



# Council of the Cherokee Nation

## Meeting Minutes

### Rules Committee

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Friday, March 30, 2007

1:30 PM

Legislative Conference Room

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#### CALL TO ORDER

Chair Frailey called the meeting to order at 1:33 p.m.

#### INVOCATION

Councilman John Keener gave the invocation.

#### ROLL CALL

**Present** 16 - Bill John Baker; Audra Smoke-Conner; S. Joe Crittenden; Jackie Bob Martin; David Thornton Sr. ; Phyllis Yargee; Don Garvin; Linda Hughes-O'Leary; Melvina Shotpouch; John F. Keener; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Charles "Chuck" Hoskin and Jack D. Baker

**Absent** 1 - Taylor Keen

Councilman Bill John Baker moved to amend the agenda to move item #4 under new business up to above reports and to add to the agenda under new business an item #5, A Legislative Act Relating to Native American Arts and Crafts Copyright Act of 2007; an item #6, A Legislative Act Amending Title 43 of the Cherokee Nation Code Annotated – Marriage and Family; Repealing Section 512, Subsection 3; and Declaring an Emergency; an item #7, A Legislative Act Amending Title 10 of the Cherokee Nation Code Annotated – Paternity; Repealing Section 111; Amending Section 110; and Declaring an Emergency. Council member Cowan Watts seconded the motion. Motion carried.

#### APPROVAL OF MINUTES

Councilman Anglen moved for the approval of the February 23rd regular session. Councilman Bill John Baker seconded the motion. Motion carried.

#### REPORTS:

Marshal Service:

Sharon Wright

*Sharon Wright reported the Patrol Division had 36 arrests with 24 being related to controlled substances, 143 citations or warnings, 13 domestics and 25 citizen assists. The Narcotics Division had 3 arrests in Sequoyah County on manufacturing and possession of meth and two on possession of firearms. They had 1 arrest for cultivation of marijuana in Cherokee County and 1 abandoned lab in Wagoner County. Investigations had a breaking and entering, assault and battery with a dangerous weapon in Delaware County, domestic abuse and 4 child abuses in Cherokee County, 1 child abuse in Sequoyah County, theft from a smoke shop in Tulsa County, and 4 embezzlement by employee, 2 thefts by employee, and 1 theft at CNE. In the community activities for the month of February the DARE program was held at*

*Dahlongegah, Bell and Oaks; Eddy Eagle at Wickliffe; Being Safe at Spavinaw; 911 and Basic Safety at Wauhilla Head Start. They attended the Cherry Tree Community meeting at the new Safe House and provided literature on reporting vandalism. They participated in a benefit basketball game at Bell School for the Bell Community Group. For the month of March the Dahlongegah graduated DARE and Bell and Oaks are finishing the program this month; the safety programs are being taught in the Northern Counties with Cherokee Nation Head Start Programs. They also assisted with the Meth Awareness presentation put on by the Meth Coalition.*

Justice Department:

Diane Hammons

*Justice Department: Diane Hammons reported Dana Jim, Staff Attorney was the head man dancer at the Native Justice Pow Wow sponsored by the University of Tulsa. Sara Hill, another staff attorney was instrumental in bringing about a child abuse education conference to the complex which was attended by various State officials, law enforcement and social workers throughout the area. It was the first time that type of presentation has ever been put on by the State Department to end child abuse at an Indian tribe. Sara Hill also won an ICW case on appeal last month. She and Todd Hembree went to Washington, DC and reviewed before Judge Kennedy as to an injunction to stop the special election. A ruling was received and the special election took place. There will be more discussion in the Executive & Finance committee on the status of that case but just for the purpose of this report all the issues associated with that case have been taking a large portion of their time in the Attorney Generals office in preparing for what they anticipate will happen in that case and preparing to address the merits. They have also been working and responding to some inquiries from the Department of Housing and Urban Development regarding section 3 complaints. They have made initial response on those and they are going to supplement their responses on Monday. HUD has been very cooperative in working with and getting feedback to them and they feel very positive about their responses in that regard. Council member O'Leary stated she and Councilor Thornton requested and received information on what correspondence the Administration or the Chief with the Bureau up and to the period of time of a few months back and any and all conversations or notes taken in regards to conference calls. Has there been since they received that information any new correspondence or letter from the Bureau or per telephone conversation with any information? Diane Hammons stated Ms. Knight can probably answer more about the conversations and they have not received any correspondence but they have heard rumors that there may be correspondence coming but they have not received that. Melanie Knight stated since Councilor O'Leary requested specifically for February, she responded specifically for February and also as to conversations that had occurred. There has been no correspondence written neither from the Chief to the Interior nor from the Interior to the Chief to her knowledge but there have been informal phone conversations since the election. Councilman Bill John Baker requested permission to distribute a letter from the United States Department of Interior to the Committee. Melanie Knight stated that would be a letter the Chief has not received yet. Melanie Knight stated this letter is addressed from Assistant Secretary to the Chief and dated March 28th and to her knowledge it has not been received by the Chief. Diane Hammons stated they had heard rumors there was correspondence coming but this is the first time she has seen it.*

