



# Council of the Cherokee Nation

## Tribal Council Minutes Tribal Council

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Monday, December 15, 2008

6:00 PM

Council Chambers

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### CALL TO ORDER

**Speaker Frailey called the meeting to order at 6:01 p.m.**

### INVOCATION

**Councilor Fullbright gave the invocation.**

### ROLL CALL

**Present** 16 - 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; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. ; Julia Coates and Bill John Baker

**Absent** 1 - Harley Buzzard

### APPROVAL OF MINUTES OF PREVIOUS MEETINGS

**Councilor Jack Baker made a motion to approve the minutes of the November 10th regular session. Councilor Cowan Watts seconded the motion. Motion carried.**

### STATE OF THE NATION

*Principal Chief Chad Smith requested a moment of silence for those who have passed over the last month; James Arnold Deckard, Debra Kay Kelley, Robert Peters, Dorothy McCullum, John Tommy Vaughn, William Sanders, Sarah Irene Cochran, Carol Butler, Mike McConnell, Lillie Grass and Sham Copenger. This months veterans to be honored are all Marines. They are Stewart Grayson, Charles Plunkett, Nathan Plunkett and Shane Hanifer. Chief Smith announced he and Secretary of State, Melanie Knight, met last week with twenty other tribal leaders and the transition team of the Obama administration. They reviewed the stimulus package proposal and tried to brief the team to the important items through out Indian Country and the Cherokee Nation. The ultimate goal would be to have a set aside for Indian Country proportionment to our population and for the U. S. Government to expend those funds in a government to government relationship through our self governance and self determination process. Chief Smith stated they have always believed that when lands were allotted during statehood it didn't divest us of our government rights that have been preserved by twenty three prior treaties. Some of these rights include hunting, fishing and water rights. There is a lawsuit pending in Northern Federal Court District of Oklahoma brought forward by the Attorney General of Oklahoma pertaining to pollution. The defendants are six poultry companies located in North West Arkansas. These companies came to us and stated they were going to file a motion to dismiss due to their belief the State of Oklahoma doesn't own the water rights but the Cherokee's do. He stated they have anticipated these issues for a number of years. They will be making decision within the next couple of weeks on whether or not to join in the law suit. He stated the last time something of such*

significance was on the table was over a hundred years ago. Chief Smith stated over the last month the Cherokee Nation was hard at work implementing our commitment to jobs, language and community. Our Commerce Program coordinated a day at Sequoyah School to show students how successful businesses operate. The Cherokee Nation's Financial Resources Group won for the 7th year in a row the Certificate of Achievement for Excellence in Financial Reporting. This award is the highest form of recognition in governmental reporting. Our Health Group's Cancer Program won a National award from the C Change for the 2008 Exemplary Tribal Organization for Comprehensive Cancer Control Implementation. Our Tribal Employment Rights Office held a Cherokee Nation Awards for Outstanding Indian Owned Businesses Event a couple of weeks ago. Our Community Service Group is working with Marble City's Bird Flatt Community on a water line. The Federal Emergency Management Institute held a special training in Maryland for tribes in Oklahoma. The new Tribal Youth Council was sworn in last week. The Heritage Center has a new atrium and entrance. The Cherokee Nation contributed \$38k to the ZOE Institute for an event honoring single mothers and their children. The Hastings Hospital employees are showing their holiday spirit by holding a food drive. The Cherokee Nation Casino's are collecting coats for children and the elderly as well as participating in the Angel Tree. He reminded everyone our employee Christmas program will be held this Friday at the Place Where We Play from 1:00 to 3:00 p.m. He announced they held a welcome home ceremony for eight employees returning home from the military. Youth Choir auditions will be held on January 13th if further information is needed Kathy Sierra may be contacted. The Veteran's Center needs construction volunteers if interested please contact Avo Fivekiller.

