

**RULES COMMITTEE
LEGISLATIVE CONFERENCE ROOM
November 29, 2007
1:05 P.M.**

STANDING COMMITTEE: Rules Committee

COMMITTEE PRESIDED BY: Meredith Frailey, Chair

COMMITTEE MEMBERS PRESENT:

Meredith Frailey	Buel Anglen	Bill John Baker
Jack D. Baker	Harley Buzzard	Brad Cobb
Julia Coates	Joe Crittenden*	Jodie Fishinghawk
Janelle Fullbright	Chuck Hoskin, Jr.	Tina Glory-Jordan
Curtis Snell	Chris Soap	David Thornton
Cara Cowan Watts	Don Garvin	

COMMITTEE MEMBERS ABSENT:

None.

STAFF PRESENT:

Vicki Hanvey	Jim Redcorn	Gregg Simmons
Melanie Knight	Todd Enlow	Doug Evans
Ginger Brown	Melissa Gower	Nason Morton
Will Chavez	Jo Kay Dowell	Angel Smith

VISITORS:

Raymond Vann	Todd Hembree	Emily Bushyhead
Bill Glass	Murv Jacobs	Sharon Urla
Donita Squirrel Mackey	Charles Dry	Linda Taylor
Richard Allen		

QUORUM ESTABLISHED: Yes

LEGISLATION: Yes

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CALL TO ORDER:

Chair Frailey called the meeting to order at 1:05 p.m. Councilor Glory-Jordan gave the invocation. Roll was called and a quorum was established.

APPROVAL OF MINUTES:

Councilor Anglen moved for the approval of October 25, 2007 regular session and the November 13, 2007 Rules Sub Committee minutes. Councilor Bill John Baker seconded the motion. Motion carried.

Councilor Garvin made a motion not to amend the agenda to include two new business items for vote for the approval of Jennifer Barger Johnson and John A. Ketcher as compensation committee members. Councilor Cowan Watts seconded the motion. Motion carried.

REPORTS:

Marshal Service: Mr. Jim Redcorn, Second in command with the Cherokee Nation Marshal Service, submitted his reports and provided a brief overview. Councilor Buzzard inquired about the hunting season violations on trust lands. Mr. Redcorn stated they are in the process of determining a base line in need and issuing warnings for the hunting violations. There is a development for game wardens but not yet funded. Councilor Snell requested there be warning signs posted. Mr. Redcorn stated it is Natural Resources responsibility to post signs. Councilor Thornton stated a section of the Act passed allows non citizens to purchase hunting and fishing licenses. He stated there is a need to push these to allow these people to continue to hunt and fish that have for years. Mr. Redcorn stated at this time there aren't any permits for any non-citizens being issued. Councilor Glory-Jordan inquired about enforcement regarding the citizens given permission on restricted land. Mr. Redcorn stated at this time they are concentrating on the tribal trust property. Councilor Glory-Jordan inquired about the status of the dog problem at Hilltop. Mr. Redcorn stated this is fee simple land therefore state law must be enforced. He stated the only state law regarding dogs is to not allow vicious dogs run loose. Councilor Glory-Jordan requested increased patrol in the area. Mr. Redcorn stated they are patrolling as much as they can. He suggested setting up a system with the dog pound. He announced they were funded for a new data base system however the State won't allow them to use it as an Indian tribe. They continue to do everything by hand. With the system they were hoping to increase their ability to communicate with other communities who are cross deputized. He announced they are approximately the same size in manpower as Tahlequah Police Department with the difference being Tahlequah covers approximately 5 square miles and they cover 7000. He stated studies show there should be 3.4 officers for every 1000 citizens. In looking at the Cherokee population within the jurisdiction the marshal service is three tenths per every 1000 Cherokee citizens. He stated this causes them to be unable to commit to patrolling a certain area any given amount of time. He stated they cover the area as best they can with the staff they have. Councilor Soap

inquired if the Cherokee Nation Marshal Service were looking at purchasing tazers. Mr. Redcorn stated they are looking into purchasing some as it would be a useful tool to their department. If they were able to purchase them, the staff would go through training for the use of tazers.

Justice Department: Mr. Nason Morton, Assistant Attorney General introduced Angel Smith, an assistant attorney general who does the child support docket. Ms. Smith stated there are 3,100 child support cases currently. They started with 1,500 cases being transferred from Ada. They will begin transferring 5,000 state cases that have been identified as Cherokee children after the first of the year. They are serving 5 counties at this time. She announced they have several new case workers coming in. She stated they continue to take in new requests, paternity actions, and child support cases. There are three people assisting in legal's. They are currently in contract with an outside law firm. Nason Morton attended the State Bar Meeting and is making progress toward having their office being associate members of the District Attorney's Counsel. Ms. Sara Hill from the Attorney General's office took the lead and attended the seminar on child abuse investigation. He stated there is a law suit pending involving water rights within our jurisdiction. Councilor Buzzard questioned who filed the water rights case. Mr. Morton stated the Grand River Dam Authority. Councilor Anglen questioned if it was all the GRDA properties. Mr. Morton stated it listed several bodies of water. He stated he would forward an electronic copy to the Council. Councilor Frailey questioned about the Immigration Law. She asked if our contractors or sub-contractors hire non-Indians that are illegal immigrates, are we impacted by the Safe Harbor rule. Mr. Morton stated he was unsure but would research and provide an update.

