



# Council of the Cherokee Nation

## Meeting Minutes

### Executive and Finance Committee

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Thursday, November 20, 2008

3:00 PM

Legislative Conference Room

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#### CALL TO ORDER

Chair Jack Baker called the meeting to order at 3:05 p.m.

#### INVOCATION

Councilor Cobb 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 Cobb made a motion to approve the October 13th sub committee minutes and the October 30th regular session minutes. Councilor Cowan Watts seconded the motion. Motion carried.

#### REPORTS:

Councilor Bill John Baker made a motion to amend the agenda to add prior to the budget mod a funding request from the Cherokee Artist Association. Councilor Garvin seconded the motion. Motion carried.

Councilor Hoskin Jr. made a motion to amend the agenda to include consideration of two similar items regarding smokeshop rebates. Councilor Thornton seconded the motion. Councilor Bill John Baker requested a friendly amendment to also amend to consider a resolution pertaining to IDA accounts. Councilor Hoskin Jr. accepted. Motion carried. Chair Jack Baker announced the items would be considered following the budget modification.

Financial Report/Treasurer Report - Callie Catcher

*Ms. Catcher stated the report provided is an abbreviated report for the month of September that they are still in the middle of closing the books. The audit firm will be on site the first of January.*

Cherokee Nation Enterprises - David Stewart

*Mr. Guy Wolcott announced they too haven't closed formally. He gave preliminary numbers for fiscal year 08 the net income was approximately \$116ml, the gross revenues increase approximately 6% year after year. He stated the Siloam Springs property opened on schedule on the 10th of November. The Catoosa opening is*

*scheduled for December 15th with the convention and meeting space to follow in the Spring. They have hired approximately 400 new employees. The Cherokee employment percentage is just over 58%. There has been a noticeable turnover reduction from last to this year. He stated they are in the last stages of implementation of the player tracking system.*

Cherokee Nation Industries - Dennis McLemore

*Mr. Robert Drvostep announced revenue for the month of October was \$6.7ml which is down 8.6% from last year. He reported a shortfall of revenue \$3.755ml with the construction segment taking \$2.2ml of this amount. He stated the inability to have a bonding facility in place for their construction division caused them not to bid on some projects they anticipated on acquiring. He stated they are working on getting the facility in place. He stated if they are unable to get bonding in place they will have difficulty to meet their projected 2009 budget.*

Cherokee Nation Businesses - Brad Carson

*Mr. Carson gave a consolidated financial performance of all of the entities. For FY08 the entities did approximately \$109ml with an ending balance sheet showing total assets of nearly \$460ml with liabilities of about \$90ml for a total equity of \$370ml. In actual cash for the year the various entities generated \$163ml in cash. He stated they are in the process of putting the bonding facilities in place. They have ready to go a \$30ml bond line for all of the entities. He announced they hired Tom Elkins to run the Landfill Company and they have the environmental study as requested by this Council. He stated it would be delivered to the Council forthwith.*

Career Services/Employment - Diane Kelley

*Ms. Melanie Dodge offered to answer questions from the report.*

Commerce - Anna Knight

*Ms. Shay Smith offered to answer question from the report.*

#### CONSENT ITEMS:

##### T.E.R.O. CERTIFICATIONS

*Councilor Cowan Watts moved to approve as submitted. Councilor Garvin seconded the motion. Motion carried with Councilor Bill John Baker abstaining.*

##### CEMETERY RESTORATION ASSISTANCE APPLICATIONS

*Mr. Evans announced there are 2 applications this month; Jack Ribbon Indian Cemetery in Mayes County and the Lowrey Cemetary in Cherokee County. Councilor Glory-Jordan moved for approval. Councilor Cowan Watts seconded the motion. Motion carried.*

##### LAW ENFORCEMENT REQUESTS

*Mr. Evans announced there are no requests this month and they are still waiting on the apportionment of the 08 vehicle tax revenues.*

## COMMUNITY ASSISTANCE

*Mr. Evans stated in addition to the items included in the packet the following have been submitted:*

*Marble City Food Pantry - \$750. Thornton - \$750 Fullbright*

*Sequoyah High School Cheerleaders - \$650 Bill John Baker, \$650 Glory-Jordan, \$500 Crittenden - \$500 Fishinghawk - \$500 Fullbright - \$500 Frailey - \$500 Soap - \$500 Jack Baker - \$500 Coates*

*Nowata Library - \$500 Hoskin Jr.*

*Folk Foundation - \$200*

*Spade Mountain Community Organization - \$1000 Crittenden - \$1000 Fishinghawk*

*Councilor Bill John Baker moved for the approval. Councilor Coates seconded the motion. Motion carried.*

## ROADS

*Mr. Evans stated there are no road requests this month.*

## OLD BUSINESS

## DISTRICT COMMUNITY MEETINGS

**Sponsors:** Councilor Meredith Frailey

*Mr. Hembree stated this is a continuation of last months meeting. He requested a new #7 stating during the year in which an At Large Council Member is a candidate for election these funds shall not be used to attend community meetings from January through August. Councilor Bill John Baker questioned these funds being used for travel purposes. Mr. Hembree suggested leaving the language out. He stated at this point he us unsure what else to do.*

