



Council of the Cherokee Nation

Meeting Minutes Executive and Finance Committee

Thursday, July 30, 2009

3:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Jack D. Baker called the meeting to order at 3:10 p.m.

INVOCATION

Councilor Hoskin Jr. gave the invocation.

ROLL CALL

Present 12 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Don Garvin; Meredith Frailey; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Janelle Fullbright; Chris Soap; Chuck Hoskin, Jr. and Julia Coates

Absent 2 - Buel Anglen and Bradley Cobb

Late Arrival 3 - Cara Cowan Watts; Harley Buzzard and Curtis Snell

APPROVAL OF MINUTES

Councilor Bill John Baker made a motion to approve the June 25th sub committee and the June 25th regular session minutes. Councilor Coates seconded the motion. Motion carried.

Councilor Coates moved to amend the agenda to move the 2-1-1 Presentation to prior to the reports. Councilor Garvin seconded the motion. Motion carried.

NEW BUSINESS

OKLAHOMA 2-1-1 PROGRAM PRESENTATION (Discussion only)

Mr. Jim Lyall from the 2-1-1 Program introduced the Community Service Council Director and his boss Phil Vesshour and Darlene Denney the Regional Resource Person for Cherokee, Adair and Sequoyah Counties. Chair Jack D. Baker stated the Cherokee Nation has been working with the 2-1-1 Program to get our services listed. Mr. Lyall provided a power point presentation of the 2-1-1 Program. Mr. Vesshour announced he and Mr. Lyall were in Washington D.C. lobbying for the passage of Federal legislation. Chair Jack D. Baker gave appreciation for the presentation.

REPORTS:

Financial Report/Treasurer Report - Callie Catcher

Ms. Catcher offered to answer questions from her written report.

Cherokee Nation Entertainment - David Stewart

Mr. Stewart reported on the May results. He announced they have seen a dip in June with July showing a trend upward. They are officially Hard Rock on the 1st with the grand opening scheduled for the 3rd of August. He extended an invitation to everyone to attend. They have had a lot of meeting in regard to TERO to try to resolve all of the policies and procedures. The capital and operating budget was approved by the Board.

Cherokee Nation Businesses - David Stewart

Mr. Stewart reported all of the operating subsidiaries are profitable. CCRC has been awarded and IDQ Contract with a four year duration. APSE is profitable and continues to work with Boeing on their contract. Their business is critical to Boeing signing the contract as they are now month to month. CSG will take the contracts from the ITX acquisition. The ITX acquisition is in its final stages and expects to close within the next two to three weeks. They have presented strategy documents on their investment strategy on the governance policy, their shared service policy and economic development with the Board. The Board will review and provide comments within the next thirty days. Mr. Stewart stated he would provide copies of these documents to the Council within the next week or so. They are in the process of evaluating each subsidiaries business practices to ensure they are up to a Cherokee standard. They will be performing these audits within the policies over the next six months.

Cherokee Nation Industries - Robert Drvostep

Mr. Drvostep announced June was a good month. Revenues totaled \$9ml versus the budget of \$11ml. This exceeded prior year totals by \$6.5ml. They budgeted a profit of \$157,000 and actually had \$292,000 for the month. A&E Manufacturing had a record month of \$2.7ml in revenue. They also have revenue for the month on the Bentley Park building of approximately \$1ml. The Tell Com sector also had a good month in June. Councilor Snell requested an audited financial statement for the construction firm for the past year. Mr. Drvostep stated he could provide the audited financial statement for 2008. The 2009 audit will begin in November. Councilor Cowan Watts requested a separate profit and loss statement in detail showing the construction services at CNI. Councilor Fishinghawk inquired as to the status of Red Wing. Mr. Drvostep commented it isn't doing as well as they had anticipated although it is getting better. Councilor Fishinghawk inquired as to the difference from the prior year. Mr. Drvostep stated Red Wing to date has a loss of \$316,000 with corporate overhead. Red Wing with prior ownership had a profit of approximately \$100,000. Speaker Frailey inquired if all of the subs had been paid in regard to construction. She inquired if the profit margin reflects that all subs have been paid. Mr. Drvostep stated all of the expenses incurred in construction are included in the results to date. Whether or not all subs have been paid, invoices come through all the time, if there are outstanding amounts to the subs it is within the system. Expenses are accrued on a monthly basis whether it is paid or not.

