



Council of the Cherokee Nation

Meeting Minutes

Rules Committee

Thursday, January 25, 2007

1:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Frailey called the meeting to order at 1:05 p.m.

INVOCATION

Councilman Bill John Baker gave the invocation.

ROLL CALL

Present 14 - Bill John Baker; Audra Smoke-Conner; S. Joe Crittenden; Jackie Bob Martin; David Thornton Sr. ; Don Garvin; John F. Keener; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Charles "Chuck" Hoskin; Taylor Keen and Jack D. Baker

Absent 1 - Phyllis Yargee

Late Arrival 2 - Linda Hughes-O'Leary and Melvina Shotpouch

APPROVAL OF MINUTES

Council member Cowan Watts moved for the approval of the December 11th regular session. Councilman Anglen seconded the motion. Motion carried.

Councilman Anglen moved for the approval of the December 14th regular session. Council member Cowan Watts seconded the motion. Motion carried.

Councilman Jack D. Baker moved for the approval of the January 5th, 2007 special session. Councilman Keen seconded the motion. Motion carried.

REPORTS:

Chair Frailey stated unless the Council has specific questions from the staff she has asked for written reports. Seeing none written reports were accepted.

Councilman Bill John Baker moved to amend the agenda to move items #18 & 19 of new business to this point of the agenda for consideration. Council member Conner seconded the motion. Motion carried.

a resolution Authorizing the submission of a tribal youth program grant application

Councilman Bill John Baker moved for the approval. Council member Conner seconded the motion. Motion carried.

a resolution Authorizing the submission of A juvenile accountability discretionary grant application

Councilman Bill John Baker moved for approval. Councilman Garvin seconded the motion. Motion carried.

OLD BUSINESS

1. VIOLENT CRIME CONTROL ND LAW ENFORCEMENT ACT OF 1994

Chair Frailey stated this has been tabled several times and it includes three items of concern.

Councilman Bill John Baker moved to not pass this. Council member Cowan Watts seconded the motion. Motion carried.

2. A LEGISLATIVE ACT RELATED TO TITLE 26 "ELECTIONS", AS AMENDED BY LA#39-05; AMENDING PROVISIONS CONCERNING STAGGERED TERMS; AND DECLARING AN EMERGENCY

Todd Hembree stated what is in the packet had fifteen distinctive districts that were based on the Act passed by the Council, vetoed by the Chief and that veto was sustained so therefore the current law is nine districts. He reminded the Council this is the January meeting and whatever the Council passes out of this meeting would go to the February full council meeting where this Act would be passed or not. Being mindful that the election filings are in March and that would be the last opportunity outside of a special meeting to pass a staggered term that would allow individuals to know which seat or term the Council comes up with and he also stated to the Council that in both version created by him to go to the District Court about staggered terms and the Attorney General's version both are in concurrence on that the Council is going to have to stagger these terms to be in compliance with the Constitution which gave them one year to do and they are going to be within that year.

A motion was made by Councilor Bill John Baker and seconded by Councilor Linda Hughes-O'Leary, that the staggered term legislation be brought off of the table. The motion carried by the following vote:

Yea: 10 - Bill John Baker; Audra Smoke-Conner; S. Joe Crittenden; David Thornton Sr. ; Linda Hughes-O'Leary; Melvina Shotpouch; John F. Keener; Meredith Frailey; Charles "Chuck" Hoskin and Taylor Keen

Nay: 6 - Jackie Bob Martin; Don Garvin; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen and Jack D. Baker

Council member Cowan Watts made a friendly amendment to allow Councilman Don Garvin to flip the coin and to designate which side will be a six (6) or a four (4) year term.

Councilman Keen offered a friendly amendment to add language stating "Said amendment shall take effect on March 1, 2007 provided that the Cherokee Nation Supreme Courts do not hold or rule to the contrary" and strike the emergency clause. Councilman Bill John Baker and Crittenden accepted the friendly amendment.

Councilman Bill John Baker moved to approve this Act as written by Todd Hembree and on the flip of a coin decide whether seat 1 is 4 or 6 years and whatever that becomes the next seat will be the opposite and rotate all the way through fifteen. Councilman Crittenden seconded the motion.