**Councilor Coates moved for the approval. Councilor Hoskin Jr. seconded the motion. Motion carried.**

## NEW BUSINESS

## CHEROKEE ARTIST ASSOCIATION FUNDING REQUEST

*Councilor Bill John Baker announced a letter from the association has been handed out. He stated in April a request was made for \$25,000. In years past they were given \$5000. It was determined to break the \$25,000 request into 2 parts. He stated there has been confusion as to if they received the \$5,000 therefore the request was tabled. Councilor Bill John Baker requested to yield to allow Secretary of State Melanie Knight to address a memo just sent around the room. Ms. Knight stated the memo is just to update the association of their funding status. The memo has not been sent out but since the issue is on the agenda today felt it was relavent to the discussion. She stated there is \$5000 already appropriated to the association that has not been released at this time. She stated the memo requests, as requested from other organization donated to, under the art act a certification of compliance.*

*Councilor Bill John Baker stated the last \$5000 they received has been stretched as far as it can be. Councilor Bill John Baker made a motion to add \$2500 to the \$5000 begin held. Councilor Glory-Jordan seconded the motion. Councilor Cobb requested clarification of past funds given. He agreed the amount that was agreed upon and passed by this Council should be paid but has issue with additional funds with the board not being 51%. Councilor Cowan Watts stated there were several issues prior and voiced concern for giving additional funds when the prior questions haven't been answered. She questioned why the didn't accept the 5000 square feet of free space they were offered.*

**Councilor Cowan Watts moved to table to allow time to answer these concerns. Councilor Garvin seconded the motion. Motion carried.**

**AN ACT AMENDING LEGISLATIVE ACT #19-08 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2009 - MOD 2; AND DECARING AN EMERGENCY**

**Sponsors:** Councilor Jack D. Baker and Councilor Cara Cowan Watts

*Mr. Evans stated there is only one award adjustment on the grant side this month which is for an EPA underground storage tank \$50,000 reduction. Mod 2 has 13 budgets with a net increase of \$1,650. He didn't have any technical issues with the budget.*

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

**A LEGISLATIVE ACT AMENDING TITLE 68 OF THE CHEROKEE NATION CODE ANNOTATED - ADDING PROVISIONS FOR TAX REBATE OF LICENSED TOBACCO RETAILERS**

**Sponsors:** Councilor Chuck Hoskin,

*Councilor Hoskin Jr. announced the 2 proposals are very similar one sponsored by Councilor Thornton and one he sponsored with various mark ups. He stated the compact changed the tax burden on smoke shops and the tax burden on the border shops certainly increased. He has been told the burden is to much to bear. The compact does have a provision for rebates. This legislation attempts to set a rate at which to rebate. He proposed a rate of \$2.57 to allow a level playing field as it relates to border and non border shops. One of the other differences between the two proposed pieces of legislation is his refers to a rebate and the other refers to a subsidy. The other item of issue is the sunset provision. He stated he doesn't feel the need for the 18 month sunset provision. He stated his proposed legislation also ties the definition of a border shop to the compact.*

**Councilor Hoskin Jr. made a motion to approve his verison of the proposed legislation.**

*Ms. Swepston provided a handout of information of a rate comparison, market advantage and disadvantage, comparison of shops, actual tax collected and actual collected and the amount of surtax collected when in effect. Ms. Catcher provided a handout of tobacco tax revenue projections. With the information provided by Ms. Swepstons she calculated the increased revenue from the compact and the cost of the rebate at various scenarios along with the net budget impact. She requested the chair consider adding the revenue to this budget mod along with any impact of rebate that is passed into law today.*

*Councilor Thornton stated he has been dealing with this issue for 6 years. He stated in 2005 the Council passed the 20 mile radius for lower prices for the border shops. He stated 33 of the 49 shops are within this radius and are in trouble. If the border*

shops do not get some relief they will be in trouble. He stated the doesn't want to change the compact. He proposed a \$1.00 rebate per carton. He questioned how many cartons are sold and how many are bought. He suggested the administration pay the leases with the \$4.07 the tribe receives.

**Councilor Thornton made a motion to table to allow time for questions to be answered. Councilor Frailey seconded the motion. roll call is as follows:**

**Yea:** 8 - David Thornton Sr. ; Don Garvin; Meredith Frailey; Jack D. Baker; Harley Buzzard; Curtis Snell; Chris Soap and Bradley Cobb

**Nay:** 8 - Bill John Baker; S. Joe Crittenden; Cara Cowan Watts; Buel Anglen; Tina Glory Jordan; Jodie Fishinghawk; Chuck Hoskin, Jr. and Julia Coates