*Council member O'Leary stated for the purpose of the audience she would like to read into the record the letter from the United States Department of the Interior, Office of the Secretary, Washington, DC with a date stamp of March 28, a Department of Interior Stamp to the left, and a stamp of Take Pride in America to the right. It reads "The Honorable Chad Smith, Principal Chief, Cherokee Nation, P.O. Box 948, Tahlequah, Oklahoma 74465-0948. Dear Chief Smith: Thank you for your letter of October 13, 2006,*

concerning your position on the need for Secretarial approval of the Cherokee Nation's constitutional amendment of May 24, 2003. I apologize for the lateness of this response. Due to ongoing concerns related to the rights of the Freedmen, the Department of the Interior is studying still the issues in this evolving matter. We are working with the Department of Justice on the Vann v. Cherokee Nation case. Until then we want to be clear that: (1) we have not taken any administrative action on the 2003 constitutional amendment; (2) we believe the Department must approve this constitutional amendment, because of the clear language in Article XV, Section 10 of the 1975 Constitution of the Cherokee Nation; and (3) we have not approved the recent referendum removing the Freedmen from Cherokee Nation membership. We are evaluating all facets of this case. Your efforts to continue discussions with the Department on these issues are appreciated. Sincerely, and she believes it to be Carl Altman's possibly, Assistant Secretary, Indian Affairs.

Election Commission:

Patsy Eads Morton

Chair Frailey stated Mrs. Morton was able to attend but did submit a written report from the Election Commission to the committee.

Councilman Bill John Baker stated this report is really more of an FYI and he don't know how many of the Council purchased the entire voter list from the Election Commission but in studying his list he found there was many Cherokees that voted in the last election that was not on his list. Finally yesterday he went to the Election Commission and have them to start researching what the problem is and apparently if you ask for the entire voters list for this election they withheld the names of the people they believed had bad addresses. In his case he got 4200 registered voters on his list that he had been working on only to find out there is 2300 they did not give him and he is assuming that each of the Council members are in that same condition. He bought a list of all registered voters in Cherokee County and they gave him a list minus 2300 and had he had that list a month ago when he bought it he would have been working on finding good addressed for these people and he feels there is a flaw in the system and he hopes everybody is a little upset because they are not being told who their constituents are and he was really hoping the election commission would be here where we could discuss the subject and find out what is going on. It is not a level playing field if some folks have all the names and other folks don't.

Chair Frailey requested an investigation and an explanation in a written report from the Election Commission on those voters who are not listed.

Councilman Hoskin made a motion for the Council to tell the Election Board that we want all candidates notified immediately that there might be this additional group of people in their district that they weren't given to begin with and that needs to be a proactive thing on their part. Councilman Bill John Baker seconded the motion. Motion carried.

Tax Commission:

Sharon Swepston

Sharon Swepston reported revenue on the Motor Vehicle Tax has increased 13.4% from February 2007 compared to February 2006. They have moved the Adair Tag Office into its new office space which is located at 215 Main in Adair. There is a decrease in Tobacco Tax of approximately 35% which is due to a decrease in retail to retail sales and most of which is to the Creek Shops because of actions that were taken by the Creeks but overall the revenue for the revenue taxation department has increased by 25.72% which is mainly due to the surtax. Tax Commission has been doing regular inspections on their smoke shops and each smoke shop is inspected at least once during the year

and maybe inspected more than once.

