



Council of the Cherokee Nation

Meeting Minutes - Final

Resource Committee

Tuesday, November 13, 2007

4:00 PM

Legislative Conference Room

CALL TO ORDER

Chair Snell called the meeting to order.

INVOCATION

Councilman Crittenden 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

Councilman Jack Baker made a motion to approve the minutes of the October 15th regular session. Councilman Bill John Baker seconded the motion. Motion carried.

Councilman Anglen made a motion to approve the minutes of the October 16th special session. Councilman Cobb seconded the motion. Motion carried.

REPORTS:

1. Natural Resources

Angela Drewes

Ms. Angela Drewes announced they had their meeting with the group from Cherokee North Carolina regarding the seed exchange. One of their 2008 balanced scorecard goals for 2008 is to identify 75 culturally identified plants and to have 10 of those in the seed bank. After the meeting they have 49 plants identified and have 12 cultural identified plants in the seed bank. Of the twelve, 3 varieties of original Cherokee North Carolina flower corn are in the seeds. There is a meeting scheduled with the "Corn Man" who has a collection of seeds that they are hoping to get for their seed bank. Ms. Drewes announced they closed on another piece of property. She stated she will be bringing a presentation of all of the tribal land acquisitions next month.

Councilor Buzzard inquired about the status of the forestry plan report. Ms. Drewes stated they just got the report on Friday. Councilor Buzzard requested a copy of the report. Councilor Fullbright inquired about a copy of the list of seeds and plants. Councilor Thornton inquired about the pine crop at the Sallisaw Creek Park. Ms. Drewes has the study and will forward it.

2. Real Estate Services

Linda Donelson

Ms. Linda Donelson reported she went to Wisconsin for an Indian Land working group for future plans for fee to trust. She is trying to find out more information on which direction the BIA is going to go. Ms. Donelson stated they did receive and return 863 phone calls, 89 individual clients, completed 30 site inspections, 7 hunting leases, 1 hunting lease has been approved, 5 home visits, 2 rights of entries, 4 jurisdictional calls, 2 quiet titles, 1 will interview, and 1 full blood will approved in court.

Councilor Cobb inquired if we are still waiting on the traffic report on the Ramona property. Ms. Donelson stated they have received the report and it is with the environmental group. They have drafted a lease for the attorney at CNE to review. They have received the appraisal and have forwarded it to the Office of the Trustee. Once all of these components are received back they will proceed in speaking to the land owners. Councilor Glory-Jordan inquired about talking to David Southerland in getting a list of homes to be paid off in the next couple of years. Ms. Donelson stated she doesn't have the list at this time. Councilor Cobb requested the information just reported in regard to the Ramona property be emailed to him by November 20th.

3. Roads & Transportation

Michael Lynn

Mr. Michael Lynn gave a brief overview of the roads department. He provided the following update of IRR roads:

- Red Barn Road –installing an underground storm drain*
- Fairview Euche phase II – finish next 10 to 15 days*
- Daytown Dry Creek – there are 3 phases. First phase is putting asphalt down, second is putting in 2 pedestrian bridges, third is rest of the project they are clearing and bringing sub grade up to elevation*
- Barber Road - pushing to complete right of way acquisition to work in conjunction with the waterline project.*

Mr. Lynn stated they have hired some new staff members. They have hired Phillip Manus a Road Project Analysis, and Lynn Trammel as a Surveyor I. John Jordan a project inspector and Mitchell Sisco a roads lab tech began work today. Mr. Lynn announced there are no tribal funded projects this month.

Councilor Buzzard inquired about the status on the \$25,000 transit grant. He made a motion to hold a special meeting next month on December 11, 2007 at 2:00 p.m. to discuss transit. Councilor Bill John Baker seconded the motion. Motion carried.

4. Public Comments: Road Issues

Michael Lynn

5. Facilities

David Roberts

Mr. Todd Enlow reported in the absence of David Roberts. The Immersion classroom, the old mobile casino, should be complete the interior the end of November. The classroom will move in the spring semester. The Vocational Rehabilitation located in the motel will be moving in the next 7 to 10 days. The tax commission will be taking the vacated Vocational Rehab space. The Housing Rehabilitation space should be ready by the end of November. Mr. Enlow stated they closed on some property in Tahlequah known as Dotson Roberts Lumber Company. They are conducting inventory now. The Pow Wow Grounds bid package was pulled back out due to an employee oversight. They have redone the paperwork and will resubmit it next meeting.