#### ACTION OF UNFINISHED BUSINESS

*None pending.*

#### COMMITTEE REPORTS

**Councilor Bill John Baker made a motion to amend the agenda to add an environmental resolution as item 17 under new business which passed out of Resource Committee earlier today and has deadline issues. Councilor Cowan Watts seconded the motion. Motion carried unanimously.**

#### Monthly Reports:

##### Housing Authority - David Southerland

*Mr. Southerland announced the Housing Authority's regular board meeting will be tomorrow in the Alene Hogner Administrative Building Conference Room at 5:30 p.m. One of the agenda items is discussion pertaining to what to do with available unrestricted funds from past operations which include proceeds of sale which have acculuminated over the years. The board will also discuss the possibility of designating all of thier unused land as excess property. If this property is all declared at one time it would save time in the future when a portion is requested by the Nation or an entity. The board will also discuss the Ft. Peck case. He wished everyone a Merry Christmas and a Happy New Year.*

##### Cherokee Nation Enterprises - David Stewart

*Mr. Shawn Slaton announced they continue to see a soft trend and anticipate it continuing through the month of January. Normally their seasonality begins to reverse itself in February. Contributions to the Nation beyond the dividend paid was \$100k for the month of November. The new gaming floor expansion at Catoosa opened at 3:00 p.m. today. He stated on of the unique aspects is the center bar top*

is solid ice. The construction team continues to work the punch list at West Siloam. Phase II the demolition will begin this week on the existing old casino. They anticipate the completion of phase II in May or June. They donated 259 items from the old West Siloam Casino building to the Cherokee Nation Housing Rehab department which included bathroom fixtures, hot water heaters, lighting, handicapped accessories, chain link fencing, ceiling fans, and more. The current employment for CNE is 3,399 with 58.7% Cherokee and Native American at 11.4% for a total of 70.1%. The management level is 59.4% Cherokee and 8% other Native American for a total of 67.4%. CNE adopted 500 Angel Tree children and additionally donated \$20,000 for any un adopted angels.

#### Cherokee Nation Industries - Bryan Collins

Mr. Collins wished the Council a Merry Christmas and a Happy New Year. He announced the board meeting is tomorrow at 2:00 p.m. in Stilwell. CNI has participated in the Stilwell and Tahlequah Christmas parades. The employees supported 53 Angel Tree children. He announced they closed out November with a loss of \$391k with a year to date loss of \$694k. Some of these issues are due to bonding. Obtaining bonding has been a very difficult task. They are working with an under writer and hope to have resolution in January. They continue to see a down turn in the area of Telcomm. The revenue shortfall for the month is \$4.4ml. Councilor Cowan Watts inquired as to the status of the bonding issue. Mr. Collins stated they are working with CNB. The underwriters are requesting a full waiver instead of a limited waiver of sovereignty. They are in the process of trying to reposition to keep from asking the Council for a full waiver. Mr. Collins announced process improvements are still being made in aerospace and defense. They are working on institutionalizing these improvements to reflect the impact of efficiency. They have been holding focus strategy sessions to analyze cost that can be reduced without impacting growth strategies. They are also focusing on improving profit margins in certain areas of the market. He reported CNI's Native American employment at 87% with 432 local employees. Speaker Frailey inquired if the work in process would elevate any of the shortfall in revenue. Mr. Collins replied the work in process variation is not that significant.

#### Cherokee Nation Business, Inc - Brad Carson

Mr. Jay Calhoun reported in the absence of Mr. Carson. He announced they have been busy during the transition period. They continue paperwork with the allocation of new tax credits from the Federal Government. The new cell at the Cherokee Nation Waste Management facility is scheduled to open in late winter or early spring. CNB was recently named Tribally Owned Company of the Year by the American Indian Chamber of Commerce of Oklahoma. Councilor Cowan Watts stated Mr. Calhoun is a tribal citizen originally from Sallisaw who has a chemical engineering degree from the University of Oklahoma. She stated she is proud to have him on board.

#### OLD BUSINESS

None pending.

#### NEW BUSINESS

#### Community Services Committee

- A RESOLUTION AUTHORIZING THE DEPARTMENT OF CHILDREN, YOUTH AND FAMILY SERVICES TO SUBMIT AN APPLICATION TO**

**THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAM, FOR  
VICTIMS OF FAMILY VIOLENCE**

*Councilor Soap stated this is a grant that will continue to maintain and expand our programs over the fourteen county areas that are geared toward providing counseling where family violence has occurred, provide parenting counseling and enhance our emergency youth shelters. The grant is in the amount of \$100k.*

**Councilor Soap made a motion for approval. Councilor Bill John Baker seconded the motion. Motion carried unanimously.**

Enactment No: R-94-08

**2. A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION  
OF AN AMENDMENT TO THE FISCAL YEAR 2007 INDIAN HOUSING  
PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT**

**A motion was made by Councilor Chris Soap, seconded by Councilor Bradley Cobb, that this Resolution be Approved in toto. The motion carried unanimously by consent.**

