



Council of the Cherokee Nation

Council House
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Meeting Minutes - Final RULES COMMITTEE

Meredith Frailey, Chair

Recording Secretary, Shelli-Brittain
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Tuesday, February 9, 2010

1:00 PM

Legislative Conference Room

This meeting was originally scheduled for January 28th

CALL TO ORDER

Speaker Frailey called the meeting to order at 1:03 p.m.

INVOCATION

Councilor Crittenden gave the invocation.

ROLL CALL

Present 15 - 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; Curtis Snell; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

Late Arrival 2 - Harley Buzzard and Chris Soap

APPROVAL OF MINUTES

Councilor Cowan Watts moved to approve the December 15, 2009 regular session minutes as submitted. Councilor Anglen seconded the motion. Motion carried.

REPORTS:

1. Marshal Service - Sharon Wright

Ms. Wright offered to answer questions from her written report. Councilor Thornton gave appreciation for the great job the Marshal dispatched to the Sallisaw Park has done. Ms. Wright announced they are raising funds for the Special Olympics and the Polar Plunge is scheduled for February 20th at Arrowhead Resort on Highway 10. She announced the events for the plunge begin at 10:00 a.m. with auctions on baskets and other fundraisers the plunge is at 11:00 a.m.

2. Office of the Attorney General - Diane Hammons

Ms. Sara Hill gave an overview of the written report provided in Attorney General Hammons absence.

3. GEG Investigation Report - Diane Hammons

Ms. Hill announced she had nothing new to report on GEG

4. Election Commission -

Mr. Johnson announced their written report had been provided. He inquired if the Council was going to address the election rules. Chair Frailey announced the agenda would have to be amended for consideration.

5. Tax Commission - Sharon Swepston

Ms. Swepston offered to answer questions from her report. Councilor Fishinghawk inquired as to the decrease in the amount of Law Enforcement funds given out. Ms. Swepston stated revenues were down last year for most of the year. Most of the decrease is due to people not buying new cars. Councilor Buzzard inquired as to the status of the Jay tag office. Ms. Swepston announced a couple of weeks ago the electrician finished. The issue now is the roof leak where the two buildings tie together. The weather has hampered their ability to fix the leak.

6. Self-Governance - Vickie Hanvey

Ms. Angela Thompson offered to answer questions from the Self-Governance report.

7. Gaming Commission - Jamie Hummingbird

Mr. Hummingbird offered to answer questions from his report. Councilor Fishinghawk inquired if there have been any TERO incidents or violations. Mr. Hummingbird stated they haven't had any TERO incidents come across their path.

8. Codification - Todd Hembree

Mr. Hembree announced a codification presentation was given to the Cherokee Nation Supreme Court. This presentation included a list of all titles that are complete and near completion. They continue to work on gaming, election, and TERO. He announced a complete PDF file of all of the completed Acts will be provided to their contact at West Law. With this PDF they will be able to provide a solid bid for the books. The Supreme Court suggested binding these books in a different color than the two previous volumes.

Chair Frailey announced she would entertain a motion to amend the agenda to consider the Court's ruling on redistricting, the remand report and Mr. David Justice's memo. Councilor Thornton made the motion to amend the agenda as requested. Councilor Cowan Watts seconded the motion with a friendly amendment to also consider the Kituwah resolution. Motion carried. Chair Frailey announced these items would be #6 and #7 under new business.

OLD BUSINESS

1. A RESOLUTION AUTHORIZING CONFIRMATION OF WILLIAM GRASS AS A MEMBER OF THE BOARD OF MANAGERS OF CHEROKEE MEDICAL SERVICES, LLC

Secretary of State Melanie Knight announced this item has been on the agenda for quite some time. It is a re-nomination to a subsidiary of CNI. Councilor Cobb moved to approve. Councilor Cowan Watts seconded the motion.

Councilor Fishinghawk inquired as to why board members would be appointed if they are going to be consolidated. Ms. Knight stated in the concept of consolidating the boards this board would not be affected because we create these separate entities so we have competition in 8A businesses. Mr. Grass is Cherokee and lives in Tulsa outside of the Cherokee Nation jurisdictional boundaries. Councilor Glory-Jordan inquired if he is also on the CNI board. Ms. Knight confirmed he is on the CNI board. Councilor Glory-Jordan stated this is the same board that is losing \$2.2ml. Ms. Knight stated it is a subsidiary of CNI. Councilor Glory-Jordan requested to go on record that she would be unable to support Mr. Grass in this re-nomination due to the huge loss in the construction arm of CNI. Councilor Thornton inquired as to Mr. Grass' background in regard to medical services. Ms. Knight was unable to comment on his background in that particular business. A manager must be appointed to each individual LLC. Board meetings are called for all of the LLC at the same time. Councilor Glory-Jordan requested a roll call vote.

