



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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Thursday, October 28, 2010

1:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Frailey called the meeting to order at 1:11 p.m.

INVOCATION

Councilor Soap gave the invocation.

ROLL CALL

Present 12 - Bill John Baker; Bradley Cobb; Chris Soap; Chuck Hoskin; David Thornton Sr. ; Harley Buzzard; Jack D. Baker; Janelle Fullbright; Julia Coates; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan

Late Arrival 5 - Buel Anglen; Cara Cowan Watts; Curtis Snell; Don Garvin and Jodie Fishinghawk

APPROVAL OF MINUTES

Councilor Cobb moved to approve the September 30th regular session minutes. Councilor Bill John Baker seconded the motion. Motion carried.

REPORTS:

Marshal Service - Sharon Wright

Mr. Danny Tanner offered to answer questions from the Marshal Service written report.

Office of the Attorney General - Diane Hammons

Ms. Hammons announce she just returned from the Governor's Water Conference. Both Gubernatorial candidates, a United States Congressman, a retired member of the Oklahoma Water Resources Board, and a number of other speakers talked about the absolute necessity for the State of Oklahoma to negotiate with the tribes on the water rights. She reported there continues to be a bit of movement from the United Keetoowah Band on taking land into trust. The UKB has asked for clarification or reconsideration of Echo Hawk's decision. Councilor Hoskin Jr. inquired about our

1999 Constitution not being recognized by the DOI. Ms. Hammons commented the statements made in the Freedman case briefs were very self serving on the behalf of the United States as they are trying to escape responsibility. They have been operating with us on a government to government basis. Councilor Glory-Jordan requested additional information on the reports provided. She requested additional information on the new center for the funded through the new grant received. Councilor Fishinghawk inquired about the lawsuit between the Principal Chief and Gina Olaya. Ms. Hammons stated it pertains to the ability of CNE to purchase art from Cherokee Nation employees. Councilor Fishinghawk inquired about the proceeds of a book given to the Council recently in which the Chief was a co-author which is for sale in the gift shop.

Election Commission - Roger Johnson

No one was present to report.

Tax Commission - Sharon Swepston

Ms. Swepston offered to answer questions from the report she provided. Councilor Cobb announced he has received numerous positive comments regarding the two employees at the Collinsville tag office. Councilor Glory-Jordan inquired about only having one person at the front counter during lunch hour. She commented the girl was doing an excellent job, very speedy and extremely courteous. Ms. Swepston stated they have been short staffed at the Tahlequah office. They have hired two whom are currently in training.

Self-Governance - Vickie Hanvey

Mr. Pat Ragsdale reported in the absence of Ms. Hanvey. He announced they are about to sign off on the funding agreements with the Department of Interior. He commented in regard to the recognition issue the Department of Interior is required annually to list every federally recognized tribe in the Country and it would take an extraordinary action to not list one that has been listed for the past two decades. Councilor Hoskin Jr. stated the concern isn't so much revoking recognition as it is that we are recognized but your Constitution isn't approved. The Department of Interior did recently approve the amendments to the Constitution. The citizens took it out of the hands of the Department of Interior to approve with the amendments therefore there isn't a signature on the document.

Gaming Commission - Jamie Hummingbird

No one present to report.

Codification - Todd Hembree

Mr. Hembree reported he met with Nason Morton yesterday and they are currently assigning each Title to a proof reader. They continue to await bids from West and Lexus. He suggested immediately starting with a pocket part system. Ms. Paula Ragsdale provided a follow-up that the Principal Chief doesn't receive any monies for the art book. Councilor Cowan Watts inquired who did receive the funds. Mr. Todd Enlow announced the book was produced by CNE and is receiving the funds

OLD BUSINESS

Chair Frailey announced with the complex agenda items she was going to limit discussion to 3 minutes per Councilor.

1. AN ACT PROHIBITING ELECTED OFFICIALS FROM APPEARING OR PARTICIPATING IN MEDIA ADVERTISEMENTS CONDUCTED OR PAID FOR BY CHEROKEE NATION OR ITS ENTITIES DURING ELECTION PERIODS
Councilor Hoskin Jr. stated this has been tabled a few times to allow the Administration and Council time to weigh in. This is still an important issue and that public dollars shouldn't be spent on advertisements within a certain time frame prior to an election. He commented on the timing not being right.
Councilor Hoskin withdrew this item.

