



Council of the Cherokee Nation

Council House
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Meeting Minutes - Final RULES COMMITTEE

Meredith Frailey, Chair

*Recording Secretary, Shelli-Brittain
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Monday, December 6, 2010

10:00 AM

Legislative Conference Room

SPECIAL SESSION

CALL TO ORDER

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

INVOCATION

Former Council member Jackie Bob Martin gave the invocation.

ROLL CALL

Present 16 - Bill John Baker; Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chuck Hoskin; Curtis Snell; David Thornton Sr. ; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright; Jodie Fishinghawk; Julia Coates; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan

Late Arrival 1 - Chris Soap

TMP-160

REDISTRICTING PER SUPREME COURT OPINION SC-2010-05

Chair Frailey stated the purpose of this Special Rules meeting is to discuss the redistricting per the Supreme Court Opinion SC-2010-05. A packet has been provided which includes three different Acts with proposed maps for each Act.

TMP-161

Memo from Attorney General Hammons and Council Attorney Hembree dated 11-30-2010

Chair Frailey inquired if there were questions regarding the memo from Attorney General Hammons and Council Attorney Hembree. She stated due to the severability clause in the Act the portion that covered the configuration was ruled unconstitutional however this doesn't mean the entire Act is unconstitutional.

No questions were presented.

TMP-162

Detailed background information on GeoData

Councilor Cowan Watts stated the Courts have delineated we must use the best available data today which would be the zip code and the county as declared by the tribal citizen at the time they registered. She inquired as to what level of geo-coding was being used today. Mr. Justice stated it totally depends on the county itself. If a

county has a 911 office and are maintaining a roads dataset they are able to get to a specific address point. For the counties that don't have 911 or are not maintaining a roads dataset the best that can be done is zip code level. Councilor Hoskin Jr. gave appreciation to Mr. Justice for all of the work he has done with this issue. He stated the current law requires better numbers by the summer of 2012, he inquired as to what kind of steps are being taken within his department to get closer to this goal. Mr. Justice stated they are in the process of inventorying what each county has and are not yet able to determine if additional manpower or resources will be needed. Councilor Hoskin Jr. Inquired how the State of Oklahoma determines boundaries by streets or political boundaries in their jurisdictions where they lack the underlying data. Mr. Justice stated the Census Bureau delineates geographic boundaries. The smallest geographic boundaries are called census blocks and within these blocks they can determine where an individual resides. Each census block usually contains approximately 200 individuals. This small defined geography is then used to delineate political boundaries. Councilor Hoskin Jr. stated at one time it was discussed for the Cherokee Nation to do a census in the areas without 911 where they have difficulty determining the numbers. Mr. Justice stated it takes a lot of manpower to do a census even if it is just the areas where we do not have good numbers as it is almost half of Cherokee Nation Jurisdiction. Councilor Hoskin Jr. suggested a mail census not a door to door census. Councilor Hoskin Jr. inquired if it would be a fair statement to say we are county people using the zip code methodology that actually live outside of the Cherokee Nation. Mr. Justice agreed. Mr. Pat Ragsdale announced the Principal Chief has formed a work group and they are working to verify through our registration and various data collection agencies actual addresses. They are currently considering sending out letters of submittal to citizens to put their physical location on the form to obtain additional accuracy. Councilor Hoskin Jr. stated this is what they had discussed in regard to a targeted mail out census. He inquired if it was thought that the counties would reach the 2012 target date. Mr. Justice stated it looks like a good possibility for it to be done although McIntosh County is just getting started and Nowata has no plans at all. Councilor Hoskin Jr. suggested an alternate plan for these two counties. Councilor Cowan Watts stated the Courts decided early that it was the self-declared address zip code plus the county that would delineate on the borders. Councilor Fishinghawk read portions of previous minutes back to Mr. Justice. Some of the portions read include "using 911 along the border boundary and zip codes for the rest is the most accurate". "Due to the inherent flaws of using the land based or proportioned method there would be flaws". She asked if he felt it was still best to use 911 along the border zips to get the most accurate numbers and use zip codes inside. Mr. Justice agreed. Mr. Hembree stated Judge Fite ruled we would use the total zip codes and that figure was approximately 122,000 citizens. After discussion this committee came to a consensus that as of May of 2009 there were 110,823 citizens in the Cherokee Nation. This figure was used to create the five district map which Judge Fite approved both the data figure and map. This decision was appealed to the Supreme Court while they had no problem with the population figure used they did rule one district was above the 10% deviation. He stated the discussion here today is very good and we want to use the best figures possible but in his opinion for the purposes of determining a map the 110,823 figure should be used. Councilor Glory-Jordan commented knowing the numbers being used are totally flawed they came up with the best numbers possible. Chair Frailey suggested moving forward a work group should be formed to clear up all of the confusion. Mr. Todd Enlow announced he is helping steer the 911 addressing committee. He stated the methodology that has been provided has been trying to address questions and the Council's desire to determine the best count and representation. He stated ultimately what is best is something that the court will be satisfied with and is fair and equal representation for all citizens across the board. He stated if the Council is willing to work with them on a small task force then it would make it an even stronger process. Councilor

Fishinghawk commented car tag money without the two mile boundary and Cherokee, Adair, Delaware, Mayes and Sequoyah are the top five. These same five counties also have the most registered voters, the highest voter turnout and cemetery funds. Councilor Hoskin Jr. commented he would like to see a map that takes a zip code that straddles a border line and truly reflects that zip code. He inquired if it would be possible by Council meeting and if not he would still like to see the map at some point.