The motion to approve Mr. Grass carried by the following roll call vote:

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

Nay: 5 - David Thornton Sr. ; Tina Glory Jordan; Jodie Fishinghawk; Curtis Snell and Chuck Hoskin, Jr.

Not In Room: 1 - Bill John Baker

2. A LEGISLATIVE ACT AMENDING LA#01-01, "THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"; AMENDING ALLOCATION OF REVENUES

Councilor Buzzard moved to approve. Councilor Cobb seconded the motion. Councilor Glory-Jordan inquired if an alternative source of funding had been located. Councilor Buzzard stated he has reviewed and sent out numbers to the Council members. He stated this Act is to be able to support the small schools with programs and trips for the Cherokee students. He stated the application process would be handled by the Education Department with the Council hopefully being able to review prior to approval. He stated the research he has done doesn't seem to affect the Compact due to 38% still being given of the tax funds to the schools. Currently there isn't follow up as to where the 38% is going other than into the general fund account of the schools.

Councilor Buzzard made a motion to take 5% from the school allocation and 5% from the motor fuel tax revenue. Councilor Snell seconded the motion.

Councilor Glory-Jordan inquired how this 5% would impact the other motor fuels programs. Ms. Swepston stated they would have to go a recalculation the motor vehicle tax as it does state 38%. The motor vehicle tax goes to schools, law

enforcement, roads and general fund. Councilor Glory-Jordan inquired if general fund would be reduced.

Councilor Buzzard amended his motion for 5% from the motor vehicle general fund account and 5% from the school fund allocation. Councilor Fullbright requested she be removed as sponsor of the original legislation.

Councilor Thornton offered a friendly amendment regarding the tag/tax funding. He requested 25% be earmarked to each school for Cherokee students. Councilor Buzzard declined the friendly amendment. He stated this is new and voiced concern for telling the school how they are to spend the funds. He suggested possibly looking back at it in the future. Councilor Thornton stated he would be unable to support at this time. Councilor Cowan Watts stated she has similar concerns as Councilor Thornton. Councilor Crittenden inquired about the legality of designating certain percentages of the funds for certain uses within the schools per the Compact. If there aren't any restrictions he then 100% of the funds should be for Cherokee children. Ms. Knight stated she has reviewed this question and has requested the Attorney General's opinion. She commented the Compact requires 38% to go to the schools but does not define how it is to be distributed or spent by those schools. If the Nation chooses to impose additional requirements it should be allowable as long as 38% goes to those schools. Councilor Thornton inquired if the Education Department would provide an application for these schools to apply. Ms. Knight stated if she were to implement it would be a competitive process which would require an application and criteria for funding. The applications would be accepted for a certain period of time then they would be ranked against one another with funding going to the top applicants first until funds are depleted. Typically a committee is formed for this process to ensure impartiality.

Councilor Thornton made a motion to table. Councilor Glory-Jordan seconded the motion. The motion failed by the following roll call vote:

Yea: 5 - S. Joe Crittenden; David Thornton Sr. ; Meredith Frailey; Tina Glory Jordan and Jodie Fishinghawk

Nay: 12 - Bill John Baker; Don Garvin; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

Councilor Jack D. Baker commented we presently don't have any un-appropriated funds. What affect will this 5% coming from general fund have on other programs. Ms. Knight stated the 5% coming from the general fund portion which Mr. Doug Evans has stated has not all been budgeted therefore there should be funds available for the 5%. Mr. Evans stated the residual transfer to the gen fund was not submitted this month. This budget equals everything left after apportionment. This particular budget would have increased the gen funds revenue available for appropriation by \$356,000. He stated this is where the 5% or approximately \$138,000 would have to be funded from.

Councilor Hoskin Jr. called point of order and inquired if we are on the motion to amend or on the Act itself. Chair Frailey stated this is on the motion to amend.

The motion to amend was read into the record as 5% from the gen fund of the motor fuel tax portion and 5% from the school fund allocation. Councilor Buzzard stated his intent was for this to be a friendly amendment to the motion to approve. Chair Frailey clarified that the vote would be on the entire motion for approval with friendly amendment. Councilor Cowan Watts for clarification stated the original main motion was seconded by Councilor Cobb and if the amendment was a friendly amendment it would not have required the second from Councilor Snell. She did inquire if Councilor Cobb accepted the friendly amendment. Councilor Cobb accepted the

friendly amendment.