Yea: 10 - Bill John Baker; Audra Smoke-Conner; S. Joe Crittenden; David Thornton Sr. ; Linda Hughes-O'Leary; Melvina Shotpouch; John F. Keener; Meredith Frailey; Charles "Chuck" Hoskin and Taylor Keen

Nay: 6 - Jackie Bob Martin; Don Garvin; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen and Jack D. Baker

The motion for approval with friendly amendment passed by a vote of fifteen (15) yeas; one (1) nay.

Councilman Don Garvin designated heads as seat A with a six (6) year term and tails as seat A with a four (4) year term. The coin was tossed and heads designated seat A become a six (6) year term. Therefore, in that accordance the following seats shall be:

- | | |
|---|---|
| <i>District 1: Seat 1 – 6 year term
 Seat 2 – 4 year term</i> | <i>District 2: Seat 1 – 6 year term
 Seat 2 – 4 year term</i> |
| <i>District 3: Seat 1 – 6 year term
 Seat 2 – 4 year term</i> | <i>District 4: Seat 1 – 6 year term</i> |
| <i>District 5: Seat 1 – 4 year term
 Seat 2 – 6 year term</i> | <i>District 6: Seat 1 – 4 year term
 Seat 2 – 6 year term</i> |
| <i>District 7: Seat 1 – 4 year term</i> | <i>District 8: Seat 1 – 6 year term
 Seat 2 – 4 year term</i> |
| <i>District 9: Seat 1 – 6 year term</i> | <i>At Large: Seat 1 – 4 year term
 Seat 2 – 6 year term</i> |

- 3. A LEGISLATIVE ACT RELATING TO EMPLOYMENT OF RELATIVES OF ELECTED OFFICIALS AND AMENDING TITLE 28, "ETHICS", ADDING NEW SECTIONS, AND REPEALING CERTAIN SECTIONS OF THE CHEROKEE NATION CODE ANNOTATED
Melanie Knight stated because of certain issues that are also involved in the declaratory action they would like to recommend this item be tabled.
Councilman Martin moved to table this legislation. Councilman Garvin seconded the motion. Motion carried.

- 4. A LEGISLATIVE ACT AMENDING TITLE 51, "OFFICERS", OF THE CHEROKEE NATION CODE ANNOTATED; RELATING TO DUTIES OF THE ATTORNEY GENERAL
Todd Hembree stated for clarification the item that was placed under the Attorney General Act was the one that was tabled and there has is now a revised version which would affect any amendment of this legislation therefore he recommended to originally start with this but if Councilman Keen wanted to substitute the version he has amended that would be proper at this time. Once this is considered with Councilman Keen's amendment item #14 would be mute.
Councilman Bill John Baker moved to permanently table this item. Council member O'Leary seconded the motion. Motion carried.

- 5. A LEGISLATIVE ACT AMENDING TITLE 42 "LANGUAGE" OF THE CHEROKEE NATION CODE ANNOTATED; ADDING PROVISIONS RELATING TO THE CHEROKEE SYLLABARY
Councilman Bill John Baker stated after discussion with Dr. Gloria Sly she requested this item be tabled to allow them to have a joint meeting with the Eastern Band and bring back at a later date.
Councilman Bill John Baker moved to table this item. Councilman Thornton seconded the motion. Motion carried.

- 6. A RESOLUTION RESCINDING PREVIOUS COUNCIL RESOLUTION #63-06

A motion was made by Councilor Jack D. Baker and seconded by Councilor Cara Cowan Watts, to table this Resolution until after the special election. The motion carried by the following vote:

Yea: 10 - Audra Smoke-Conner; Jackie Bob Martin; Don Garvin; Melvina Shotpouch; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Charles "Chuck" Hoskin and Jack D. Baker

Nay: 6 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Linda Hughes-O'Leary; John F. Keener and Taylor Keen

NEW BUSINESS

1. A RESOLUTION CONFIRMING THE APPOINTMENT OF TROY WAYNE POTEETE AS A JUSTICE OF THE SUPREME COURT OF THE CHEROKEE NATION

Melanie Knight stated some Councilors have approached the Chief and requested additional time to consult with their constituents about the nomination being a ten-year appointment. Therefore the Principal Chief respectfully withdraws this nomination at this time and will resubmit at a later date.

