



Council of the Cherokee Nation

Meeting Minutes

Executive and Finance Sub Committee

- TERO

Monday, August 11, 2008

11:00 AM

Legislative Conference Room

CALL TO ORDER

Chair Cowan Watts called the meeting to order at 11:17 a.m.

INVOCATION

Councilor Garvin gave the invocation.

ROLL CALL

Present 6 - Cara Cowan Watts; Bill John Baker; Tina Glory Jordan; Harley Buzzard; S. Joe Crittenden and Don Garvin

Absent 2 - Janelle Fullbright and Buel Anglen

Late Arrival 2 - Jodie Fishinghawk and David Thornton Sr.

A LEGISLATIVE ACT AMENDING LA#38-05 "AN ACT REPEALING AND SUPERSEDING CHEROKEE NATION LAW REGARDING LABOR AND THE EMPLOYMENT RIGHTS ORDINANCE"; AND DECLARING AN EMERGENCY (Discussion and Possible Action)

Chair Cowan Watts requested questions pertaining to CNE be addressed first to allow Ms. Gina Olaya to move on about her day. She announced Mr. Brent Thompson had provided updated responses regarding TERO legislation changes. Mr. Thompson also provided a Cherokee/Native American 2008-2009 Recruiting Schedule.

Councilor Buzzard inquired about the Indian population for Rogers County. Chair Cowan Watts replied according to the census it is approximately 13% across the county. There are over 13,000 registered tribal citizens of all ages. Chair Cowan Watts announced a few of the Councilor members had a meeting with Chief Smith regarding TERO. She stated the issues brought forward in the meeting with CNE and Indian preference in hiring seem to be addressed in the reported provided by Mr. Thompson. Councilor Buzzard asked if the reference to 75% Native American employment by the year 2010 is policy. Chair Cowan Watts stated the legislation has some mandates that call for a vote and would need debate. She voiced concern if all entities had this requirement there would be a mass abandonment of TERO.

Mr. Todd Hembree inquired if it is the wish of the committee to go through the TERO legislation section by section with proposed amendments dated March 10th. Chair Cowan Watts replied out of courtesy to the entities invited she would like to have them report before to much deliberation goes into legislation changes.

Chair Cowan Watts announced the TERO Department is present, CNI and CNB are not present and what they had submitted in January has been included in the packet today. An updated response has been received from CNE. Chair Cowan Watts

inquired if Councilor Thornton's suggestions were included in the 3-10-08 legislation draft.

Chair Cowan Watts suggested going through the draft legislation section by section with Mr. Overacker. Mr. Hembree began the section by section review as follows.

Section 1 – Title and Codification

This is basic language stated where the codification would occur.

Section 2 – Legislative History

Here previous TERO Acts are listed with their amendments.

Section 3 – Purpose

Mr. Hembree stated this is a broad purpose and no changes are recommended.

Chair Cowan Watts stated it has seemed that it is the will that the tribe itself in tribal entities. In a meeting with the Chief information was provided that people do have recourse. She suggested this public document strengthen that recourse by restating it. She inquired if this would be appropriate in this section of the legislation. Mr. Hembree stated this sub committee needs to determine what will be brought forward to the full committee which can change. He stated it is a big decision to determine whether to make the Cherokee Nation an employer or not. He recommended before changing language under the purpose section to go to the definitions and determine the definition of employer. He read Section 4 G the definition of Employer. Councilor Glory-Jordan stated it was her understanding that the Cherokee Nation and all entities would be included as an employer. She questioned why have it if the largest employer isn't included. Chair Cowan Watts stated the current legislation excludes the tribal government and its entities. Mr. Overacker agreed stating it is only for TERO vendors now. Chair Cowan Watts stated some of the entities have concerns with this in regard to legal implications in regard to grievances, fines and law suits. Councilor Glory-Jordan questioned if it isn't applied to the Cherokee Nation and entities why it is to the smaller TERO vendors. She stated she doesn't agree with selective application. She stated if it is not applied to the Cherokee Nation and the entities then it is a waste of time, they are the biggest employers. For this law to have teeth it will have to apply to everyone. Councilor Buzzard agreed with Councilor Glory-Jordan. He stated there are certain federal programs that would have to have an exception to the requirement. Councilor Bill John Baker stated "G" already has the provision included.

Councilor Bill John Baker moved to accept the proposed amendment to Section 4 G. Councilor Fishinghawk seconded the motion. Motion carried.

Chair Cowan Watts requested Mr. Hembree make note in the purpose section items of protection to the employee are included.

Section 4 – Definitions

Mr. Hembree made no recommendations for change to A, B or C.

D – Core Crew

Mr. Hembree and Mr. Overacker were both in agreement with this definition. Chair Cowan Watts inquired if the core crew should be limited by the size of the company.

Mr. Overacker stated it would depend on the company. Councilor Fishinghawk questioned if there is policy for the entities to be at 75% Native American employment shouldn't it also apply to the core crew as well. Mr. Overacker replied not necessarily. Councilor Fishinghawk inquired how much time is given to fill needed positions. Mr. Overacker stated sometimes a month.

Mr. Hembree made no recommendations for change to E or F.

G – Employer

Chair Cowan Watts inquired if a company does business with the Cherokee Nation that is not TERO certified they would still have to comply with this law. Mr. Hembree stated he interpreted the same.