Election Commission: No one present to report.

Tax Commission: Mr. Greg Simmons, tax specialist, reported in the absence of Sharon Swebston. He went over some highlights of the reports. He stated the Motor Vehicle Revenue is up 18% from last year. The Alcohol and Tobacco is up 5% from last year.

Self-Governance: Ms. Vickie Hanvey stated they have had a very busy month. The handout is a one page briefing of Title IV amendments. She stated within the self governance Act Title IV applies to the Department of Interior and Title V applies to IHS. Title V came into existence a few years after Title IV. She stated a number of tribes have been working for years to being Title IV up to the standards of Title V through amendments. She stated Congressman Boren introduced a bill for the Title 4 amendments. She stated they attended some meetings in Washington concerning the Title 4 amendments. There is a meeting next week to continue the discussion. Ms. Hanvey stated there are 14 items still in disagreement. The major issue with the DOI surrounds non BIA agencies. They also attended a hearing for the Indian Health Care Improvement Act. The DOI Advisory Committee consists of Tribal leaders across the regions that provide advice and discuss various topics of concern on a National level with the National Assistant Secretary, Carl Artman. She stated she participated in the National Contract Support Cost Work Group. The policy was passed last year and they continue to work towards implementation. They will be providing some training next month for the Oklahoma tribes involved. She stated the DOI is required by law to submit a short fall report to Congress but have not done so. She stated she along with Mr. Harry Rainbolt they are developing a short fall report. She stated this report outlines the number of dollars nation wide the tribes are not being paid on contract support. This is very similar to what is already being done with IHS. Ms. Hanvey announced they attended the

National 102477 conference. They also attended the Indian Land Consolidation Work Group and assisted with the compliance and evaluation within government resources on several internal control reviews. They continue to precede with the DOI negotiations. She stated they are working on getting funding for the Muskogee joint venture. At this time they have received 2 months of funding for 2007 for the Muskogee facility. We are on a continuing resolution. Currently they have a 2nd continuing resolution and anticipate a 3rd. They have received verbal commitment from IHS that they will request from Congress our funding for the Muskogee clinic. Paula Ragsdale in our Washington office is working the legislative route as well for this funding. They will be providing on site training next month for ONBA87 which is the cost principals for federal programs. This training will cover fraud waste and abuse.

Councilor Hoskin Jr. inquired if the Congressional Black Caucus may be in the process of attaching any amendment to these pieces of legislation that may have the same effect as the housing amendments. Ms. Hanvey stated Paula Ragsdale would be the knowledgeable person to ask. Councilor Buzzard inquired if there is a chance of receiving contract support for transportation. Ms. Hanvey replied it has not been covered in discussion nor is it in policy.

Gaming Commission: No one present to report.

Codification: Todd Hembree stated he has begun the codification process himself. He stated he has completed 1/3 of the titles and would forward them to Ms. Hammons. The Council staff will receive OCR software next week which will allow the scanning and converting of all past Acts into word form. Chair Frailey inquired about a completion date. Mr. Hembree stated he no longer makes promises but stated the end of December is not an unrealistic time frame.

GEG: Nason Morton stated the investigation is still ongoing. The related civil case in Tulsa County with Mr. Majewski has a motion for hearing set for this Wednesday.

OLD BUSINESS:

1. A Legislative Act Relating to Native American Arts and Crafts. Chair Frailey announced a handout has been provided from Mr. Bill Glass and his son. Councilor Cowan Watts stated the title has changed to Truth in Advertising therefore she was unsure how to handle this item as well as the new business item. Mr. Hembree provided the recommendation for tracking purposes of to table this item indefinitely then proceed with the new business item. Councilor Cowan Watts withdrew this item.

NEW BUSINESS:

1. A Resolution Supporting an Amendment to the National Historic Preservation Act of 1966 to Require Environmental Protection Agency Compliance. Councilor Coates announced this is the resolution first introduced in Education and Culture committee. This has been revised in regard to wording. She again provided a brief background. The Elem Pomo Indians of Clear Lake, California are requesting resolutions of support in their effort to close the loop holes in the National Historic Preservation Act of 1966 that does not incorporate the superfund clean

up. Councilor Coates moved for the approval. Councilor Cowan Watts seconded the motion. Motion carried.