OLD BUSINESS

1. 1. Discussion of Landfill Issues and ICI Contract Performance

Brad Carson provided some handouts regarding issues surrounding the landfill. The summary states there is not environmental damage to the landfill. He announced 3 separate engineering companies looked at the landfill situation. Closure of the site would cost close to \$12 million - \$22 million. If we choose not to close we could run a transfer station at the sight. Mr. Carson stated we could run the landfill ourselves or we could outsource the landfill to a third party management. The operation of a landfill is typically very profitable. Councilor Buzzard questioned "Where are we now in the process?" Mr. Carson stated he is not capable of making decisions, but would recommend CNB to take the wheel. He stated right now they are just keeping the lid on the problem. Todd Hembree inquired about the status of City of Fayetteville contract and how much is it costing per week. Mr. Carson stated we are in compliance. Councilor Glory-Jordan questioned how much are we loosing now on a daily basis from Fayetteville. Mr. Carson stated it was \$750.00 per day. Ms. Catcher stated working on an assumption it is \$650 to \$750 per day. If we don't comply, it is \$100,000 bond and Feather Hauling Equipment. We must have the business in Northwest Arkansas to continue with the operation of the landfill. He stated if we break the contract, we would have difficulty in getting another contract elsewhere. Councilor Glory-Jordan questioned if we have made a decision on the ICI contract. Mr. Carson stated the Attorney General could answer that. Councilor Bill John Baker stated we did make some money from the landfill, but not a lot. Mr. Carson stated when ICI came, we were running out of space. Doug Evans presented the audits from 1995 to 2006 audits. The first year open with a deficit was in 2004 and have been ever since. It appears some of the net income numbers in the past may be overstated to a degree. \$4.8 million hit on the Profit and Loss. Mr. Evans questioned the audits by an independent. Mr. Carson stated the last 10 years is of net income. Todd Hembree questioned what is CNB's long term goal to run to close or continue to keep building cell after cell. Mr. Carson stated another cell is \$3 - \$7 million. The cheapest option is to continue to run, but need to make a commitment. Councilor Fishinghawk questioned "If CNB takes over, how much does Council have input? Adair County Tribal Council Members do not want out of state trash. Ms. Fishinghawk stated we are losing \$1,400 to \$2,100 per day. She inquired about much money have we lost. Doug Evans stated the cost to close starts with \$4.8 million with 2.6 absorbs and \$2.2 million that is Gen Funds and CNE. Councilor Soap inquired about the price tag for the closure of the facility to include carry through the Fayetteville Contract. Councilor Hoskin stated about the last meeting discussion arrears in host fees. Callie Catcher stated they have continued to bill assuming they will end in litigation. They received a check from City of Fayetteville and have put against the debt. Mr. Evans stated about the closure obligation. He questioned if it is to cover and monitor. Mr. Carson stated yes. The bulk of it is initial capping. The post closure obligation is for 30 years. Mr. Evans questioned how much of the million is needed now or can we spend some now minus funding obligation each year. Mr. Carson stated the least expense is \$12 million with \$8 - \$9 million up front. Councilor Cobb is having a hard time swallowing the fact, as a business owner, how the money is lost in 2004, that no one has risen a question about what are the actual numbers are. Ms. Catcher stated in 2002, there was an investigation and the person was fired. There was a lot of capitol investment made. Councilor requested all the data sent to him. Councilor Crittenden questioned "Is the City of Stillwell still taking water? Mr. Carson stated yes. The trade off is we take the sludge. Councilor Crittenden stated no one has spoken about the people living around the landfill. In about 10 years we may have lost money, but they have lost less than they started in 2005. If we are going to reopen the landfill, we could put some liner down and receive trash in about 60 days. The last 2 years doesn't seem to be a money maker. Mr. Crittenden would like to see restrict the trash to the 14

counties. He is more concerned for Arkansas people down stream rather than NW Arkansas. Councilor Watts requested to close the discussion in 5 minutes. Councilor Fishinghawk requested Sharon Lay and Doug Bane here to answer questions they may have.