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

Yea: 10 - Don Garvin; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

Nay: 7 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Meredith Frailey; Tina Glory Jordan; Jodie Fishinghawk and Janelle Fullbright

NEW BUSINESS

1. A RESOLUTION CONFIRMING THE NOMINATION OF CASEY ROSS-PETHERICK AS A BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION
Ms. Knight announced they are pleased to nominate Ms. Petherick to this position. She is a former Cherokee Nation employee and currently works for the Oklahoma City University School of Law and heads up the Native American program there. Ms. Petherick gave appreciation for the consideration of her nomination.
A motion was made by Councilor Jack D. Baker and seconded by Co Chair Buel Anglen, that this matter be Approved and Forwarded to Council. The motion carried unanimously.
2. A RESOLUTION CONFIRMING THE NOMINATION OF TONYA ROZELL AS A BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION
Ms. Knight respectfully withdrew this nomination.
3. A RESOLUTION CONFIRMING THE RENOMINATION OF FOREMAN ROSS AS A BOARD MEMBER OF THE CHEROKEE NATION SEQUOYAH HIGH SCHOOL BOARD OF EDUCATION
Ms. Knight announced this is a re-nomination to the Sequoyah High School board in which he has been serving on for quite some time. Mr. Ross stated he is glad to serve on the board and Sequoyah is his second home.
Councilor Garvin made a motion to approve. Councilor Bill John Baker seconded the motion. Motion carried.
4. A RESOLUTION CONFIRMING THE NOMINATION OF HAROLD RAY "SAM" HART AS A COMMISSIONER OF THE CHEROKEE NATION TAX COMMISSION
Chair Frailey announced Mr. Hart was unable to attend today. Councilor Glory-Jordan moved to approve. Councilor Bill John Baker seconded the motion. Ms. Knight stated Mr. Hart is a local business owner well known to most everyone. He has expressed wishes to serve the Cherokee people in some capacity therefore the Principal Chief chose to nominate him to the Tax Commission board.
The motion for approval carried.
5. A RESOLUTION AUTHORIZING TRIBAL OFFICIALS TO APPROVE INDIAN PREFERENCE APPLICATIONS
Councilor Jack D. Baker stated presently the Indian Preference applications used for verification of Indian preference employment in the Bureau of Indian Affairs and Indian Health Services. Currently the Cherokee Nation has to those verifications to the BIA for approval and this resolution allows the Cherokee Nation to do it with no

further action from the BIA.

Councilor Cobb moved to approve. Councilor Thornton seconded the motion. The motion carried.

6. A RESOLUTION IN SUPPORT OF THE PRESERVATION AND PROTECTION OF THE ANCIENT KITUWAH MOUND IN NORTH CAROLINA

Councilor Cowan Watts made a motion to approve with a friendly amendment to strike the last be it resolved clause. She stated without knowing the full scope she hesitated to set expectations not knowing if they could be met. Councilor Garvin seconded the motion and requested to be added as a sponsor. Councilors Jack D. Baker, Bill John Baker, Thornton, Anglen, Coates and Frailey also requested to be added as sponsors.

The motion for approval as amended carried.

7. REDISTRICTING (Discussion and Possible Action)

Mr. Todd Hembree reminded the committee that Section 5 of the Election Law was left in reserve during the revision and since that time there have been a number of important activities. The first being a decision from Judge Fite on two questions one of which was his understanding that the Council would take action on the Remand Report filed by the Election Commission. He moved the evidentiary hearing from February 5th until such time that the Council took some type of action on the Remand Report. Judge Fite further ruled that until Legislative Act 14-08 was fully implemented the nine districts would stand until further action. He also ruled that the Constitution didn't require fifteen separate districts that it is totally within the purview of the Council to create the districts as they see fit. Mr. Hembree referred to his memo dated January 25th outlining three options. 1) Approve the fifteen districts as is through LA-14-08 then have an evidentiary hearing. 2) Adopt the Election Commissions Remand Report or 3) Go back to nine districts. Mr. Hembree then referred to the memo from David Justice regarding the error discovery in the districting process. Because of the errors the numbers to the Election Commission were askew as the numbers we used originally could be in question. The new figures according to the methodology used are 102,000 in the fourteen county area. The number the Council used was 107,000 and the Election Commission used 110,000. He stated some of the numbers are drastically different in some of the counties. Mr. Hembree recommended the Council further study the numbers and the methodology used. In speaking to Mr. Cole the Attorney for the Election Commission they may decide to introduce a new remand report. Secretary of State Knight clarified the approximate 102,000 citizens doesn't include bad addresses. She stated this is a bit skewed because it mostly affects two counties. A series of mail outs were performed in Rogers and Delaware counties and the same level of mail outs were not performed in other counties. The map with 110,000 includes all of the bad addresses. She announced David Justice is present today if there are any questions. They have engaged in services with BDK our auditing firm to audit and document the process we use each time the data is pulled to ensure it is consistent from here on out. BDK has also been asked to sample the data itself. Councilor Glory-Jordan inquired as to Mr. Hembree's recommendation for the Council today. Mr. Hembree said he recommends to not do anything today.