2. A RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE IX OF THE CHEROKEE NATION CONSTITUTION, PURSUANT TO ARTICLE XV SECTION 2, TO REQUIRE THAT ALL BALLOTS CAST IN CHEROKEE NATION ELECTIONS BE DONE IN PERSON AND AT POLLING STATIONS WITHIN THE JURISDICTIONAL BOUNDARIES OF THE CHEROKEE NATION
Councilor Fishinghawk moved to table to next month. Councilor Crittenden seconded the motion. The motion to table failed with the following roll call vote:
Yea: 7 - Bill John Baker; Chuck Hoskin; Curtis Snell; Jodie Fishinghawk; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan
Nay: 10 - Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chris Soap; David Thornton Sr. ; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright and Julia Coates
Councilor Fishinghawk withdrew this item.

3. LA-37-05 AND LA-11-10; ACT RELATING TO CREATION OF JOBS GROWTH (Discussion Only)
Councilor Hoskin Jr. stated it is actually the dividends that they would like to discuss not the Jobs Growth Act. He stated the issue is if we are doing all we can to capture the most dividend possible. Mr. Evans stated in 2005 there were Acts passed 36-05 and 37-05. LA-36-05 was handed out to the committee showing the dividend being set at 30%. This Act was followed with LA-37-05 the Jobs Growth Act, this Act assigned ownership and listed the purposes of CNB. In 2009 the dividend was calculated using CNE's net income which was greater than CNB's. In 2010 as a consolidated entity CNB has a greater net income than CNE as a standalone. After discussion with the CEO of CNB and the Treasurer of the Executive Branch it is his understanding that the practice for applicable law to follow these statutes will now be shifted over to the CNB consolidated level for dividend payments. He didn't advise any changes to existing payments unless the intent behind the Legislative Acts has changed since adoption. Councilor Hoskin Jr. gave appreciation for the clarification. Mr. Stewart stated Mr. Evans summarized very accurately. Councilor Fishinghawk inquired about dividends from other companies under CNB. Mr. Stewart stated all of the net income of the subsidiaries rolls up by the percentage of CNB ownership. Councilor Fishinghawk requested a breakdown of the total dividend paid and from which business. Councilor Cowan Watts requested the financials indicate what each entity was wholly calculating towards contributing as the dividend. Councilor Glory-Jordan commented the financials and budgets she received for the entities

didn't contain all of the information requested. Mr. Stewart stated they are in the process of compiling the remaining information.

4. TRIBAL COUNCIL TRAVEL EXPENSE POLICY (Discussion only)

Chair Frailey stated she brought this forward for two issues. One being any funds that are not spent from travel goes back to that Council person's district for community service. Councilor Hoskin Jr. requested clarification as to when those funds are available. Mr. Evans stated it should be confirmed that all travel expense statements and trips are closed for last year by the next Executive and Finance Committee. Ms. Catcher commented this would normally be part of the carryover which is available at the March Executive and Finance meeting. She voiced concern for getting into the practice of bringing forward bits and pieces of carryover early. Chair Frailey stated the second issue is the \$7,500 cap in which some Councilors have exceeded. She stated the At-Large Councilors have a different situation but have exceeded the cap. Councilor Jack D. Baker stated it was his understanding it was excluded from the cap as they are not considered elective trips where they visited their communities. Chair Frailey inquired if the list of picnics is considered elective travel or official travel. Both Councilors Jack D. Baker and Coates stated official travel. Chair Frailey stated she brought this forward for disclosure as she is receiving a lot of questions. Councilor Fishinghawk stated all Councilors have constituents everywhere. She questioned if she attends an out of state picnic to visit her constituents if it was official travel. Mr. Evans stated it may be a visit to your constituents however it is not defined in the policy as official travel. Official travel by definition is limited only to the following: committee and full council meetings, Cherokee National Holiday, Joint Council, Presidential inauguration and At-Large community meetings for At-Large Council members. He stated there isn't a cap for the At-Large Councilors as they have been excluded. Councilor Glory-Jordan stated if we are trying to get a handle on travel for budgetary purposes doesn't everyone need some sort of a cap. She commented on the numerous upcoming At-Large picnics. She stated the in-district Councilors get \$1,500 per Councilor for community meetings which are equivalent to the At-Large picnics. She referred to the approximate \$189,000 At-Large picnic budget and unlimited travel to each event. She suggested a control mechanism of some sort be developed for the Council travel policy. She further questioned the ability of the At-Large Councilors to have meetings up to the election while the in-district Councilors are not able to have any community meetings using tribal funds six months prior to an election. Councilor Coates stated there is one trip to California this weekend for picnics in San Diego and Los Angeles and another in April for Northern California. Outside of these two there are no picnics between now and election time. She stated there are 21 At-Large community organizations at this time and they will meet with four of them this weekend during the two days of picnics. She stated they see these people one time per year. She stated in regard to the \$1,500 budget for in-district meetings she has to travel 1,500 miles to see her constituents. She stated it was her understanding this is why they were exempted from the prohibition of holding these meetings during the last six months before elections. She commented the picnics are being phased out of Cherokee Nation participation as this is the last year the Southern California picnics will be sponsored by the Cherokee Nation. She stated the \$189,000 is COTTA's budget and is separate from the travel of Councilors. Councilor Jack D. Baker pointed out that there isn't a limit for any Council person on official travel that the \$7,500 limit is for elective travel. Councilor Cowan Watts stated if this is a valid budget concern then we should look to our colleagues to present a solution. Councilor Fishinghawk read from COTTA's calendar of events for the next several months where numerous events were listed. She requested clarification on the law passed where you couldn't have a community meeting on Cherokee Nation funds six months prior to an election. Mr. Hembree stated his calculation of six months prior would be that no meetings could be held after Christmas Eve. Secretary of State Melanie Knight stated she is