Enactment No: R-95-08

**3. A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION  
OF AN AMENDMENT TO THE FISCAL YEAR 2008 INDIAN HOUSING  
PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT**

**A motion was made by Councilor Chris Soap, seconded by Councilor Bradley Cobb, that this Resolution be Approved in toto. The motion carried unanimously by consent.**

Enactment No: R-96-08

**4. A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION  
OF THE FISCAL YEAR 2009 INDIAN HOUSING PLAN TO THE U.S.  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**A motion was made by Councilor Chris Soap, seconded by Councilor Bradley Cobb, that this Resolution be Approved in toto. The motion carried unanimously by consent.**

Enactment No: R-97-08

Resource Committee

**5. A RESOLUTION AUTHORIZING CHEROKEE NATION  
ENVIRONMENTAL PROGRAMS TO DONATE TWO (2) SURPLUS  
BELFORT RAIN GAUGE UNITS TO THE TRIBAL AIR MONITORING  
SUPPORT (TAMS) CENTER IN LAS VEGAS, NV**

*Councilor Cowan Watts announced our Environmental Group would like to donate two surplus rain gauge units to the Tribal Air Monitoring Support Center in Las Vegas, Nevada.*

Councilor Cowan Watts moved for approval. Councilor Garvin seconded the motion. Motion carried unanimously.

Enactment No: R-98-08

6. **A RESOLUTION AUTHORIZING CHEROKEE NATION ENVIRONMENTAL PROGRAMS TO SUBMIT A FORMAL GRANT APPLICATION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR THE INTER-TRIBAL ENVIRONMENTAL COUNCIL SUPERFUND PROGRAM**

*Councilor Cowan Watts announced this is a grant for an ITEC Superfund program to train other tribes.*

Councilor Cowan Watts moved to approve with the amendment to change the amount to \$180k. Councilor Bill John Baker seconded the motion. Motion carried unanimously.

Enactment No: R-99-08

Rules Committee

7. **A RESOLUTION CONFIRMING THE NOMINATION OF KIMBERLIE GILLILAND AS A BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION BOARD OF DIRECTORS**

A motion was made by Councilor Jack D. Baker, seconded by Councilor Bill John Baker, that this Resolution be Approved in toto. The motion carried unanimously by consent.

Enactment No: R-100-08

8. **A RESOLUTION CONFIRMING THE RENOMINATION OF BENNY SMITH AS A BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION BOARD OF DIRECTORS**

A motion was made by Councilor Jack D. Baker, seconded by Councilor Bill John Baker, that this Resolution be Approved in toto. The motion carried unanimously by consent.

Enactment No: R-101-08

9. **A RESOLUTION CONFIRMING THE RENOMINATION OF SHELLEY BUTLER-ALLEN AS A BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION BOARD OF DIRECTORS**

A motion was made by Councilor Jack D. Baker, seconded by Councilor Bill John Baker, that this Resolution be Approved in toto. The motion carried unanimously by consent.

Enactment No: R-102-08

10. **A RESOLUTION CONFIRMING THE RENOMINATION OF MARILYN WATT AS A BOARD MEMBER OF THE CHEROKEE NATION EDUCATION CORPORATION BOARD OF DIRECTORS**

A motion was made by Councilor Jack D. Baker, seconded by Councilor Bill John Baker, that this Resolution be Approved in toto. The motion carried unanimously by consent.

Enactment No: R-103-08

11. **A RESOLUTION CONFIRMING THE RENOMINATION OF KYLE HASKINS AS JUSTICE OF THE CHEROKEE NATION SUPREME COURT**

Councilor Hoskin Jr. made a motion for approval. Councilor Fishinghawk seconded the motion. Motion carried unanimously.

Enactment No: R-104-08

12. **A RESOLUTION CONFIRMING THE NOMINATION OF THE FIFTH ELECTION COMMISSION MEMBER**

*Speaker Frailey announced the Tribal Council chooses and approves two commissioners and the Principal Chief submits for approval two commissioners and those four select a fifth member. This fifth member is then approved by the Council and the Principal Chief.*

Speaker Frailey made a motion for approval of Brenda Walker as the fifth member of the Election Commission. Councilor Glory-Jordan seconded the motion. Motion carried unanimously.