NEW BUSINESS

1. a resolution Authorizing THE submiSSION OF a formal application to the united states department of Agriculture rural utilities service to reassign the Community-Oriented Connectivity Broadband Grant, Oklahoma 1403-A23, Agreement from Cherokee Nation Businesses to Cherokee Nation Information Systems

Councilor Cowan Watts made a motion to approve items 1 through 5 in Toto which includes Braggs, Hulbert, Redbird, Okay, and Vian communities. These resolutions change the ownership from Cherokee Nation Businesses to the Cherokee Nation Information Systems Department in order to facilitate broadband wireless access for these communities. Councilman Bill John Baker seconded the motion. Motion carried.
2. a resolution Authorizing THE submiSSION OF a formal application to the united states department of Agriculture rural utilities service to reassign the Community-Oriented Connectivity Broadband Grant, Oklahoma 1403-B23, Agreement from Cherokee Nation Businesses to Cherokee Nation Information Systems

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3. a resolution Authorizing THE submiSSION OF a formal application to the united states department of Agriculture rural utilities service to reassign the Community-Oriented Connectivity Broadband Grant, Oklahoma 1403-C23, Agreement from Cherokee Nation Businesses to Cherokee Nation Information Systems

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4. a resolution Authorizing THE submiSSION OF a formal application to the united states department of Agriculture rural utilities service to reassign the Community-Oriented Connectivity Broadband Grant, Oklahoma 1403-D23, Agreement from Cherokee Nation Businesses to Cherokee Nation Information Systems

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5. a resolution Authorizing THE submiSSION OF a formal application to the united states department of Agriculture rural utilities service to reassign the Community-Oriented Connectivity Broadband Grant, Oklahoma 1403-E23, Agreement from Cherokee Nation Businesses to Cherokee Nation Information Systems

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6. A RESOLUTION FOR THE COMMISSION OF A COMPREHENSIVE AND INDEPENDENT ENVIRONMENTAL STUDY OF THE CHEROKEE NATION LANDFILL IN ADAIR COUNTY

Chair Snell moved for the approval. Councilor Cara Cowan Watts seconded the motion with amendment to remove through and by the Tribal Council. Councilor Cobb inquired as to how much the report from A&M Engineering cost that has been handed out. Mr. Brad Carson stated he doesn't know the cost. Councilor Cowan Watts inquired if Chair Snell accepted her amendment. He stated he did accept. Councilor Bill John Baker called point of order stating the chair can't make a motion. The sponsors Fishinghawk and Crittenden should have the opportunity to speak to the legislation before motions and amendments are made. Councilor Cowan Watts withdrew her second to allow the sponsors to make the motion. Todd Hembree discussed the procedure. Councilor Fishinghawk questioned as to how long the landfill has had dealings with A&M Engineering. Ms. Jeannine Hale stated it is well before 2004. Councilor Fishinghawk stated the resolution requests an independent study be conducted by a firm or organization with high qualifications and without prior contacts with the Cherokee Nation. Councilor Anglen called for point of order stating a motion has to be made before discussion can take place.

Councilor Crittenden made a motion to approve. Councilor Fishinghawk seconded the motion.

Councilor Cobb questioned what the sponsors hope to gain from another independent source. Councilor Crittenden stated to take it out of the umbrella and become completely neutral. He stated as a resident of Adair County he would like to know for sure that the landfill is compliant with all federal regulations regarding environmentally sound landfills. Councilor Cobb inquired as to how much A&M is being paid quarterly. Mr. Carson replied between \$16,000.00 to \$20,000.00 per quarter. Councilor Soap questioned what is considered a comprehensive study and how long to you expects it to last? Councilor Fishinghawk stated she wants water, land, carbon. Councilor Crittenden stated he doesn't know how it is going to last, he has a lot of concerns regarding the environmental issues. He stated there has been a lot of discussion regarding cost money and revenue but there has been little discussion regarding the health and welfare of the residents near the landfill. Councilor Bill John Baker stated this Council is going to be asked to either spend money to close or reopen. This is trust property with allotments all around. Our own EPA has given millions of dollars in fines for something not being right. For this body to make a logical decision someone needs to report to this body and stated just exactly what is going on environmentally. If reopening the landfill means operating it environmentally unsafe then \$20ml to close is cheap. Councilor Fullbright agreed an independent study is needed. People in Sequoyah county have expressed relief the landfill is closed and do not want it reopened. Councilor Fishinghawk stated the money it will cost to get an environmental study from an independent is nothing compared to healthy lives and healthy kids. She announced there is well water here today from 3 different landfill area homes if anyone wants a