the Chair of the At-Large Corporation and gave an explanation of the calendar. She stated the calendar is a series of different kinds of workshops with the At-Large citizens. Councilor Thornton voiced concern for not knowing of the meetings this weekend in California. He stated if he had prior knowledge he would be attending he requested knowledge of the meetings in the future. Ms. Knight offered to resend the calendar. Councilor Jack D. Baker commented the calendar is a list of meetings set up by the organizations and he and Councilor Coates will not be attending a majority of those. Councilor Fishinghawk inquired if they would be attending any of those meetings after December 24th using Cherokee Nation funds as it begins the election year for Councilor Coates. Councilor Jack D. Baker stated the six month rule is for the Councilor who is in an election. Councilor Coates commented it is on record that the At-Large Councilors are exempt from this rules. She stated this is the only time she will get to see these citizens in a year. Councilor Cowan Watts stated she recalled that no Councilor could go during the blackout period on tribal monies.

Councilor Glory-Jordan requested to table this to next month and requested Mr. Hembree to research. Councilor Fishinghawk seconded the motion. Motion carried with Councilor Soap opposed.

NEW BUSINESS

1. A RESOLUTION NOMINATING TIMOTHY BROWN TO THE ELECTED OFFICIALS COMPENSATION COMMITTEE
Councilor Thornton moved to approve. Councilor Bill John Baker seconded the motion. Motion carried.

2. A RESOLUTION NOMINATING MICHAEL C. KELLEY TO THE ELECTED OFFICIALS COMPENSATION COMMITTEE
Councilor Bill John Baker moved to approve. Councilor Garvin seconded the motion. Motion carried.

3. A RESOLUTION AUTHORIZING CHEROKEE NATION ENVIRONMENTAL PROGRAMS TO DONATE (2) TELEDYNE GASEOUS ANALYZERS, SIX (6) R&P 2025 SEQUENTIAL AIR SAMPLERS, AND TWO (2) AEROCHEM METRICS COLLECTORS TO THE TRIBAL AIR MONITORING SUPPORT (TAMS) CENTER IN LAS VEGAS, NEVADA
Councilor Cowan Watts moved to approve. Councilor Cobb seconded the motion. Motion carried.

4. AN ACT AMENDING LA 01-01, "THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"; AMENDING DEFINITIONS TO PROVIDE FOR REGISTRATION OF TRIBALLY OWNED MOTOR VEHICLES FOR THE DELAWARE TRIBE OF INDIANS
Councilor Cobb moved to approve. Councilor Cowan Watts seconded the motion. Councilor Soap inquired as to the number of tags to be issued. Mr. Ragsdale commented it would be a very limited number as it is for the Delaware Tribe government use only.
The motion for approval carried by acclamation.

5. AN ACT AMENDING LEGISLATIVE ACT 06-10, AS AMENDED BY LA#22-10; REVISING TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED; AMENDING CHAPTER 4 §§ 31, 36 AND 37; ADDING PROVISIONS FOR OVERLAPPING TERMS; AND DECLARING AN EMERGENCY

Councilor Coates provided an amended version and stated the only amendment is on the third page under B3 and B4. This allows a candidate in an overlapping term that is running for a different office to stay in the office they are presently holding up until the day before inauguration. It would require that the candidate submit a letter of resignation for that date thirty days prior to their filing. Councilor Coates moved to approve. Councilor Soap seconded the motion. Councilor Jack D. Baker offered a friendly amendment that Councilor Bill John Baker be exempted from this Act. Councilor Coates voiced concern for exempting principles and wanted the legislation to be considered on its merits not the individuals of the moment. She didn't accept the friendly amendment.