This matter was Withdrawn

2. A RESOLUTION CONFIRMING THE NOMINATION OF WATHENE YOUNG AS A BOARD MEMBER OF CHEROKEE NATION INDUSTRIES, INC.

A motion was made by Councilor William G. "Bill" Johnson and seconded by Councilor Jackie Bob Martin, that this matter be Approved and Forwarded to Council. The motion FAILED by the following vote:

Yea: 7 - Jackie Bob Martin; Don Garvin; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen and Jack D. Baker

Nay: 8 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Linda Hughes-O'Leary; Melvina Shotpouch; John F. Keener; Charles "Chuck" Hoskin and Taylor Keen

Abstain: 1 - Audra Smoke-Conner

3. A RESOLUTION CONFIRMING THE NOMINATION OF WILLIAM GRASS AS A BOARD MEMBER OF CHEROKEE NATION INDUSTRIES, INC.

Councilman Thornton stated within these resolutions is a nomination for William Grass as a member of the Business Board. He doesn't feel that a person can be on a business board which sets up funding for CNI Board and also serve on another board. That would be like making a motion for funding and then approving it on another board and to be sitting on two boards does not look right.

Melanie Knight addressed this by stating the current statute provides that members that sit on the CNI and CNE boards that a certain number of those members also sit on the CNB board and the purpose of that is so the various needs of those corporate entities are carried forward to the CNB board when they develop plans and overall strategy for the company. That is the way the overall structure was set up and that is the capacity this gentleman will serve in.

Callie Catcher stated the Act requires that the CNB board be composed of two members from CNE & CNI and three members who are independent that do not serve on any other board. The reason was so they would have a global view of all the business entities at

that level and be able to understand the needs of both CNI and CNE.

A motion was made by Councilor Martin, seconded by Co Chair Crittenden, that this matter be Approved and Forwarded to Council . The motion carried by the following vote.

Yea: 9 - Audra Smoke-Conner; Jackie Bob Martin; Don Garvin; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Taylor Keen and Jack D. Baker

Nay: 7 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Linda Hughes-O'Leary; Melvina Shotpouch; John F. Keener and Charles "Chuck" Hoskin

4. A RESOLUTION CONFIRMING THE NOMINATION OF JIM CARSON AS A BOARD MEMBER OF CHEROKEE NATION INDUSTRIES, INC.

A motion was made by Councilor Martin, seconded by Co Chair Crittenden, that this matter be Approved and Forwarded to Council . The motion carried by the following vote.

Yea: 9 - Audra Smoke-Conner; S. Joe Crittenden; Jackie Bob Martin; Don Garvin; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen and Jack D. Baker

Nay: 7 - Bill John Baker; David Thornton Sr. ; Linda Hughes-O'Leary; Melvina Shotpouch; John F. Keener; Charles "Chuck" Hoskin and Taylor Keen

5. A RESOLUTION CONFIRMING THE NOMINATION OF DENNIS DOWELL AS A BOARD MEMBER OF CHEROKEE NATION BUSINESSES, LLC

Councilman Bill John Baker moved for the approval. Councilman Keen seconded the motion. Motion carried

6. A RESOLUTION CONFIRMING THE NOMINATION OF B. J. DUMOND AS A BOARD MEMBER OF CHEROKEE NATION BUSINESSES, LLC

Councilman Bill John Baker moved for the approval. Councilman Keen seconded the motion. Motion carried.

7. A RESOLUTION CONFIRMING THE NOMINATION OF WILLIAM GRASS AS A BOARD MEMBER OF CHEROKEE NATION BUSINESSES, LLC

Councilman Martin moved for the approval. Council member Cowan Watts seconded the motion. Roll call is as follows:

Yea: 11 - Audra Smoke-Conner; S. Joe Crittenden; Jackie Bob Martin; Don Garvin; Melvina Shotpouch; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Taylor Keen and Jack D. Baker

Nay: 5 - Bill John Baker; David Thornton Sr. ; Linda Hughes-O'Leary; John F. Keener and Charles "Chuck" Hoskin

8. A LEGISLATIVE ACT AMENDING TITLE 20, "COURT AND PROCEDURES" OF THE CHEROKEE NATION CODE ANNOTATED; RELATING TO COURT RULES AND JURISDICTION; AND DECLARING AN EMERGENCY

Chair Frailey stated at the Judicial conference the Supreme Court Justices did ask that a work group be composed to take a more comprehensive approach to bringing all of our laws in compliance with the new constitution and so they will be performing a work group

for that.