drink. Councilor Cobb stated he would like to identify the top 5 carcinogens and have them tested. Councilor Watts inquired if we are going to close down the landfill then why is there a need to spend money on the testing. Councilor Fishinghawk stated she wants the testing whether it was opened or closed to be able to provide answers to the Cherokee People in Adair County. Councilor Cobb requested the identification of the top 5 carcinogens be an amendment to the resolution. Councilor Crittenden accepted the friendly amendment. Councilor Soap questioned who determines what the comprehensive study is. Councilor Watts made a motion to strike through the Tribal Council, motion to amend the current motion on the floor. Councilor Frailey inquired who is going to determine who conducts the study. Councilor Fishinghawk stated the Council should pick the company to perform the study.

Councilor Cowan Watts made a motion to strike through “its tribal council and by the tribal council” stating this should be the chief’s responsibility or his designee. Councilor Anglen seconded the motion. Mr. Hembree stated this is a subsidiary motion to the motion on the floor to pass the resolution as is. The debate must now pertain to Councilor Cowan Watts motion to strike the underlined portion of the resolution.

Councilor Hoskin Jr. disagreed with Councilor Cowan Watts stating this should be the Council’s study. He stated just because the Council picks the firm to perform the study doesn’t mean we can’t request input from Mr. Carson or others. Councilor Thornton questioned if there is a constitutional issue to keep the Council from performing this study. Mr. Hembree stated this is a resolution this is not a Legislative Act. This resolution is more of a fact finding mission. This Council will be asked to make decisions regarding this landfill and the sponsors of this resolution want to gather information to enable an informed decision for the Council by the Council. In his opinion this would not be a conflict between the powers of government. Ms. Hale stated the EPC has hired AquaTera, and independent consulting firm, who can be at the Council’s disposal if needed or requested. She suggested involving biologists not just an engineering firm. Councilor Cowan Watts agreed a more comprehensive study should be done however none of the Council is qualified to make the decisions to be placed in front of an EPA panel. She stated she can not support making a technical decision on something that is outside of her technical bounds. She expressed concern as to why this body would want to take on the ownership of executing this study. We are supposed to legislate. We should mandate a comprehensive study be done but why take such personal ownership. Our own independent Environmental Protection Commission in which we helped confirm has hired their own independent firm. How much Cherokee money can we spend. Councilor Cobb inquired as to the liability of the Council when the results of the study come in. Mr. Hembree stated basically the decision of the Council is what firm to hire. This Council would not be responsible for the fact found by the firm. The information would be used to make an informed decision. Councilor Frailey reminded the committee the Council meeting is scheduled to begin at 6:00 p.m. and therefore made a motion for discussion to close. Councilor Cowan Watts called for the question. Councilor Cowan Watts seconded the motion. Motion carried.

The motion to strike passed by a vote of nine (9) yeas and eight (8) nays. Roll call is as follows:

- Yea:** 9 - Don Garvin; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb and Julia Coates
- Nay:** 8 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Meredith Frailey; Tina Glory Jordan; Jodie Fishinghawk; Janelle Fullbright and Chuck Hoskin, Jr.

Councilor Cowan Watts called for the question on the main motion.

Councilor Bill John Baker moved to table. Councilor Cowan Watts seconded the motion. Motion carried.

ANNOUNCEMENTS

None.

ADJOURNMENT

**Councilor Glory-Jordan made a motion to recess to November 29th at 4:00 p.m.
Councilor Hoskin Jr. seconded the motion. Motion carried.**

STAFF PRESENT:

<i>Todd Enlow</i>	<i>Doug Evans</i>	<i>Todd Hembree</i>
<i>Jo Kay Dowell</i>	<i>Charlie Soap</i>	<i>Jeannine Hale</i>
<i>Linda Donelson</i>	<i>Michael Lynn</i>	<i>Angela Drewes</i>
<i>Callie Catcher</i>	<i>Ginger Brown</i>	<i>Melanie Knight</i>

VISITORS PRESENT:

<i>Brad Carson</i>	<i>Raymond Vann</i>	<i>Susan Ruckman</i>
<i>Shirley Crowder</i>	<i>Donna Hales</i>	

APPROVAL / DISTRIBUTION

Minutes submitted by: Shelli Brittain, Recording Secretary

Motion to approve minutes made by: _____

Minutes attested and concurred by: _____

Date: _____