Councilor Jack D. Baker made a motion to add to this Act an exemption for Councilor Bill John Baker. Councilor Cowan Watts seconded the motion. Councilor Hoskin Jr. stated he is in support as it carves away the most offensive part of this initiative. Councilor Glory-Jordan offered a friendly amendment to change the wording to the one announced candidate. Councilor Jack D. Baker and Cowan Watts accepted. Mr. Hembree stated when an Act is passed or proposed that is to the detriment or benefit of an individual it is called a Bill of Attainder. Most of these Acts have been held to be unconstitutional. Councilor Glory-Jordan stated based upon the comments made by Mr. Hembree she would be unable to support the amendment. Councilor Garvin offered a friendly amendment that all six year terms be exempted. Councilor Jack D. Baker accepted. Councilor Cowan Watts didn't accept. Councilor Garvin offered a friendly amendment that all sitting councilors be exempted. Both Councilors Jack D. Baker and Cowan Watts accepted. Councilor Soap commented we shouldn't be talking about four and six year terms we should be talking about overlapping terms for the next fifty years. In regard to the constitutionality question brought forward earlier about whether you could make an exemption for a particular councilor. He referred to the Constitution where it clearly states that this body can do that in Article 9. He stated this legislation deals with the impact of the overlapping terms for the next twenty years on our government. Councilor Hoskin Jr. offered a friendly amendment to strike the emergency clause in Section 8 and make the effective date after the 2011 election. The friendly amendment was not accepted. Councilor Buzzard requested clarification as to if not changes were made to the law. Mr. Hembree stated there is currently not a prohibition of people seeking other elective offices, there is not resign to run rule. Councilor Buzzard stated he doesn't see a problem with leaving the law like it is currently. Councilor Crittenden agreed with Council Buzzard and commented it mirrors the federal law. Councilor Cowan Watts questioned the ability to run for two seats at the same time. Councilor Hoskin Jr. requested clarification that if this Act passes it would at most conflict with the other provision that says you can't file for two offices. Mr. Hembree agreed. Councilor Bill John Baker inquired if anyone had listened to their constituents. The Cherokee people think this is crazy, ridiculous, mean spirited and that the Chief is scared. This needs to be voted down and go on about the Cherokee business. Councilor Cowan Watts called point of order that the Chief shouldn't be named if he can't engage in debate. Councilors Jack D. Baker called point of order that this vote is on the amendment not the Act itself. Councilor Thornton called for the question.

The motion to amend to exempt all current Councilors from this Act passed with the following roll call vote:

Yea: 9 - Chuck Hoskin; Curtis Snell; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright; Jodie Fishinghawk; S. Joe Crittenden and Tina Glory Jordan

Nay: 8 - Bill John Baker; Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chris Soap; David Thornton Sr. ; Julia Coates and Meredith Frailey

Councilor Soap inquired if a current councilor with an overlapping term runs for higher office and wins what happens to the councilor's seat. Mr. Hembree stated to be sworn in to their new seat they would have to resign their council seat because you cannot hold two offices at the same time. Councilor Soap requested clarification on the filling of the then vacant council seat. Mr. Hembree stated the vacant position would be filled with the requirements set out in the Constitution and law and depends on the amount of time remaining on the vacant seat.

RECESS

Chair Frailey announced the nurses are here to give flu shots. Councilor Cowan Watts moved for a ten minute recess. Councilor Fishinghawk seconded the motion. Motion carried at 2:58 p.m.

RECONVENE

Chair Frailey called the meeting back to order at 3:13 p.m.

Present 14 - Bill John Baker; Bradley Cobb; Buel Anglen; Cara Cowan Watts; Chris Soap; Chuck Hoskin; Don Garvin; Harley Buzzard; Jack D. Baker; Janelle Fullbright; Jodie Fishinghawk; Julia Coates; Meredith Frailey and Tina Glory Jordan

Late Arrival 3 - Curtis Snell; David Thornton Sr. and S. Joe Crittenden

AN ACT AMENDING LEGISLATIVE ACT 06-10, AS AMENDED BY LA#22-10; REVISING TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED; AMENDING CHAPTER 4 §§ 31, 36 AND 37; ADDING PROVISIONS FOR OVERLAPPING TERMS; AND DECLARING AN EMERGENCY