Councilman Keen stated there are several items with the Judiciary that need to be amended and one of which is the rules for all the courts. The intention is that as the Legislative body they not necessarily approve those but transmit them and in affect codify those rules that they operate under. Beyond that he believes an improvement that can be made within our system is that certain items such as any cases relating to elections and voting and intra-governmental disputes between the branches of the government that those types of items are taken directly to the Supreme Court. With that being said Councilman Keen pulled this item from the agenda.

9. A LEGISLATIVE ACT AMENDING TITLE 20 OF THE CHEROKEE NATION CODE ANNOTATED - COURTS AND PROCEDURE;
AMENDING SECTION 24: JURISDICTION - GENERAL

Richard Osborn stated the purpose of this Legislative Act is to define the Cherokee Nation District Court's jurisdiction over child support enforcement and to make technical changes to the language which currently exists in section 24.

Councilman Garvin moved for the approval. Council member Cowan Watts seconded the motion. Motion carried by acclamation.

10. A LEGISLATIVE ACT AMENDING LA# 01-01, "THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"; AMENDING DEFINITIONS TO PROVIDE FOR REGISTRATION OF ACTIVE MILITARY PERSONNEL AND COLLEGE STUDENTS.

Sharon Swepston stated this Act is to amend LA#01-01, the Cherokee Nation Motor Vehicle Licensing and Tax Code to amend a definition to provide for registration for active military personnel and college students.

Councilman Anglen moved for the approval. Councilman Martin seconded the motion. Motion carried by acclamation.

11. A LEGISLATIVE ACT AMENDING TITLE 21 OF THE CHEROKEE NATION CODE ANNOTATED - CRIMES AND PUNISHMENTS;
ADDING SECTION 565; AMENDING SECTION 567;
AND ADDING SECTION 567.1

Richard Osborn stated the purpose of this Act is to define contempt of court; establish when a jury trial for contempt is required or not required; establish when a party bringing a contempt action must be in court for the initial hearing; and to establish requirements for purging a contempt charge for violation of a child support order.

Councilman Garvin moved for the approval. Council member Conner seconded the motion. Motion carried by acclamation.

12. A LEGISLATIVE ACT AMENDING TITLE 12 OF THE CHEROKEE NATION CODE ANNOTATED - CIVIL PROCEDURE; ADDING PROVISIONS FOR GARNISHMENT

Richard Osborn stated the purpose of this Act is to prescribe procedures by which parties owed a judgment debt or child support obligation/arrearage will be able to collect monies owed.

This matter was Approved and Forwarded to Council

13. A LEGISLATIVE ACT AMENDING TITLE 51, "OFFICERS" OF THE CHEROKEE NATION CODE ANNOTATED; RELATING TO THE DUTIES OF THE OFFICE OF THE MARSHAL; AND DECLARING AN EMERGENCY

Melanie Knight stated they have been working on this Act for several months pursuant to the new constitution. They think it's nearly in final form but they would like some additional time to refine it therefore they are recommending tabling this item.

Councilman Garvin moved to table this item. Councilman Anglen seconded the motion. Motion carried.

14. A LEGISLATIVE ACT AMENDING TITLE 51, "OFFICERS", OF THE CHEROKEE NATION CODE ANNOTATED; RELATING TO DUTIES OF THE ATTORNEY GENERAL

Councilman Bill John Baker moved to table this item. Council member Cowan Watts seconded the motion. Motion carried with opposition from Councilman Keen.

Yea: 13 - Bill John Baker; Audra Smoke-Conner; S. Joe Crittenden; Jackie Bob Martin; David Thornton Sr. ; Don Garvin; John F. Keener; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Charles "Chuck" Hoskin and Jack D. Baker

Nay: 1 - Taylor Keen

Late Arrival: 2 - Linda Hughes-O'Leary and Melvina Shotpouch

15. CHEROKEE NATION ADMINISTRATIVE PROCEDURE ACT

John Parris stated this Act was put together mainly for the Environmental Protection Commission so they could enforce environmental protection rules better and it also applies to the Election, Gaming and Tax Commissions. All four commissions have considered this Act in their meetings and have approved the language included. There are other tribal agencies that are not boards and commissions but also deal with the public and in the future they might consider whether to bring more activity to Cherokee Nation where they deal with our citizens under this Act.