Career Services/Employment - Diane Kelley

Ms. Kelley offered to answer questions from her report. Councilor Thornton gave appreciation for the treatment to the Council at the TERO conference. Ms. Kelley stated the Summer Youth Employment Program ends this Friday. They will be extending the SYEP for the 16 through 21 year olds to September 30th for up to 20 hours per week if they wish. They took 1071 SYEP application taken, denied 385, and placed 686 youth. The awards presentation will be at 10:00 in the Council Chambers for the job site supervisors and the students nominated based on their work and leadership in the program. Councilor FISHINGHAWK inquired about funding for student to work part time through out the school year. Ms. Kelley stated they money remaining from the SYEP will go back into the gen fund budget. Councilor FISHINGHAWK inquired if she had determined a budget the youth to work through the school year. Ms. Kelley stated the budget they have submitted has those funds requested. She will double check to make sure. Ms. Kelley announced next Friday at 10:00 a.m. Jerri Askins will be the speaker at the Job Corp graduation. Councilors FISHINGHAWK and GLORY-JORDAN also gave appreciation to Ms. Kelley for the hospitality at the TERO conference.

Commerce - Anna Knight

Ms. Shay Smith offered to answer questions from the Commerce report.

Historical Society - Carey Tilley

Mr. Tilley offered to answer questions from his written report. He announced Corey Bunch is the new Contract Manager working through the Cherokee Nation. He stated they have had ten SYEP participants at the Heritage Center. He discussed the huge impact these participants have had through the summer. He extended an invitation to the Council to attend the cook out this afternoon they are providing for the participants. He announced they have been working with consultants in regard to the master planning. He stated once it is complete he would like to formally present the plan to the Council.

CONSENT ITEMS:

T.E.R.O. CERTIFICATIONS

Chair Jack D. Baker announced there is an additional list provided today to be approved along with the list included in the packet.

Councilor Glory-Jordan moved to approve. Councilor Cowan Watts seconded the motion. Motion carried.

CEMETERY RESTORATION ASSISTANCE APPLICATIONS

Mr. Doug Evans announced there are 5 additional cemeteries as follows:

*Teehee Cemetery in Delaware County
Chambers Cemetery in Will Rogers District
Keys Cemetery in Keeler District
Chunestudy Cemetery in Delaware County
Flute Springs Cemetery in Sequoyah District*

Councilor Thornton moved to approve. Councilor Crittenden seconded the motion. Councilor Buzzard offered a friendly amendment to hold the Chunestudy Cemetery request for a month to allow him the time to locate it.

Councilor Thornton accepted. Motion carried.

LAW ENFORCEMENT REQUESTS

Mr. Evans stated there are 3 law enforcement requests which are included in your packets.

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

COMMUNITY ASSISTANCE

Mr. Evans read the following as additions to the list previously provided:

*Baseball team - Councilor Thornton \$250 – Councilor Fullbright \$250
Oak Grove Baptist Church – Councilor Garvin \$2000
Okay Senior Citizen Center – Councilor Garvin \$2000
Safenet – Speaker Frailey \$1750
Peggs School - Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Shady Grove School - Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Norwood School - Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Grandview School- Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Woodall School- Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Briggs School- Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Tenkiller School- Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Lowery School - Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Cherokee Elementary- Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Sequoyah Elementary- Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Tahlequah FFA Program – Councilor Bill John Baker \$1,000
ROHC – Councilor Bill John Baker \$500 – Councilor Glory-Jordan \$500
Greasy Community Organization – Councilor Fishinghawk \$1350 – Councilor Crittenden \$1350
Family Support Center of Oaks – Councilor Snell \$1000
Kenwood Volunteer Fire Department – Councilor Soap \$2500*

Councilor Bill John Baker moved to approve. Councilor Glory-Jordan seconded the motion. Motion carried.

ROADS

Mr. Evans gave a review of the roads report provided.

Councilor Thornton made a motion to approve. Councilor Crittenden seconded the motion. Motion carried.

OLD BUSINESS

1.

AN ACT REPEALING AND SUPERSEDING CHEROKEE NATION LAW REGARDING LABOR AND THE EMPLOYMENT RIGHTS ORDINANCE AND DECLARING AN EMERGENCY

Councilor Cowan Watts announced she and Councilors Fishinghawk, Glory-Jordan and Mr. Hembree have considered breaking up the proposed legislation into several Acts.

Councilor Cowan Watts made a motion to table for one month. Councilor Bill John Baker seconded the motion. Motion carried.

NEW BUSINESS

2. AN ACT APPROPRIATING ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) TO EMPLOYEE BONUSES FOR CHEROKEE NATION EMPLOYEES DURING FISCAL YEAR 2007

Councilor Bill John Baker stated this legislation appropriates \$1.5ml to finish the bonuses in 2007 that this Council promised the employees of the Cherokee Nation. The Chief requested \$4ml in 2007 for employee incentives. The Council split this \$4ml and the Chief used \$2ml for employee incentives and the Council took the remaining \$2ml to give \$1,000 to each employee across the board. When the money was given to the employees indirect cost, insurance, and sick leave were deducted. The Council agreed this wasn't fair and agreed to appropriate \$1.5ml so that when all deductions were taken out it would provide the employees with their remaining \$333. This appropriation was placed in the budget mod which the Chief line item vetoed. Councilor Bill John Baker sued the Chief and a few months ago received a ruling the Chief doesn't have the power to line item veto. He stated in speaking to the Chief the Administration was unable to do anything since it was a different budget year. Councilor Bill John Baker stated last month \$1ml that was appropriated in 2007 for smoke shop loans hardships became available. The \$500,000 appropriated to buy back bonds didn't work out so those funds are also available. He stated there is also \$3ml in the contingency reserve fund. He stated this is a contingency of something we owe, something we said we would give and the lawsuit is proof it should have been paid. Councilor Bill John Baker commented that some Councilors here today voted against giving the \$1.5ml however the fact is we as a body gave the funds and the employees were told what they were to receive.