Councilor Coates stated it was not her intent to be mean spirited when she brought this legislation forward. She stated if the law remains the same then half of the council gets a free shot at higher office without relinquishing or any risks where the other half of the council doesn't get this opportunity. She stated the Senate who has six year terms are sometimes the same as presidential elections and sometimes they aren't but it is never the situation where only half of the Senate is privileged with a free shot. She commented this Act would reduce the opportunities for corruption. Councilor Hoskin Jr. referred to an earlier point of order where they were cautioned to not speak about the Principal Chief. He voiced concern for not being able to be critical of a sitting office holder that we ought to be able to have free and open debate. He stated he opposes the Act as it is a bad idea. He questioned the timing of the Act. He voiced policy concerns by stating it is probably unconstitutional. The States that have a resign to run rule have done so by constitutional amendment. There are important constitutional rights that would be affected by this legislation. It is bad policy to have a retroactive effect. He commented the reason most States and the federal government do not have a resign to run rule isn't to protect incumbents as much as it is to foster a deep pool of qualified people to run for office. Councilor Cobb commented on the convenience of the conversation being held. He reminded everyone of the other side to the equation by pointing out that no one had mentioned the employee's right to run without resigning their position. He stated amendments

have been put forth today for our own self preservation and we should be ashamed for having this conversation today. Councilor Cowan Watts stated she reviewed the cost perspective if the law is not changed and a special election was needed. The Election Commission estimated a cost of \$200,000. She stated this is an ongoing issue not just for the 2011 election. Councilor Soap stated it is very important to put definitive election law on this case and say you must resign at a certain date. Mr. Hembree read from the Constitution Article 6 Section 13 which sets out the replacement for a vacancy. Councilor Thornton called for the question. Chair Frailey stated Councilors Anglen and Fullbright haven't spoken yet. Councilor Anglen commended the Council for trying to correct an issue as no one has filed yet. Councilor Glory-Jordan stated she has two problems with this Act, first is the equal protection argument that we would be violating the Constitution, second the constitutional question regarding making this retroactive. She stated if this law is to be changed it should be in the form of a constitutional amendment on a ballot to allow the people to decide. She voiced concern for the language requiring an irrevocable resignation at least thirty days prior to the beginning of the filing period. Some candidates don't know if they are going to file until the day of or during the filing period. Chair Frailey announced the question had been called.

The motion to approve as amended failed with the following roll call vote:

Yea: 6 - Buel Anglen; Cara Cowan Watts; Chris Soap; Don Garvin; Jack D. Baker and Julia Coates

Nay: 11 - Bill John Baker; Bradley Cobb; Chuck Hoskin; Curtis Snell; David Thornton Sr. ; Harley Buzzard; Janelle Fullbright; Jodie Fishinghawk; Meredith Frailey; S. Joe Crittenden and Tina Glory Jordan

6.

STATUS OF 911 PLAN

Mr. Pat Ragsdale announced they have formed a management work group to follow through with the Chief's pledged to present a plan with regard to better survey the districts for purposes of apportionment. Mr. Enlow provided handouts of information regarding this task. He stated they have broken down the task into three phases. The first is discovery by finding out internally what is going on with address changes. Another phase is external which deals with 911 data. The handout provides an outline, the phases, a map illustrating 911 by county, charts of addresses, deceased notifications and address change forms. He stated they would like to continue to work on this and meet the Chief's commitment to have a recommendation and cost estimates for presentation to the Council in December. Councilor Cowan Watts questioned the deceased notification form and the address change form not including a phone number. She questioned how the forms once submitted would be verified. Mr. Ragsdale stated it is not the intent to only use the form; it will be used as a starting point. Councilor Glory-Jordan extended caution in the removal of citizens. Mr. Enlow stated with the last known good address database they tap into the U. S. Postal Service national change of address database. The records within Registration are not being changed at this point based on information gathered from the Postal service database.

ANNOUNCEMENTS

Councilor Glory-Jordan announced arrangements have been made with Mr. Stewart to have a traditional turkey Thanksgiving dinner here at the Council House following committee meetings on the 23rd of November.

Councilor Anglen invited everyone to his and Councilor Cobb's community meeting this Saturday.

Chair Frailey announced the next meeting is scheduled for Tuesday, November 23rd at 9:00 a.m.

ADJOURNMENT

Councilor Crittenden moved to adjourn. Councilor Soap seconded the motion. Motion carried at 3:50 p.m.

STAFF PRESENT:

*Justin Godwin
Paula Ragsdale
Jon Overacker
Pat Ragsdale
Callie Catcher*

*Todd Enlow
David Justice
Danny Tanner
Doug Evans
Carey Tilley*

*Diane Hammons
Melanie Knight
Mike Miller
Sharon Swepston
Jon James*

VISITORS PRESENT:

*Tim Brown
David Stewart*

*Bob Huffman
Carolyn Smith*

*Todd Hembree
Marilyn Atterberry*