Self-Governance:

Vicki Hanvey

*Vicki Hanvey announced she is a member of the Conference Planning Committee for the Self-Governance Conference coming up in May which is being planned in conjunction with Department of Interior and Indian Health Service staff. They have assisted the Evaluation and Compliance staff with internal reviews and the development of a contract template for agreements with community groups. Carl Artman has been confirmed as Assistant Secretary of Indian Affairs. The Director position within the Office of Self-Governance has been filled by Sherry Freeman; however, there are two OSG positions currently vacant. These vacancies along with data base conversions are causing a tremendous work load on the existing staff and these issues have been addressed by the Self-Governance Advisory Committee. February 9th they met with the Regional office in Muskogee to discuss several issues such as preliminary negotiations on the MFA which expires September 2007 and the GPRA report coordination efforts. Tom Elkins attended the EORO report to Tribal Leaders on February 15th at the Regional Office in Muskogee. They had a conference call with Child Care Bureau, DOI OSG and CN program staff to discuss the payment process of our Child Care Funds. The Tribal access to the OSG database was scheduled to be restored by March, 1, 2007 but the 2007 data is going through conversion and has not yet been completed. The IRR payment process has been moved from the BIA back to the Office of Self Governance and Cherokee Nation has just received payment through the third continuing resolution. There was a delay due to the funding transfers from Department of Transportation to the BIA. The OTSG Director position is vacant and the recruitment bulletin was posted during the first part of February. February 15th, Cherokee Nation met with Indian Health Service Senior Staff to discuss issues related to the Muskogee Clinic in regards to staffing, equipment funding as well as contract support costs. They continue to work with Paula Ragsdale and JT Petherick to obtain CSC for the operations of the clinic. They attended the Association of Governmental Accountants Conference in conjunction with the Indian Health Service 2009 budget formulation meeting in Washington, DC.*

Gaming Commission:

Jamie Hummingbird

*Jamie Hummingbird reported he attended the National Indian Gaming Association meeting in Phoenix, Arizona which is the largest trade show conference for Indian gaming specifically and they broke a record this with about 5000 attendees. While attending the conference he also met with the NIGC officials on the technical standards where they submitted a set of alternative standards. NIGC gave their comments back and another meeting will be scheduled for April 10th here in Tahlequah. The Chairman of NIGC wants to have a proposed rule back into the registered standards by March so they are looking at a much accelerated timeline to get the revised standards out. They also provided new regulations which they will be proposing in the next thirty days. Some are in the form of a bulletin which means they are highly recommended suggestions and some will be in the form of actual proposals that will be in the CFR once decided on by NIGC for such rules as facility licensing, financial reporting and how they conduct audits and primarily external audits. The National Tribal Gaming Commissioners and Regulators Association is having their Spring Conference in Washington State on April 23-25, 2007. On next months report the Council will see that the operations are doing very well but the main thing is this is the first month they have had a predominant presence for the compact machines versus the class II machines. They are sitting at roughly about 55% for compact and 45% class II.*

## Codification

*Todd Hembree reported they are continuing to monitor the progress of Oklahoma City School of Law on the pain staking process of the codification. He and Ms. Hammons will continue to monitor their progress and hopefully will have a percentage of completion by next month.*

## Cherokee Nation / United Keetoowah Band Meeting

*Chair Frailey stated Shelby Wofford, UKB Treasurer presented two items for the meeting with one being Issues of Commonality and the Tri-Council meeting with the Eastern Band in North Carolina in June 2007. Chair Frailey suggested considering the reauthorization of the Indian Health Care Improvement Act and the reauthorization of the Special Diabetes Program of Indians. Council member Yargee would like to include the discussion of adding the syllabary to the current syllabary.*

*Eddie Sacks, Councilman for the United Keetoowah Band stated Shelby Wofford was unable to attend due to out of town business. It was his understanding at the last meeting with he and Ms. Wofford present that the joint council was approved by this body and he assumed it was going forward.*

*Diane Hammons stated this event has a historical, cultural and fellowship significance and the Keetoowah's are our relatives but the Keetoowah government and the Cherokee government are in litigation in at least four different matters. If this Council meets as a formal Council with the formal Council of the Keetoowah and they propose that Cherokee Nation confesses judgment in a case and this body is out numbered then she has great concerns with this being a formal council meeting and she would be remiss if she didn't express those concerns.*

*Todd Hembree stated this is a formal meeting between two councils and they can each pass resolutions concerning the same agenda items that have been proposed and not ones that deal with litigation. It is issues that are the concurrent benefit of Cherokee citizens but if there was a motion to confess judgments the two bodies are not one body that produces a resolution. Each Council would have to pass the resolution through their own council and they would both be concurring resolutions but they are two separate government resolutions.*

