



Council of the Cherokee Nation

Meeting Minutes Rules Committee

Thursday, May 28, 2009

1:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Anglen called the meeting to order at 1:12 p.m.

INVOCATION

Councilor Garvin gave the invocation.

ROLL CALL

Present 13 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Don Garvin; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Janelle Fullbright; Harley Buzzard; Chris Soap and Chuck Hoskin, Jr.

Absent 2 - Meredith Frailey and Julia Coates

Late Arrival 2 - Curtis Snell and Bradley Cobb

APPROVAL OF MINUTES

Councilor Jack D. Baker made a motion to approve the April 13th special session, April 14th sub committee and the April 30th regular session minutes. Councilor Soap seconded the motion. Motion carried.

REPORTS:

1. Marshal Service - Sharon Wright

Don Bolin offered to answer questions from the report submitted by Ms. Wright.

2. Office of the Attorney General - Diane Hammons

Ms. Hammons announced the Sovereignty Symposium is next week regarding land, wind and water. She announced they received notification of a tribal citizen fishing within the fourteen counties who was issued a citation. They are at this time making the determination of providing representation. Councilor Buzzard requested an update on the poultry case. Ms. Hammons stated they entered into an agreement with the State of Oklahoma that they can precede in the water case without the Cherokee Nation and without assigning any resources to them. The judge may or may not accept this agreement. She stated the agreement was for a number of reasons: 1) it represents a big step for us to have our water rights acknowledged

within the territorial boundaries of the Nation. 2) We don't have to enter into the lawsuit and spend a large sum of money. 3) if we were to enter the case at this point the case would be delayed to allow additional discovery, positions and so forth. She stated the agreement doesn't preclude us from entering in the case. Councilor Thornton inquired if we could loose any of the riverbed through this case. Ms. Hammons stated it will not keep the Nation from filing suit on water rights however it would keep us from pursuing the same defendants from the pollution claims.

3. GEG Investigation Report - Diane Hammons

Ms Hammons reported they received word last week from an investigator that the Fed met with the U.S. Attorney's office and the Eastern District of Oklahoma and have decided not to prosecute anyone criminally. She stated we can now proceed tribally. Councilor Thornton requested documentation at the next meeting showing where GEG stands financially.

4. Election Commission -

No one present to report.

5. Tax Commission - Sharon Swepston

Ms. Swepston announced the next board meeting for the Tax Commission is June 3rd at 4:30 in the Government Resources Conference room. Councilor Thornton questioned the Act being brought forward in new business regarding the tobacco tax. Ms. Swepston stated before the tax was .50 and now with the compact it is a \$1.50 this amendment just brings the legislation current with the compact. Councilor Fullbright inquired about the tag office in Sallisaw. She stated she has heard complaints regarding closing the Gore office. Ms. Swepston stated the understanding is the office is moving from Gore to Sallisaw. She stated it maybe to close to justify both offices. Councilor Fullbright stated Roland still has the offer of space for \$1.00 per month and has a T1 line.

6. Self-Governance - Vickie Hanvey

Ms. Hanvey introduced Ms. Angela Thompson the new Self-Governance Analyst.

7. Gaming Commission - Jamie Hummingbird

8. Codification - Todd Hembree

Mr. Hembree stated they would be meeting tomorrow on codification. He apologized for not having codification complete.

He informed the committee of the decision rendered in the Principal Chief Chad Smith vs. Election Commission vs. Cherokee Nation Tribal Council. The first action was Chief Smith asking for a reconsideration of the case transfer. This motion was denied. The second motion was to consider if the Tribal Council was a necessary party and had standing. The court also rejected this argument. In an earlier ruling the court it was ruled that the creation of staggered term and LA#07-07 was a permissible exception. Judge Fite also ruled in accordance with the Attorney General's opinion that all elected officials are serving their first term under the 1999 Constitution. A hearing was held on LA#14-08 and the court ruled it needed to go back to the Council for the Election Commission to take part in the apportionment. Legislative Act 39-05 initially gave the Election Commission the right to apportion

every twelve years from 1990. The right to create districts is with the Council. He stated he needed guidance in writing from the Council members individually on how to or not to proceed on each issue. Councilor Hoskin Jr. stated he firmly believes the decision needs to be appealed. It has less to do with redistricting and more of the integrity of the Council and whether or not they want to allow a District Judge to read something that is not there. Mr. Hembree stated the 30 days to appeal begin the day the order is submitted. Councilor Hoskin Jr. inquired if there needed to be any further directive from the Council to proceed. Mr. Hembree stated it would be appropriate for a motion and a second. Councilor Hoskin Jr. made the motion. Councilor Bill John Baker seconded the motion. Councilor Garvin made a motion to amend for this consideration. Councilor seconded the motion. Motion carried. Councilor Hoskin restated his motion to authorize the appeal of the redistricting issue. Councilor Bill John Baker seconded the motion. Motion carried with Councilor Soap opposed.

OLD BUSINESS

None pending.

