTES

Councilor Garvin made a motion to approve the minutes of the August 28th regular session. Councilor Cowan Watts seconded the motion. Motion carried.

### REPORTS:

1. Marshal Service - Sharon Wright

*Ms. Wright provided a handout of the Federal Regulations on Sexual Assault. She stated the regulations have been changed to 16 not 18 years of age. She announced flyers had been provided to the area schools for the explorer program. They will have a meet and greet for the program this Saturday. The program is a boy scout leadership for life program.*

2. Justice Department - Diane Hammons

*Mr. Nason Morton reported the Justice Department's two new attorneys are being sworn in today in Oklahoma City. Councilor Glory-Jordan requested a status update for the Delaware pass through funds. Ms. Melanie Knight stated the funds are approximately \$500,000 per fiscal year. There has been an agreement for 2006, 2007 and paperwork has been signed for 2008 funds. We retain \$20,000 from each years IHP to do the annual self assessment and compliance as required by HUD.*

3. Election Commission -

*No one was present however a written report was submitted.*

## 4. Tax Commission - Sharon Swepston

*Ms. Swepston offered to answer questions from her written report. She announced continue to average two people coming in during the extend hours at the Tahlequah office. Councilor Glory-Jordan inquired if there had been advertising. Ms. Swepston stated the extended hours have been advertised in the papers and on the radio. Chair Frailey requested an update on the compact negotiations. Ms. Swepston announced they have submitted another draft and there is one area of negotiations within the submission which pertains to the Most Favored Nations. The ruling in Osage County was that the Feathers smoke shops got the 25% tax rate. Councilor Glory-Jordan inquired as to the differences between ours and the Creeks. Ms. Swepston stated the Creeks have requested a Nation to Nation clause which would allow them to purchase from another Nation. Councilor Thornton inquired if any new smoke shop applications were being taken. Ms. Swepston stated they continue to take applications and two new shops were approved at the last Commissioners meeting.*

## 5. Self-Governance - Vickie Hanvey

*Mr. Don Vaughn announced Ms. Hanvey was unable to attend and offered to take any questions back to her for response.*

## 6. Gaming Commission - Jamie Hummingbird

*Mr. Hummingbird announced they received notice yesterday that the NIGC is sending over the technical standards and internal control standards to the Federal Register. The standards have been the subject of debate over the last five years. NIGC will be publishing a withdraw of the classification standards and the definition change which reflect changes in tribal regulations. He stated this is a good sign. In the past the tribes are given thirty days to adopt the changes. He met with officials at CNE yesterday and today in preparation to open the West Siloam Springs expansion as well as the Catoosa expansion.*

## 7. Codification - Todd Hembree

*Mr. Hembree announced the two new Justice Department attorneys would be assisting in the codification efforts. He stated they would meet early next week to divide up the titles and continue their diligent work. He stated this would be a great experience for the new attorneys to become very familiar with our statutes. He stated once complete they would present to Rules any amendments or requests for repeals then pass forward to Council. Once passed by the Council it would be contracted by a publishing company to be bound.*

## 8. GEG Investigation Report - Diane Hammons

*Mr. Morton announced there is no new information at this time.*

## OLD BUSINESS

## 1. A LEGISLATIVE ACT AMENDING CERTAIN SECTIONS OF THE CRIMINAL CODE RELATING TO SEX CRIMES AND OTHER CRIMES AGAINST THE PERSON