Councilor Glory-Jordan made a motion to table until another report is provided by the Election Commission showing their numbers. Councilor Fishinghawk seconded the motion. Chair Frailey requested a moment to allow those whom have already requested to speak a few minutes before tabling. Councilor Hoskin Jr. inquired if at some point the parties would stipulate what the numbers are. Mr. Hembree commented he would be unable to answer the question until he has a better

understanding of the numbers and methodology. Councilor Cowan Watts clarified the data today given the memo now reflects what has been known for six years. Data was presented differently because bad addresses excluded from that prior data. The numbers given today are what the Court has ruled on before. She commented a motion should be made today that asks the Election Commission to redistrict or apportion given our nine so that the voters can have confidence in the 2011 election. Mr. Cole stated in regard to Judge Fite's ruling the Election Commission must revisit the apportionment due to the skewed numbers. Mr. Cole expressed concern of running out of time to be prepared for the 2011 election. He commented they need closure by July on this issue. He suggested the possibility of not abandoning the fifteen districts but to delay until after the 2011 election. Councilor Fishinghawk stated in June of 2008 they requested from the Registrar the numbers in all counties. She referred to a set of numbers received from 2009. She questioned the difference of the numbers provided by the Registrar and the Geo Data department. Mr. Cole commented once again they need closure on the new election law to be able to conduct the 2011 election. Councilor Fishinghawk inquired what the Election Commission could be ready for with the election filing a year away. Ms. Martha Calico stated the candidates file for office one year from March 1st and we do not have election laws or districts in place. She stated the only things she sees that can be done is to leave it like it is with nine districts and provide election laws.

Chair Frailey inquired if the motion to table is to the next meeting. Mr. Hembree suggested tabling until after the remand report is revisited. Mr. Cole requested time to speak to Mr. Justice in regard to the numbers before giving a timeline. Councilor Hoskin Jr. suggested tabling to the next regular meeting.

The motion to table until the next regular Rules committee meeting passed with the following roll call vote:

Chair Frailey inquired if there is any further action to be taken on election law to allow the Commission to start or does it need to be an agenda item at the next Rules meeting. Mr. Hembree stated the election law passed the last Rules committee and will be voted on at the Full Council meeting next Tuesday. Councilor Glory-Jordan inquired if she could ask another question of Mr. Cole in regard to obtaining numbers. She stated an important step seems to have been left off in which the Council used in regard to geo coding the boarding counties to determine what is within the boundaries and what is At Large. Councilor Cowan Watts called Point of Order. Mr. Hembree stated with Roberts Rules of Order a Point of Order supersedes all other actions and must be addressed. Councilor Cowan Watts stated the Point of order is that we have tabled and moved on and if further discussion was needed it wouldn't have been tabled. Councilor Glory-Jordan stated she would ask in announcements.

Yea: 12 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Meredith Frailey; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chuck Hoskin, Jr. and Julia Coates

Nay: 5 - Don Garvin; Cara Cowan Watts; Buel Anglen; Chris Soap and Bradley Cobb

ANNOUNCEMENTS

Chair Frailey announced the next meeting is scheduled for February 25th at 1:00 p.m.

Councilor Glory-Jordan in announcement form requested consideration of geo coding

be used on the bordering counties to determine within jurisdiction. Mr. Cole commented when the Commission exercises its responsibilities it will do it to the best they can to be fair and comply with the Constitution. He stated they would certainly keep it in mind.

ADJOURNMENT

Councilor Jack D. Baker moved to adjourn. Councilor Cowan Watts seconded the motion. Motion carried at 2:20 p.m.

STAFF PRESENT:

<i>Sharon Wright</i>	<i>Doug Evans</i>	<i>Sara Hill</i>
<i>Sharon Swepston</i>	<i>Angela Thompson</i>	<i>Jamie Hummingbird</i>
<i>Mike Miller</i>	<i>Gregg Simmons</i>	<i>Melanie Knight</i>
<i>Tonia Williams</i>	<i>Larry Ketcher</i>	<i>David Justice</i>
<i>Shelley Butler-Allen</i>		

VISITORS PRESENT:

<i>Lloyd Cole</i>	<i>Todd Hembree</i>	<i>Martha Calico</i>
<i>Casey Ross-Petherick</i>	<i>Roger Johnson</i>	<i>Curtis Rohr</i>
<i>J. C. Shine</i>	<i>Patsy Morton</i>	<i>Brenda Walker</i>
<i>Foreman Ross</i>	<i>Kim Gilliland</i>	<i>Bev Cowan</i>