10-141

AN ACT REPEALING LEGISLATIVE ACT 22-10 AND 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

Chair Frailey stated this Act amending our Election law has four maps attached as 5A, 5B, 5C and 5D. Councilor Fishinghawk restated her motion to approve with map 5A. Councilor Glory-Jordan seconded the motion. Councilor Cowan Watts requested clarification on the on the rules for the multiple maps. Councilor Fishinghawk commented she would just go down the list. Mr. Hembree suggested voting on five districts map A and if a majority isn't reached vote on five districts map B until there is a majority on a map and then a final five districts with the map that received the majority vote. If none of the five district maps don't receive a majority vote you would move forward with the nine district act and map. Councilor Hoskin Jr. stated any five district map is not good. He stated the five districts is bad for our people and our institution. Fundamentally smaller districts allow the representatives to be closer to the people. In regard to map 5A the northern district consists of five counties where the demographics for parts are completely different than other parts. Councilor Cowan Watts agreed the five districts are problematic but where we are at today five districts is the only way we can reasonably use what data we have available to us and come to a consensus quickly for the 2011 elections. She stated 5A is problematic in that it is geographically some of the districts too large. When determining the districts we need to balance how large of a district someone would have to cover. Chair Frailey stated she prefers the five districts. Councilor Buzzard stated he wouldn't be in support of the five districts and that he prefers the fifteen districts. Councilor Thornton stated he has always supported fifteen districts. He stated our people have received letters stating we have five districts. He suggested instead of a workgroup it should be ever month at the Rules committee. He stated he doesn't see an option but to go with the five districts until after this election. Councilor Bill John Baker agreed with Councilor Thornton in that we don't have a choice right now but to go with the five districts as the judge has stated if we don't fix it he will. He suggested using the five district map with the best variance offered which would be 5A. Councilor Hoskin Jr. stated when it comes down to a one-hundredth of a percent versus the configuration of the district, the configuration must win. Councilor Fullbright stated at this late date it would be confusing to the people to switch to anything but five districts. Councilor Glory-Jordan offered an amendment to substitute 5C for 5A. Chair Frailey stated we are voting on each one. Mr. Hembree stated he had thought the committee agreed to go in order A, B, C, then D. Councilor Glory-Jordan inquired if under Roberts Rules of Order if she could offer a friendly amendment to the person that made the motion. Mr. Hembree agreed. Councilor Fishinghawk accepted. Chair Frailey commented a method had been established that would be used in regard to each map and requested to move forward with that method unless the body prefers to offer this amendment. Councilor Glory-Jordan challenged the Chair. Mr. Hembree stated under the process determined the Chair has ruled the friendly amendment system is out of order. Under Roberts Rules of Order you are challenging the decision of the Chair. Now the question put forth to the body is shall the Chair's decision stand, a vote in the majority backs the Chair. With a majority vote given the decision of the chair stood. Councilor Cowan Watts called for the question on 5A.

The motion to approve five district map 5A failed by voice vote.

Councilor Cowan Watts moved to approve map 5B. Councilor Garvin seconded the motion. Councilor Cobb stated the constituents in Washington County have made it clear that whatever map or configuration there is that they are adamantly for Washington County being grouped with Tulsa County. Councilor Crittenden stated he doesn't have anything against Ottawa County but doesn't support it being included with Adair and Delaware in a district. Councilor Cowan Watts commented Rogers County is more associated with Tulsa County rather than Mayes County in that Tulsa and Rogers are both more urban. She stated 5B balances the constituencies and their likenesses. She commented 5B is a compromise that we would need to live with for the 2011 elections. Councilor Fishinghawk commented during a past Council meeting an amendment was proposed to substitute a map because it was more accurate and if this is the true case maps 5A and 5C should be the two considered today. Councilor Cowan Watts agreed more accuracy is needed but given where we are with data once the 10% rule is met then the balance comes to like constituency and geographical size within districts. Councilor Bill John Baker inquired if the 10.03% deviance on this map would be problematic. Mr. Hembree stated anything above 10% raises question although this is very slight. He stated in his legal opinion it would not be problematic. Councilor Bill John Baker inquired if the Attorney General could state the same. Ms. Hammons commented is she were the court and this is the best that can be done she would consider them to be reasonable and acceptable. Councilor Jack D. Baker stated the court has already ruled on 5B that it would be constitutional. Councilor Glory-Jordan stated with the people of Washington County being adamantly opposed to not being with Tulsa County she would be opposing 5B in order to vote for 5C as it would place Tulsa and Washington together.