**Sponsors:** Councilor Cara Cowan Watts and Councilor David Thornton

*Councilor Cowan Watts moved for the approval as submitted. Councilor Thornton*

seconded the motion. Councilor Thornton inquired if the age requirements are part of this act. Ms. Becky Johnson stated the age requirements included are the Federal requirements as presented earlier. Councilor Thornton requested a friendly amendment for the age of consent for sexual intercourse to be 16. The minimum age for a victim to not be able to consent would be 14. The minimum age for a defendant to be prosecuted would be 18. Sexual intercourse with someone below the age of 14 is illegal regardless of the age of the defendant. An individual over the age of 14 but below the age of 16 could only consent to sexual intercourse with someone who is less than 18 years of age. Being married to the victim is an acceptable defense. Councilor Cowan Watts provided a handout of the three areas of the legislation which the ages would affect. Mr. Hembree inquired if the friendly amendment is that a 16 year old and up can consent to sexual activity, a 14 year old can consent to someone under the age of 18. Mr. Hembree read the motion as Section 11 § B "A rape under subsection A of this section is without the consent of the other person: 1. where the victim is under the age of 14 years of age; or the victim is age 14 or older has not yet attained the age of 16 except when; a. the victim otherwise consent, and b. the accused is not required to register as a sex offender, and c. the accused is less than 18 years of age." Councilor Thornton agreed. Councilor Coates stated the Federal guidelines seem to give a little more room for individual situations. She voiced concern for the marriage exception. Councilor Glory-Jordan inquired where the marriage exception would be placed. Mr. Hembree stated the crime occurs at the time of sexual intercourse. He stated he hasn't ever seen a law where marriage is a cure for rape. Councilor Cowan Watts stated a vote needs to be taken separately on the age and then on the marriage issue. Mr. Hembree read the language change in 2c to read as follows; the accused is less than 18 years of age or the accused is married to the victim. Councilor Thornton accepted the language change. Councilor Cobb requested a friendly amendment for it to be less than 19. Councilor Thornton accepted. Councilor Cowan Watts accepted the friendly amendments in Toto. Councilor Glory-Jordan inquired as to how this would affect other sections of the legislation. Ms. Johnson stated they would also need to be changed to reflect the same language. Mr. Hembree stated the motion would be to accept amendments as uniform throughout the three sections of the act.

**Councilor Cowan Watts made a motion to approve with amendments.**

**Councilor Thornton seconded the motion. Motion carried by acclamation.**

2. A LEGISLATIVE ACT AMENDING CERTAIN SECTIONS OF THE CRIMINAL PROCEDURE CODE RELATING TO SENTENCING, POWERS OF THE COURT, AND LIMITATION ON DEFERRED SENTENCES

**Sponsors:** Councilor Cara Cowan Watts and Councilor David Thornton

**Councilor Cowan Watts made a motion to approve. Councilor Thornton seconded the motion. Motion carried by acclamation.**

3. A LEGISLATIVE ACT ADDING SECTIONS TO TITLE 63 OF THE CHEROKEE NATION CODE ANNOTATED CONCERNING PUBLIC HEALTH AND SAFETY; PROVIDING A CIVIL REGULATORY SCHEME REQUIRING SEX OFFENDER REGISTRATION FOR CERTAIN INDIVIDUALS LIVING, WORKING, OR ATTENDING SCHOOL IN THE CHEROKEE NATION, AND REQUIRING NOTIFICATION TO THE COMMUNITY OF CERTAIN SEX OFFENDERS

**Sponsors:** Councilor Cara Cowan Watts and Councilor David Thornton

**Councilor Cowan Watts made a motion to approve. Councilor Thornton seconded the motion. Motion carried by acclamation.**

4. DISCUSSION AND POSSIBLE ACTION OF ELECTED OFFICIALS  
COMPENSATION

**Sponsors:** Councilor Don Garvin

**Councilor Garvin withdrew this item.**

**Councilor Thornton made a motion to amend the agenda to include a resolution as new business item 6 pertaining to NCAI. Councilor Bill John Baker seconded the motion. Motion carried.**

NEW BUSINESS

1. MORTGAGE FORECLOSURES (Discussion Only)

*Councilor Glory-Jordan requested next month the amount of loss as well as the number of homes. Ms. Anna Knight provided a handout of the housing program foreclosure. She stated the changes made when the Cherokee Nation took over the MAP program have been directed toward reducing the foreclosure and preparing people. They are going through self sufficiency counseling to attempt to increase their credit scores to help get a market rate loan. They work with them on debt reduction to enable them to afford a mortgage. Councilor Buzzard requested information as to the number of mobile homes versus stick built homes and how many also received water and sanitation services.*

**Councilor Glory-Jordan requested this be an agenda item next month as well.**

2. A LEGISLATIVE ACT AMENDING LA#01-01, "THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"; AMENDING AND ADDING DEFINITIONS; AMENDING SECTIONS 204(L) ADDING PROVISIONS FOR UTILITY VEHICLES

**Sponsors:** Councilor Meredith Frailey and Councilor Chuck Hoskin,

**Councilor Hoskin Jr. made a motion for approval. Councilor Fishinghawk seconded the motion. Motion carried by acclamation.**

3. A LEGISLATIVE ACT AMENDING LA#01-01,"THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"; AMENDING AND ADDING DEFINITIONS FOR FARM TRACTORS, FARM TRAILERS AND FARM TRUCKS

**Sponsors:** Councilor Meredith Frailey

*Ms. Swepston stated this amendment takes away the 4 farm tag cap on farm permits for corporate or commercial farms.*

**Councilor Garvin made a motion for approval. Councilor Crittenden seconded the motion. Motion carried by acclamation.**