Councilor Fishinghawk announced Councilor Glory-Jordan's husband has a bridge company and 13 of the 14 employees are Cherokee from Cherokee and Adair County. She inquired if they can locate that many then why can't West Siloam. Mr. Overacker stated everyone coming into the TERO office has been sent to West Siloam. He approximated 40 to 45 people have been referred to Siloam for employment since January from his office. He stated in the community meetings he asks if anyone needs a job to call him and he would locate them a job within 2 days. Councilor Fishinghawk inquired if she could place an article in the Stilwell paper giving Mr. Overacker's contact information for jobs. Mr. Overacker requested it say job are also available in Catoosa. Councilor Glory-Jordan suggested having job fairs in different counties rather than just having job fairs where the jobs are needed. Mr. Overacker stated they do attend all community meetings they are aware of to speak about jobs needed and to recruit. He stated he would speak to Ms. Kelley about having job fairs in different communities within the fourteen counties. Councilor Buzzard stated there doesn't seem to be many young people looking for jobs at the community meetings. He requested to run the same add Councilor Fishinghawk referred to.

Mr. Hembree made no recommendations for change to H through M.

N – Located in or on the Cherokee Nation

Chair Cowan Watts inquired if this would apply to CNI's work in Bixby. Mr. Hembree stated with the definition of "G" they would be included.

Mr. Hembree made no recommendations for change to O through Q.

R – Tribal Member

Mr. Hembree inquired about changing member to citizen. Councilor Fishinghawk made a motion to change member to citizen. Councilor Garvin seconded the motion. Motion carried.

Mr. Hembree made no recommendations for change to S or T.

This concludes the definition section. Mr. Hembree inquired if there are any definitions that would need to be added or changed. Councilor Buzzard inquired if a Cherokee citizen has preference with jobs through TERO. Mr. Hembree stated with the current Act it is not. Chair Cowan Watts stated there is a recommendation further into the Act to make this change.

Chair Cowan Watts requested a volunteer for someone to research the possibilities

of making TERO an independent commission rather than a part of administration. Councilor Fishinghawk offered with the assistance of Mr. Hembree to research this and bring back information at the meeting next month. Chair Cowan Watts requested the information include potential staffing and budget implications as well as what the legislation would look like. Mr. Hembree suggested it would closely mirror the Election Commission. Chair Cowan Watts requested a full proposal for consideration at next months meeting.

Section 5 – Tribal Employment Rights Office

Mr. Hembree stated a recommendation had been made to strike “have the authority” and to remove the “To” at the beginning of each letter within Section 5. Councilor Fishinghawk made a motion to accept the stricken language of have the authority and to remove the To’s in Section 5 A through X. Councilor Thornton seconded the motion. Motion carried.

Section 5A

Chair Cowan Watts inquired about changing The TERO may adopt to the TERO shall adopt EEOC guidelines. Mr. Overacker stated all EEOC guidelines may not pertain to TERO or may not be able to be enforced. Chair Cowan Watts responded it doesn’t mean all would have to be adopted just that you would have EEOC guidelines. She inquired if the first shall indicated they have to act on EEOC. Mr. Hembree inquired if it is necessary to say EEOC guidelines. He suggested the language be “The TERO shall adopt guidelines or requirements to eliminate employment barriers.....” Mr. Overacker reminded the committee this would have to be presented to the EEOC to keep the EEOC funding. Councilor Fishinghawk inquired as to what happened to the idea of creating two pieces of legislation. Mr. Hembree stated there wasn’t a definitive answer to divide. Chair Cowan Watts requested clarification in regard to two separate pieces of legislation. Councilor Glory-Jordan stated there was discussion to have a TERO law just pertaining to Cherokee Nation funds that are not tied to a federal grant and having a different TERO law if federal funds are used. Chair Cowan Watts replied if there isn’t an exclusion on the federal dollars they can be treated the same as the discretionary funds. Councilor Glory-Jordan stated we want to keep the TERO office in compliance with EEOC for funding to continue. She suggested Mr. Overacker let the committee know if something suggested would in any way jeopardize their EEOC funding. Chair Cowan Watts stated it seems as though there are three separate classes: restricted federal funds, federal funds that are the same as our tribal discretionary funds including our tribal discretionary funds and TERO businesses. Councilor Glory-Jordan stated her goal is to be able to follow the tribally generated discretionary funds to the last pocket and it be a Cherokee pocket. She stated at some point it would need to be mandated that our vendors and sub vendors hire Cherokees. Chair Cowan Watts inquired if Councilor Glory-Jordan would agree to the task of determining how to either strengthen this law or if it is a separate piece of legislation to bring in forward to this committee for consideration. Councilor Glory-Jordan agreed to working on the task with Mr. Hembree.

Councilor Thornton stated he wants a definition added for discretionary funds. He inquired if it would include CNE funds as well. Councilor Glory-Jordan stated she believes all funds generated by CNE are discretionary funds. Chair Cowan Watts inquired if we could only define discretionary funds as within the tribal budget. Chair Cowan Watts requested Mr. Hembree work with Councilor Thornton to develop a definition for discretionary funds as an amendment for consideration of this committee.

Mr. Hembree stated in the past he had recommended not having two separate laws but instead inserting a disclaimer.

ANNOUNCEMENTS

Councilor Groy-Jordan announced she has sandwich fixings on the way for those who wished to stay and eat.

ADJOURNMENT

Chair Cowan Watts requested stopping here and beginning with Section 5 at the next meeting along with the three items the Committee members are working with Mr. Hembree on. She suggested meeting again on the 15th of September at 1:00 p.m.

Councilor Bill John Baker made a motion to adjourn. Councilor Thornton seconded the motion. Motion carried at 12:20 p.m.

STAFF PRESENT:

Jon Overacker

VISITORS PRESENT:

Gina Olaya

Sonny Wolfe

Todd Hembree

APPROVAL / DISTRIBUTION

Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator

Motion to approve minutes made by: _____

Minutes attested and concurred by: _____

Date: _____