*Council member Cowan Watts made a motion to accept the following five items for the agenda: 1) Indian Health Care Improvement Act, 2) Special Diabetes Program for Indians, 3) Addition of new syllabary to the current syllabary, 4) Issues of Commonality, and 5) Tri-Council meeting with the Eastern Band in North Carolina in June 2007 for the date of Saturday, June 2, 2007 at 10:00 a.m. at the Heritage Center for a Joint Pre-Symbolic meeting leading to the UKB, Eastern Band and Cherokee Nation meeting at a later date. Councilman Anglen seconded the motion. Motion carried.*

## OLD BUSINESS

1. 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 Marshal Wright presented the changes last month which are reflected in the Council packets. This Act authorizes the Office of the Marshal as presented in the Constitution and to update the code.*

**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:** 14 - Bill John Baker; Audra Smoke-Conner; S. Joe Crittenden; Jackie Bob Martin; David Thornton Sr. ; Phyllis Yargee; Don Garvin; Linda Hughes-O'Leary; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Charles "Chuck" Hoskin and Jack D. Baker

**Not In Room:** 2 - Melvina Shotpouch and John F. Keener

**2.** Corporation Reform (Discussion Only)

*Councilman Bill John Baker stated this Act has come forth before and he believes it is ready to go forward to full council. CNE is still getting their 40% and this money is still going to be for jobs growth but it just puts some majors in it because there is not a good track record with CNB. They have lost money and lost capital on all but one investment and it was a very small investment and until they can build a track record of investment where they can preserve the capital of the Cherokee Nation then he thinks the Council has a duty to oversee that and get the money out when they have done their research. Doug Evans stated there is approximately \$2.5 to \$3 million dollars in General Fund available today and there is going to be a carryover of \$36 million dollars of unreserved carryover from 2006 which will be issued with the audit later today. The limitation that was imposed in the bank covenant stated we would limit our tribal dividend from gaming profits to 30% while this loan was out. Councilman Bill John Baker stated the dividend is not being taken for government services but so the Council can scrutinize these investments because their track record is so poor at this time. He feels the Council in their capacity as Councilors of Cherokee Nation that they have the responsibility to the people to see the homework is done and find the very best investment. Doug Evans stated the way he understands they are today with regard to the profits from the businesses is that 30% is earmarked for tribal appropriations in services by the government and 70% is broken into two categories which is one CNE retains and one CNB retains. If the Council takes it from 25% to 50% he would recommend they identify which of the other two pots that extra 25% is going to come out of. Where is the approval process for investments on behalf of the business ventures and how you would get there would have to come out of where the capital is sitting right now that was going to be used for these business ventures and that would be the 30% for CNB. He is not sure the bank covenant addressed the 25% limitations on the dividend and he is not sure there was anything in the bank covenant that addressed the 30% investible capital that CNB was holding and whether that could be utilized to a certain spent debt anyway. He is not sure the bank could attach to that 25% through that bank draft. That means they would have collateral on CNB's investible capital.*

**Council member Cowan Watts moved to table this item based on the information that Doug Evans has just shared with the Council. Councilman Garvin seconded the motion. The motion carried by the following vote:**

**Yea:** 9 - Audra Smoke-Conner; Jackie Bob Martin; Phyllis Yargee; Don Garvin; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen 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

3. A LEGISLATIVE ACT AMENDING TITLE 11, "CITIZENSHIP", OF THE CHEROKEE NATION CODE ANNOTATED;  
RELATING TO CHEROKEE NATION CITIZENSHIP
- Nason Morton stated this bill changed the procedure for relinquishment and wordings of the statutes. Todd Hembree stated with the results of the election there will need to be some amendments by the board.*

**Councilman Bill John Baker moved to table this item to get the amendments and changes finalized. Councilman Garvin seconded the motion. Motion carried.**