Enactment No: R-105-08

13. **A RESOLUTION ESTABLISHING PROCEDURES FOR PROCUREMENT OF ATTORNEY FEES**

Councilor Fishinghawk made a motion to approve. Councilor Cowan Watts seconded the motion. Councilor Glory-Jordan made a motion for a friendly amendment to strike the last sentence in the Therefore, be it resolved clause which states "There will be a \$5,000 limit without prior approval of the Council." Both Councilors Fishinghawk and Cowan Watts accepted the friendly amendment. Motion for approval as amended carried unanimously.

Enactment No: R-106-08

Executive and Finance Committee

14. **AN ACT AMENDING LEGISLATIVE ACT #19-08 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2009 - MOD 2; AND DECARING AN EMERGENCY**

*Councilor Jack Baker stated budget mod 2 increases the budget by \$3,472,978 which includes the spending authority for cancer diabetes treatment and prevention from the tobacco surtax carryover of \$2,045,061. The cemetery preservation fund motor fuel tax carryover of \$100,828 plus the revenue from the tobacco tax compact of \$1,821,982. This increases our budget authority to \$489ml.*

Councilor Jack Baker made a motion to approve. Councilor Cowan Watts seconded the motion. Motion carried by acclamation.

Enactment No: LA-29-08

15. **A RESOLUTION AUTHORIZING MATCHING FUNDS FOR A CHEROKEE NATION ECONOMIC DEVELOPMENT TRUST AUTHORITY GRANT APPLICATION TO THE U.S. TREASURY DEPARTMENT, DCFI FUND, TO ESTABLISH A CREDIT BUILDERS INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM**

Councilor Jack Baker made ma motion for approval. Councilor Garvin seconded the motion. Motion carried unanimously.

Enactment No: R-107-08

16. **A LEGISLATIVE ACT AMENDING TITLE 68 OF THE CHEROKEE NATION CODE ANNOTATED - ADDING PROVISIONS FOR TAX REBATE OF LICENSED TOBACCO RETAILERS**

*Councilor Hoskin Jr. announced a month ago a compact was approved which contained a number of provisions one of them contemplated that we would rebate to retailers a certain taxes paid to the tribe. These are the border shops which have historically had difficulty in competition. This legislation gives effect to that provision of the compact and authorizes the Cherokee Nation to rebate certain amount of those taxes. He proposed approval of the legislation handed out today not the item in the packet. The legislation handed out today is an amended version of what is included in the packet. This legislation identifies those retailers that are eligible for the rebate to be the border shops and those who have historically been considered border shops between agreements with the State of Oklahoma and the Cherokee Nation also called exception shops. Councilor Hoskin announced the Governor issued a letter on Friday which gave some inside as to what the State's position is on some of these exception shops. If this legislation is passed tonight we can ensure the viability of these border shops and allow this understanding as to what is an exception shop.*

**Councilor Hoskin Jr. made a motion for approval. Councilor Cowan Watts seconded the motion.**

**A LEGISLATIVE ACT AMENDING TITLE 68 OF THE CHEROKEE NATION CODE ANNOTATED - ADDING PROVISIONS FOR TAX REBATE OF LICENSED TOBACCO RETAILERS**

*Councilor Thornton stated he has not had time to review these amendments nor has he seen the letter from Governor Henry. He voiced concern for the non border shops and them not being addressed.*

**A motion was made by Councilor David Thornton Sr. and seconded by Councilor Jack D. Baker, that this matter be Referred to the Executive and Finance Committee, due back on 12/16/2008. The motion carried by the following vote:**

**Yea:** 9 - S. Joe Crittenden;David Thornton Sr. ;Meredith Frailey;Jack D. Baker;Janelle Fullbright;Curtis Snell;Chris Soap;Bradley Cobb and Julia Coates

**Nay:** 7 - Don Garvin;Cara Cowan Watts;Buel Anglen;Tina Glory Jordan;Jodie Fishinghawk;Chuck Hoskin, Jr. and Bill John Baker

17. **A RESOLUTION AUTHORIZING CHEROKEE NATION ENVIRONMENTAL PROGRAMS TO SUBMIT A FORMAL GRANT APPLICATION TO THE USDA SOLID WASTE MANAGEMENT PROGRAM**

**Councilor Crittenden made a motion for approval. Councilor Glory-Jordan seconded the motion. Motion carried unanimously.**

Enactment No: R-108-08

ANNOUNCEMENTS

ADJOURNMENT

**Councilor Cowan Watts moved to adjourn. Councilor Jack Baker seconded the motion. Motion carried unanimously.**

**Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator**

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

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

**Date: \_\_\_\_\_**