NEW BUSINESS

1. AN ACT REPEALING LEGISLATIVE ACT 05-95, TITLE 19 CHEROKEE NATION CODE ANNOTATED SECTION TWENTY-ONE (21) AND TWENTY-TWO (22) ALLOWING FOR REIMBURSEMENT OF TRAVEL EXPENSES OF MEMBERS OF THE CHEROKEE NATION TRIBAL COUNCIL

Sponsors: Councilor Buel Anglen

Councilor Cobb made a motion to approve. Councilor Cowan Watts seconded the motion. Mr. Hembree stated this Act has been brought forward due to some concerns which initiated from Secretary of State Melanie Knight. The Attorney General's office made an informal opinion based on inquiries from Speaker Frailey. He stated he is in concurrence that there are some Acts that need to be repealed in order to implement the travel policy that has been passed by this Council. After speaking with the Attorney General's office the recommendation is to repeal Title 19 Section 21, Title 19 Section 22 and LA#5-95. The two codified sections would take care of anything previous. He requested an amendment to the Act in question to repeal the Acts referenced today. Councilor Cobb made a motion to approve. Councilor Cowan Watts seconded the motion. Motion carried on the requested amendment. Councilor Hoskin inquired if there is new language in Section 4 or 5. Mr. Hembree stated there isn't and that the latest Act would not be repealed. Councilor Hoskin Jr. stated there isn't harm in doing this but inquired to the actual benefit. Mr. Hembree stated it is out of abundance of caution and to clarify the legislative history. Councilor Soap inquired how the policy conflicts with the legislation. Mr. Hembree stated the Acts set out specific amounts for travel and the policy sets out a specific travel allowance. Councilor Soap inquired as to when it goes into effect. Mr. Hembree it was approved when voted on by this body. Out of abundance of caution the Speaker has put all travel on hold until we get this right. Councilor Cowan Watts called for the question.

The motion to approve with amendments carried with the following roll call vote:

Yea: 15 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Don Garvin; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb and Chuck Hoskin, Jr.

2. A LEGISLATIVE ACT AMENDING TITLE 68 CHAPTER 4 OF THE CHEROKEE NATION CODE ANNOTATED - TOBACCO TAX AMENDING § 42 Tax on Cigarettes and § 43 Tax on Tobacco Products

Sponsors: Councilor Buel Anglen

Ms. Swepston stated this Act brings our law into correlation with the new Compact and fixes to where every time there is a change in the compact a change in law isn't needed.

Councilor Cobb moved for the approval. Councilor Thornton seconded the motion. Motion carried by acclamation.

3. AN ACT AMENDING LEGISLATIVE ACT #19-00, AS AMENDED BY LEGISLATIVE ACTS #08-01 AND #05-05, ESTABLISHING A FREE AND INDEPENDENT PRESS FOR THE CHEROKEE NATION

Sponsors: Councilor Bill John Baker and Councilor Cara Cowan Watts

Councilor Bill John Baker moved to approve to allow discussion. Councilor Cowan Watts seconded the motion with a friendly amendment. She stated a corrected version has been handed out where language was left out in Section 7 setting quarterly reporting requirements. Councilor Bill John Baker stated the legislation is housekeeping to allow them to provide electronically as well as print. Ms. Knight announced Mr. Bryan Pollard is present to answer any questions. Councilor Cowan Watts called for the question and requested by acclamation.

The motion to approve as amended carried by acclamation.

4. DISCUSSION PERTAINING TO ISSUES RELATING TO THE IMPLEMENTATION OF ARTICLE VI, SECTION 12 OF THE CONSTITUTION OF THE CHEROKEE NATION, PROVIDING FOR A CONGRESSIONAL DELEGATE PER THE TREATIES OF HOPEWELL AND NEW ECHOTA (Discussion Only)

Sponsors: Councilor Chuck Hoskin, and Councilor Jodie Fishinghawk

Councilor Hoskin Jr. provided a list of questions regarding the provision of a delegate. He requested Ms. Knight to address these questions and provide an update. Ms. Knight gave a power point presentation. She stated Councilor Hoskin Jr.'s questions should be addressed in the presentation. She provided a copy of the white papers for the Councils review. Councilor Hoskin gave appreciation for the depth of research and review of the issue. Ms. Knight gave appreciation for the opportunity to present. Councilor Soap inquired as to why it had been assigned to Melissa Gower. Ms. Knight stated it has never been challenged in the court and although they have done legal analysis and support for any challenges we may get or to assert our rights. Primarily at this point it is a political process in that the House chooses that delegate and what that process would be. Councilor Cobb inquired how the Washington office would work with a delegate. Ms. Knight stated this has been a part of the discussions. She stated the delegate should be appointed and our office in DC becomes a very important part of our presence in DC from that point forward.

ANNOUNCEMENTS

Councilor Bill John Baker requested everyone keep Speaker Frailey in their thoughts and prayers as her brother passed away yesterday.

Shelli Brittain announced at the request of Speaker Frailey new posting, mail out and legislation deadlines have been developed with the assistance of Mr. Evans. This

plan is an attempt to allow more time for the Council to review their packets prior to committee. A copy of the plan was provided with a brief overview. Councilor Cobb inquired if these deadlines were also for community assistance, law enforcement and road requests. Ms. Brittain replied they would continue to be accepted as they have in the past. Mr. Evans stated they are already in the packets and are amended on the floor of the meeting. Councilor Cowan Watts inquired if urgent legislation comes forward if it would be considered. Ms. Brittain stated it would be the discretion of the chair. Councilor Cowan Watts commented the plan is very fair and gave appreciation for the hard work.

ADJOURNMENT

Councilor Bill John Baker made a motion to adjourn. Councilor Cowan Watts seconded the motion. Motion carried at 2:20 p.m.

STAFF PRESENT:

<i>Don Bolin</i>	<i>Melanie Knight</i>	<i>Bryan Pollard</i>
<i>Chrissi Nimmo</i>	<i>Gregg Simmons</i>	<i>Diane Hammons</i>
<i>Neil Morton</i>	<i>Mike Miller</i>	<i>Callie Catcher</i>
<i>Sharon Swepston</i>	<i>Vickie Hanvey</i>	<i>Angela Thompson</i>
<i>Doug Evans</i>	<i>Chad Smith</i>	

VISITORS PRESENT:

Todd Hembree *Jim Ketcher*

APPROVAL / DISTRIBUTION

Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator

Motion to approve minutes made by: _____

Minutes attested and concurred by: _____

Date: _____