#### NEW BUSINESS

1. A RESOLUTION CONFIRMING THE NOMINATION OF PAM IRON AS A GOVERNING BOARD MEMBER OF THE CHEROKEE NATION COMPREHENSIVE CARE AGENCY
- Councilman Bill John Baker moved for the approval of the nomination. Councilman Crittenden seconded the motion. Motion carried.**
2. A RESOLUTION CONFIRMING THE NOMINATION OF TOM HERRIAN AS A GOVERNING BOARD MEMBER OF THE CHEROKEE NATION COMPREHENSIVE CARE AGENCY
- Councilman Bill John Baker moved for the approval of the nomination. Council member Conner seconded the motion. Motion carried.**
3. 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
- Councilman Bill John Baker moved to table this item. Councilman Thornton seconded the motion. Motion carried.**
4. A LEGISLATIVE ACT RELATING TO NATIVE AMERICAN ARTS AND CRAFTS COPYRIGHT ACT OF 2007
- Councilman Bill John Baker stated the purpose of this Act is to prevent the purchase of copyrights of works art by the Cherokee Nation or its entities in the initial purchase of the work of art. Melanie Knight stated they feel this is an unduly restrictive act and they would prefer to have the flexibility to issue a bid in both manners that artists can bid with the copyright or without the copyright at their leisure and a contract be negotiated according to that.*
- A motion was made by Councilor Bill John Baker and seconded by Councilor David Thornton Sr. , that this matter be Approved and Forwarded to Council. The motion carried by the following vote:**
- Yea:** 16 - Bill John Baker; Audra Smoke-Conner; S. Joe Crittenden; Jackie Bob Martin; David Thornton Sr. ; Phyllis Yargee; Don Garvin; Linda Hughes-O'Leary; Melvina Shotpouch; John F. Keener; Meredith Frailey; Cara Cowan Watts; William G. "Bill" Johnson; Buel Anglen; Charles "Chuck" Hoskin and Jack D. Baker
5. A LEGISLATIVE ACT AMENDING TITLE 43 OF THE CHEROKEE NATION CODE ANNOTATED - MARRIAGE AND FAMILY;  
REPEALING SECTION 512, SUBSECTION 3;  
AND DECLARING AN EMERGENCY

*Richard Osborn stated the purpose of this Act is to repeal subsection (3) of section 512 of Title 43 of the Cherokee Nation Code annotated to comply with Federal requirements for receiving a child support enforcement grant from the Administration for Children and Families.*

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

6.

A LEGISLATIVE ACT AMENDING TITLE 10 OF THE CHEROKEE NATION CODE ANNOTATED - PATERNITY; REPEALING SECTION 111; AMENDING SECTION 110; AND DECLARING AN EMERGENCY

*Richard Osborn stated the purpose of this Act is to repeal section 111 and amend section 110(C)(1) of Title 10 of the Cherokee Nation Code annotated to comply with Federal requirements for receiving a child support enforcement grant from the Administration for Children and Families.*

**Councilman Jack Baker moved for the approval. Council member Cowan Watts seconded the motion. Motion carried.**

ANNOUNCEMENTS

*The next Rules meeting are tentatively scheduled for Friday, April 27th at 1:30 p.m.*

*Councilman Hoskin stated last month there was a motion made to address the English only bill in the State House and they talked about putting together and basically reinforcing the Cherokee language as well as all native languages and when it was presented at the Council prior to council meeting it specifically cited the House Bill and Senate Bill numbers and it doesn't need to state that because if those bills are killed or whatever that will reflect on our resolution. What we need is simply a positive resolution from this Council stressing the importance of the Cherokee language as well as all native language. He requested this be an agenda item on the next Council meeting.*

ADJOURNMENT

**Councilman Johnson moved for adjournment. Council member Cowan Watts seconded the motion. Motion carried.**

STAFF PRESENT:

<i>Sharon Wright</i>	<i>Ben Phillips</i>	<i>Vicki Hanvey</i>
<i>Diane Hammons</i>	<i>Melanie Knight</i>	<i>Jamie Hummingbird</i>
<i>Sharon Swepston</i>	<i>Richard Osborn</i>	<i>Tom Elkins</i>
<i>Jon Parris</i>	<i>Nason Morton</i>	<i>Randy Gibson</i>
<i>Mike Miller</i>	<i>Doug Evans</i>	<i>Greg Simmons</i>

VISITORS PRESENT:

<i>Todd Hembree</i>	<i>Susan Ruckman</i>	<i>Charles Dry Raymond Vann</i>
<i>Stacy Leeds</i>	<i>Donna Hales</i>	
<i>Mary Adair</i>	<i>Jim Ketcher</i>	<i>Eddie Sacks</i>
<i>Shaun Slayton</i>	<i>Tom Herrian</i>	<i>Bob Huffman</i>
<i>Jim Carrington</i>	<i>Sharon Irla</i>	<i>Ray Herman</i>
<i>Bill Glass</i>	<i>Bob Leach</i>	<i>Pam Iron</i>
<i>Thelda Boen</i>		



APPROVAL / DISTRIBUTION

*Minutes submitted by: Gayle Miller, Recording Secretary*

*Motion to approve minutes made by: \_\_\_\_\_*

*Minutes attested and concurred by: \_\_\_\_\_*