4. A LEGISLATIVE ACT AMENDING TITLE 68 CHAPTER 3 OF THE CHEROKEE NATION CODE ANNOTATED - SALES TAX; ADDING EXEMPTIONS FOR NON-PROFIT ORGANIZATIONS

**Sponsors:** Councilor Meredith Frailey

**Councilor Cobb made a motion for approval. Councilor Anglen seconded the motion. Motion carried by acclamation.**

5. AN ACT AUTHORIZING THE LEGISLATIVE BRANCH OF THE CHEROKEE NATION TO MAINTAIN A CITIZEN DATABASE

**Sponsors:** Councilor Tina Glory Jordan, Councilor Jodie Fishinghawk, Councilor Janelle Fullbright, Councilor David Thornton, Councilor S. Joe Crittenden and Councilor Bill John Baker

*Councilor Bill John Baker stated he and Councilor Glory-Jordan had requested a list of citizens who had participated in the clothing voucher program last year to be able to send them out a notice of the dates the vouchers would be given this year. He stated the request was denied stating the Chief or the administration is the only ones who should be contacting them. Councilor Bill John Baker disagreed and stated as councilors we are just doing our job by informing our people of the dates and times of program events. He moved for the approval. Councilor Glory-Jordan seconded the motion. She stated the legislation is requesting address and dates of birth to allow notification to be given for program information. Councilor Cobb inquired if this issue was addressed by the constitutional convention. Councilor Bill John Baker stated the only conversation he remembers is not to have 15 different people going to Congress with 15 different stories and that the official line of communication for the Cherokee Nation comes through the Chief. He stated this isn't about policy government to government this is about communicating with our people. Mr. Hembree agreed with Councilor Baker's recollection. He stated it is his opinion that it isn't an exclusive power of the Executive Branch to be the sole communicator to all Cherokee constituents concerning the Cherokee government. He suggested in the use of list portion to delete Cherokee Nation government. the wording "the Tribal Council should use this list exclusively for communications with tribal citizens concerning council activities" would provide no argument of being constitutional. Councilor Cobb inquired if Registration has provided any feedback. Councilor Bill John Baker responded no. He stated some programs do send out a list to last years participants but for those that don't we should have the opportunity to assist our people. Councilor Cowan Watts stated she can not support having cart blanche access to personal information of our citizens. She stated we should be dealing with this in a different manner such as a census of the Cherokee people. Councilor Fishinghawk replied if our only access is to the voter registration list then there are numerous citizens that are being left out. Mr. Hembree agreed communication should not be limited to just voters. Councilor Fishinghawk inquired how the Chief gets employee birthday information. Ms. Melanie Knight stated the employee information comes from the employee database through Human Resources. Councilor Fishinghawk inquired if the Council could have access to that information as well. Ms. Knight stated through a GRA she could provide employee names and dates of birth as long as they are not disclosed. Chair Frailey inquired as to how the information would be kept from the public. Mr. Morton stated as written if the Council has access then the public would as well. Mr. Hembree stated he doesn't agree but would review further. Mr. Morton requested this item be passed for a month to allow him time to research other related legislation and Judicial decisions.*

**Councilor Cowan Watts made a motion to table to October. Councilor Crittenden seconded the motion. Motion carried unanimously.**

6. A RESOLUTION AUTHORIZING CHEROKEE NATION TO BECOME A MEMBER OF THE NATIONAL CONGRESS OF AMERICAN INDIANS AND TO APPOINT THE TRIBAL DELEGATE AND ALTERNATES

**Sponsors:** Councilor Meredith Frailey

**Councilor Garvin made a motion to approve. Councilor Thornton seconded the motion. Motion carried unanimously.**

ANNOUNCEMENTS

ADJOURNMENT

**Councilor Thornton made a motion to adjourn. Councilor Garvin seconded the motion. Motion carried at 3:03 p.m.**

STAFF PRESENT:

<i>Sharon Wright</i>	<i>Nason Morton</i>	<i>Becky Johnson</i>
<i>Sharon Swepston</i>	<i>Melanie Knight</i>	<i>Jamie Hummingbird</i>
<i>Don Vaughn</i>	<i>Anna Knight</i>	

VISITORS PRESENT:

<i>Todd Hembree</i>	<i>Jim Ketcher</i>	<i>Gina Olaya</i>
<i>Brad Carson</i>		

APPROVAL / DISTRIBUTION

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

**Motion to approve minutes made by:** \_\_\_\_\_

**Minutes attested and concurred by:** \_\_\_\_\_

**Date:** \_\_\_\_\_