**Not In Room:** 1 - Janelle Fullbright

*Councilor Hoskin Jr. stated there is noting in this legislation that would cause the compact to change or to violate the compact. He questioned as to the definition of border shops during the discussions held with the State of Oklahoma. Ms. Swebston stated it was her understanding from the meetings that the border shops would be left at the same status quo as they were. She stated the compact does not read that way. She is in the process of obtaining clarification and getting it corrected. Councilor Hoskin Jr. requested Mr. Joe Lange speak to the impact of the compact as a smoke shop owner. Mr. Joe Lange stated there is not a perfect remedy for this issue. For them to continue and be effective is to have a tax advantage. He stated they are at the mercy of the Council and the Administration. The interior shops are also at risk. There are other tribes selling for less.*

**Councilor Cowan Watts made a motion to change the rebate amount from \$2.57 to \$1.50. Councilor Anglen seconded the motion. Roll call is as follows:**

**Yea:** 12 - David Thornton Sr. ; Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb and Julia Coates

**Nay:** 5 - Bill John Baker; S. Joe Crittenden; Tina Glory Jordan; Jodie Fishinghawk and Chuck Hoskin, Jr.

*Councilor Hoskin jr. stated the sunset clause is redundant because the compact has it's own mechanism for terminating a rebate. Councilor Fishinghawk echoed Councilor Hoskin Jr. Mr. Hembree referred to page 3 section 3 where it stated until such time as the States increase its taxes on tobacco products at or above the rate currently effective. Councilor Fishinghawk inquired as to why we would want this clause. Ms. Knight the compact provides a rebate based on lost profits and up to this point we have been unable to determine if there will be any lost profits or how much they may be. The sunset allows all of us to evaluate whether there are any lost sales as a result of this compact. Councilor Cowan Watts didn't see any obligation under the compact but felt a sense of urgency to pass something today and possibly re evaluate the situation at a later date. Councilor Hoskin stated we do not need a self imposed deadline to come back and re visit. Councilor Bill John Baker replied Ms. Swebston gave a great comparison and it isn't one size fits all as shown in the handout provided. Councilor Thornton stated shops within 20 miles of the border have lost money.*

**Councilor Cowan Watts made a motion to include the 18 month sunset provision. Councilor Coates seconded the motion.**

**Yea:** 11 - Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb and Julia Coates

**Nay:** 6 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Tina Glory Jordan; Jodie Fishinghawk and Chuck Hoskin, Jr.

*Ms. Swebston gave an explanation of her handout for the different rates with the border states.*

**Councilor Bill John Baker made a motion to have the rebate be up to \$2.57 and allow the Tax Commission to find a formula that is most fair to all shops. Councilor Crittenden seconded the motion. Roll call is as follows**

**Yea:** 5 - Bill John Baker; S. Joe Crittenden; Tina Glory Jordan; Jodie Fishinghawk and Chuck Hoskin, Jr.

**Nay:** 12 - David Thornton Sr. ; Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb and Julia Coates

*Councilor Cowan Watts called for the question with both amendments passed.*

**A motion was made that this matter be Approved with Ammendments. The motion carried by the following vote:**

**Yea:** 11 - David Thornton Sr. ; Don Garvin; Meredith Frailey; Cara Cowan Watts; Buel Anglen; Janelle Fullbright; Harley Buzzard; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

**Nay:** 6 - Bill John Baker; S. Joe Crittenden; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk and Curtis Snell

**Ms. Catcher stated she would like to increase our sources by \$5,014,434 and increases the uses by \$1,821,982. The use is the rebates and the source is the revenue from the tobacco compact. Councilor Bill John Baker made a motion to accept Ms. Catcher's recommendation. Councilor Cowan Watts seconded the motion and clarified it woul be in the budget mod. Motion carried.**

A RESOLUTION AUTHORIZING MATCHING FUNDS FOR A CHEROKEE NATION ECONOMIC DEVELOPMENT TRUST AUTHORITY GRANT APPLICATION TO THE U.S. TREASURY DEPARTMENT, DCFI FUND, TO ESTABLISH A CREDIT BUILDERS INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM

**Sponsors:** Councilor Jack D. Baker

**Councilor Cowan Watts made a motion for approval. Councilor Garvin seconded the motion. Motion carried with Councilor Crittenden opposed.**

**ANNOUNCEMENTS**

*Councilor Soap announced the recreational chairs received were provided by Jerry Long at the Tahlequah Casino location. Councilor Cowan Watts reminded everyone of the TERO dinner this evening at the Catoosa Casino.*

**ADJOURNMENT**

**Councilor Cowan Watts made a motion to adjourn. Councilor Coates seconded the motion. Motion carried at 4:49 p.m.**

**STAFF PRESENT:**

*Callie Catcher                      Doug Evans                      Shay Smith  
Gregg Simmons                      Melanie Knight*

VISITORS PRESENT:

*Robert Drvostep*  
*Brad Carson*  
*Joe Lange*

*Guy Wolcott*  
*Todd Hembree*

*Raymond Vann*  
*Gina Olaya*

APPROVAL / DISTRIBUTION

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

Motion to approve minutes made by:

*Buel Anshen*

Minutes attested and concurred by:

*Jack J. Baker*

Date:

*12/16/08*