Councilman Bill John Baker moved to table this item to give Todd Hembree more time to figure out what would be fair on section 306 (Emergency Rules). Councilman Keen seconded the motion. Motion carried.

16. a resolution Authorizing a limited waiver of sovereign immunity of will rogers downs, llc, Cherokee Nation enterprises, llc, Cherokee Nation businesses, llc, and the Cherokee Nation

Callie Catcher stated the purpose of this Resolution is to add CNB, LLC to the waiver as the parent, it changes the legal name of CNE to CNE, LLC, and it makes the racing license more consistent with the gaming license. It is basically the same waiver that is already in place with the addition of CNB.

A motion was made by Councilor Cara Cowan Watts and seconded by Councilor Buel Anglen, that this matter be Approved and Forwarded to Council. The motion carried by the following vote:

Yea: 13 - Bill John Baker; Audra Smoke-Conner; S. Joe Crittenden; Jackie Bob Martin; Don Garvin; John F. Keener; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Charles "Chuck" Hoskin; Taylor Keen and Jack D. Baker

Nay: 3 - David Thornton Sr. ; Linda Hughes-O'Leary and Melvina Shotpouch

17. A Resolution Approving The Recommendations Of The Attorney General For Payment Of Attorney Fees From The Arkansas Riverbed Settlement Fund, And Authorizing The Principal Chief To Submit The Amended and Final Payment Plan To The Bureau Of Indian Affairs

Melanie Knight stated the purpose of this Resolution is to approve the recommendations of Attorney General for disbursement of attorney fees in the amount of an additional \$200,000 for a total of \$351,000 to the Patton, Boggs firm for the final settlement of their legal work for the Nation, and to authorize the Principal Chief to submit the final payment plan to the BIA for approval for payment from Cherokee Nation trust funds as funds are appropriated by the Congress.

Councilman Martin moved for the approval. Council member Cowan Watts seconded the motion. Motion carried.

20. Donation Act

Todd Hembree asked that this item be set on the agenda for the February Rules meeting. He will get with Ms. Knight and any other Council member on the donation act.

Council member Cowan Watts moved to table this item to the February Rules meeting. Councilman Anglen seconded the motion. Motion carried.

21. Corporation Reform (Discussion Only)

Todd Hembree stated last month he handed out a list of eleven ideas that had been collected by various Council members about the possibility of reforming the Corporation Act. This is obviously one of the largest and most detailed Acts and the majority of it was formulated basically in 1996. Since then the gaming corporation has grown extensively and there may be a need if the Council so desires to put particular amendments in the corporation act. These ideas are starting points and he would hope by next month if there are any additional items and if it is the desire of the committee to consider the Corporation Reform Act.

Councilman Thornton requested written clarification from Diane Hammons on cross deputization. Diane Hammons stated she will get a written opinion and may also clarify by email through Todd Hembree.

This matter was Tabled

Announcements

The next Rules meeting is tentatively scheduled for February 22nd 1:00 p.m.

Adjournment

Councilman Thornton moved for adjournment. Councilman Crittenden seconded the motion. Motion carried.

APPROVAL / DISTRIBUTION

Minutes submitted by: Gayle Miller, Recording Secretary

Motion to approve minutes made by: _____

Minutes attested and concurred by: _____

Date: _____

STAFF PRESENT:

<i>Richard Osborn</i>	<i>Mike Miller</i>	<i>Tom Elkins</i>
<i>Diane Hammons</i>	<i>Nason Morton</i>	<i>Sharon Wright</i>
<i>Melanie Knight</i>	<i>Sharon Swepston</i>	<i>JR Claphan</i>
<i>Doug Evans</i>	<i>Greg Simmons</i>	<i>Becky Johnson</i>
<i>Debra Wilson</i>	<i>Jon Parris</i>	

VISITORS PRESENT:

<i>Todd Hembree</i>	<i>Rick Daugherty</i>	<i>Callie Catcher</i>
<i>Susan Ruckman</i>	<i>Charles Dry</i>	