Councilor Bill John Baker made a motion to approve and add to the budget mod by taking \$1ml from the tobacco hardship loans fund and the \$500,000 from the funds set aside to buy back the bonds. Councilor Hoskin Jr. seconded the motion.

Councilor Hoskin Jr. stated it is clear we are the only part of the government that can remedy this violation of the Constitution which happened with the line item veto. He stated the issue isn't just about giving the employees the bonus but it is also do we have a duty to remedy a wrong with the violation of the Constitution. Councilor Fishinghawk inquired to Mr. Evans as to why they took out insurance on a bonus. Mr. Evans commented there was extensive debate over this particular issue. He stated when a bonus is given to employees it bears the burden of any regular payroll taxes. A gross wage payment has two things applied fringe and indirect cost. Part of the fringe is obligations to the Internal Revenue Service, the State of Oklahoma, FICA and so on. This is charged against any paycheck whether it is a bonus or normal wages for time worked. Another component of this is the benefit side which is the annual leave, sick leave and insurances. A part of the fringe benefit was charged to something that didn't return any benefit back to the employee. A policy decision was made by the Treasurers office that stated all gross wages would be applied a 35% fringe rate and subject to indirect cost. He gave his opinion to the Council at that time which in summary was that a portion of the 35% could have been reduced down to not include insurance premiums and leave time. His opinion was also that the Treasurer was fully within her privileges as Treasurer of the Nation to make the decision. Councilor Fishinghawk stated she has asked at the beginning of the budget cycle and again for the first quarter, second quarter and the third quarter's money that is being held in the vacant positions. Ms. Catcher stated she did send a vacancy report showing the budgeted dollars associated with the vacant positions as of the

5th of March. They are currently working on the report through June. Councilor Fishinghawk inquired of the 5 month report submitted how much was gen fund and how much direct cost. Mr. Evans stated he didn't have the information but would look it up. Councilor Cowan Watts called for the question.

The motion to approve failed by the following role call vote:

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

Nay: 8 - Don Garvin; Meredith Frailey; Cara Cowan Watts; Jack D. Baker; Janelle Fullbright; Harley Buzzard; Chris Soap and Julia Coates

Abstain: 1 - Curtis Snell

3.

AN ACT AMENDING LEGISLATIVE ACT #19-08 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2009 - MOD 10; AND DECLARING AN EMERGENCY

Mr. Evans gave his review of Mod 10. Councilor Glory-Jordan inquired if they are taking \$112,000 out of Housing Rehab and moving it to environmental review. Mr. Evans agreed it was what was being requested with no explanation given. Ms. Catcher stated it is related to lead base paint abatement and asbestos work the Environmental Program does for the rehabs. Mr. Evans continued with his review. Councilor Fishinghawk questioned the modernization request. Mr. Evans stated the request is to reduce modernization by \$278,000. Councilor Fishinghawk voiced concern for the large reduction in housing. Ms. Catcher stated it isn't really taking funds from rehab as environmental is part of the process to do rehab and modernization. Just because the funds are being accounted for separately through environmental group doesn't mean they are going toward rehab and modernization. Mr. Evans stated 90% of the funding change requested is for TERO monitoring positions. Councilor Fishinghawk requested to table this portion until they can speak to Mr. David Southerland. Chair Jack D. Baker stated a motion for approval is needed before a portion can be tabled. Mr. Evans continued with his review.

Councilor Glory-Jordan made a motion to approve with a provision to exclude items 13, 14, 16 and 18 through 21 on Mr. Evans summary and add an additional \$150,000 for clothing for kids. Councilor Fishinghawk seconded the motion. Motion carried by acclamation.

ANNOUNCEMENTS

ADJOURNMENT

Councilor Thornton moved to adjourn. Councilor Soap seconded the motion. Motion carried at 4:40 p.m.

STAFF PRESENT:

*Callie Catcher
Angela Drewes
Melissa Gower*

*Shay Smith
Melanie Knight
Mike Miller*

*Dana Espional
Diane Kelley
Doug Evans*

VISITORS PRESENT:

Jim Lyall
David Stewart
Phil Vesshour

Darlene Denney
Todd Hembree
Gina Olaya

Bob Drvostep
Shawn Slaton
Carey Tilley

APPROVAL / DISTRIBUTION

Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator

Motion to approve minutes made by: _____

Minutes attested and concurred by: _____

Date: _____