The motion to approve map 5B carried with the following roll call vote:

Yea: 10 - Buel Anglen; Cara Cowan Watts; Chris Soap; Chuck Hoskin; David Thornton Sr. ; Don Garvin; Jack D. Baker; Janelle Fullbright; Julia Coates and Meredith Frailey

Nay: 7 - Bill John Baker; Bradley Cobb; Curtis Snell; Harley Buzzard; Jodie Fishinghawk; S. Joe Crittenden and Tina Glory Jordan

Councilor Hoskin Jr. proposed an amendment to Section 5D of the Act by adding "for no less than fifteen districts" with the idea that the consensus of the Council is that fifteen districts is the best arrangement for our institution and constituents. He made the motion to approve the amendment. Councilor Fullbright seconded the motion. Councilor Coates stated she is opposed as it would place a hamstring on this body. She stated there are more innovative ways to handle this issue. Councilor Cowan Watts stated she would be in opposition today logistically. She commented she would prefer to address this issue as a separate legislative item. Councilor Hoskin Jr. stated the message needs to be sent to the people that the five districts is a stop gap measure because our data is flawed and this is the best we can do now but we are willing to go to fifteen districts. Councilors Buzzard, Fullbright and Thornton all stated they preferred the fifteen districts and the smaller area of representation. Mr. Pat Ragsdale stated he doesn't know the Chief's position on this but doesn't think the Administration would have a problem with similar wording to the effect that the Council would review the redistricting issue but to mandate fifteen districts could be problematic. Councilor Thornton called for the question.

The motion to amend carried with the following roll call vote:

Yea: 13 - Bill John Baker; Bradley Cobb; Buel Anglen; Chuck Hoskin; Curtis Snell; David Thornton Sr. ; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright; Jodie Fishinghawk; S. Joe Crittenden and Tina Glory Jordan

Nay: 4 - Cara Cowan Watts; Chris Soap; Julia Coates and Meredith Frailey

Councilor Garvin made a motion for District 2 and District 3 numbering be flipped. Councilor Fullbright seconded the motion. The motion carried.

Councilor Cowan Watts inquired if a technical amendment was needed to place the map number 5B in the legislation. Mr. Hembree stated the body passed map 5B therefore this letter would automatically be placed in the Act so there would be no need for a motion.

Councilor Cowan Watts called for the question on the main legislation. Mr. Hembree stated a motion for approval of the Act as amended should be done with a roll call vote.

Councilor Buzzard commented he is against the five district map but would be voting in favor. Councilors Crittenden, Snell and Fishinghawk agreed with Councilor Buzzard.

The motion to approve the five district legislation with map 5B as amended passed by the following roll call vote:

Yea: 13 - Bill John Baker; Cara Cowan Watts; Chris Soap; Chuck Hoskin; Curtis Snell; David Thornton Sr. ; Don Garvin; Jack D. Baker; Janelle Fullbright; Julia Coates; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan

Nay: 4 - Bradley Cobb; Buel Anglen; Harley Buzzard and Jodie Fishinghawk

10-142

AN ACT REPEALING LEGISLATIVE ACT 22-10 AND 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

Withdrawn by default due to the passage of the five district legislation.

10-143

AN ACT REPEALING LEGISLATIVE ACT 22-10 AND 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

Withdrawn by default due to the passage of the five district legislation.

ANNOUNCEMENTS

ADJOURNMENT

Councilor Glory-Jordan moved to adjourn. Councilor Jack D. Baker seconded the motion. Motion carried at 11:40 a.m.

STAFF PRESENT:

<i>Chrissi Nimmo</i>	<i>Sherry Chenault</i>	<i>Tonia Williams</i>
<i>Doug Evans</i>	<i>Pat Ragsdale</i>	<i>Paula Ragsdale</i>
<i>Gregg Simmons</i>	<i>Sharon Wright</i>	<i>Diane Hammons</i>
<i>Gina Sourjohn</i>	<i>Melanie Knight</i>	<i>David Justice</i>
<i>Joe Grayson</i>	<i>Nason Morton</i>	<i>Mike Miller</i>

*Melissa Gower
Chad Smith*

*Todd Enlow
Pat Gwin*

*L. D. Drywater
Patrick Hill*

VISITORS PRESENT:

*Todd Hembree
Martha Calico
Lloyd Cole
Curtis Rohr*

*Bev Cowan
John Parris
Jackie Bob Martin*

*Brenda Walker
Patsy Morton
Ollie Star*