2. An Act Allowing Remote Attendance of Members of the Cherokee Nation Tribal Council for Meetings of the Tribal Council and Committees and Declaring an Emergency. Councilor Coates stated this Act would allow At Large Council members and Councilors who are on Cherokee Nation business to attend the Council and committee meetings by remote teleconference. Councilor Coates moved for the approval. Councilor Garvin seconded the motion. Councilor Jack Baker gave preference for this to only pertain to committee meetings at this time. He stated he would like to see the official Tribal Council meeting be removed from this act at this time. Chair Frailey inquired if he was requested this be an amendment. Councilor Baker stated it is a motion to amend. Councilors Coates and Garvin accepted the amendment. Chair Frailey inquired if there is a potential violation of the constitution based on the Grayson and Holder cases. Mr. Hembree stated this Act can be challenged and there are good arguments. He stated he believes this is in the prevue of the Council to determine what "in attendance" means. He stated the Act as written is constitutional. He stated the issue of chairmanship may need to be discussed. He suggested when a chair is not physically present they allow the co-chair to preside over the meeting. He stated this will require interactive video conferencing. He stated an important part of this Act and what makes it constitutional is that there must be a physical quorum present in order to carry on the meeting. Councilor Soap inquired if any other governments are participating in remote attendance at this time. Mr. Hembree stated the State of Oregon is contemplating at this time and there are many others who are considering the option. A lot of corporations are in use of a remote attendance of sorts. As a government we would be in the forefront. Councilor Glory-Jordan requested a friendly amendment to delegate chairmanship to the co-chair when the chair is not physically present. Councilors Coates and Garvin accepted the friendly amendment. Councilor Hoskin inquired if the cases referred to earlier were regarding quorum issues. Mr. Hembree stated the Holder case was a quorum issue and the Grayson case was a proxy issue. Councilor Hoskin stated he uses teleconferencing on a weekly basis and it has its limitations. Councilor Glory-Jordan inquired as to the definition of "official Cherokee Nation business". Mr. Hembree stated it would be considered official Cherokee Nation business is the Cherokee Nation is paying. Mr. Todd Enlow stated the new Council laptops will be a part of this technology. He stated there could be issues arise with internet availability in different locations. Councilor Bill John Baker suggested broadening the ability to video conference to include health issues. He referred to past instances where Council members were brought in wheelchairs or hospital gurneys to participate in meetings. Councilor Coates voiced concern that this would open up areas of abuse. She agreed these instances given were legitimate. She inquired if there was language that could be used to allow this for extreme cases but eliminate others. Mr. Hembree suggested having each instance approved by a majority of the body. Councilor Coates accepted this amendment. Councilor Glory-Jordan suggested requiring 2/3rds instead of a simple majority. Councilor Bill John Baker amended his friendly amendment to be 2/3rds. Councilor Coates accepted. Chair Frailey stated in the Grayson case it was ruled that a tribal council person can not be in attendance by proxy to vote or to constitute a quorum. She inquired if they can appear by video to constitute a quorum, how is it constitutional to vote via video conference. Mr. Hembree stated in Grayson it was

ruled they need to be in person to vote. The proxy situation was a paper from one council person giving another councilor permission to vote. He stated this is different because it allows the councilor to engage in debate, listen to debate, and participate in every aspect of the meeting. He stated it is within the prevue of the tribal council to define what in attendance means. He stated he believes this Act will withstand a constitutional challenge. Councilor Coates requested passage of this Act stating there is a different situation at this time with the At Large Councilors. She stated the At Large Councilors represent over 60% of the citizenry of this Nation. She stated both At Large Councilors have agreed to make every effort to be at the meetings. She stated without this legislation it could provide a hardship for future At Large Councilors to not be able to participate in this way. This is for all of those to come in the years ahead. Councilor Crittenden called for the question. Mr. Hembree stated the constitution clearly stated the Council has a right to establish its own rules. The motion for approval with amendments passed by acclimation with Chair Frailey in opposition.

3. A Legislative Act Requiring Truth in Advertising for Native Art. Councilor Cowan Watts made a motion to approve with one amendment taken from Mr. Glass's letter. She amended to add contemporary arts to Section 4a definitions. Councilor Cobb seconded the motion. Councilor Glory-Jordan raised question in regard to Section 5f . She inquired if it would be a waiver of sovereign immunity. Mr. Hembree recommended adding for the purposes of this Act the Cherokee Nation waives it sovereign immunity for injunctive relief. Councilor Glory-Jordan voiced concern for waiving sovereign immunity even for injunctive relief. Councilor Cowan Watts requested guidance from Councilor Glory Jordan being on the Council as an attorney if she new some way of enforcement for these folks. Councilor Glory-Jordan stated she doesn't see a need for section f. She trusts our powers to do the right thing. Councilor Cowan Watts accepted a friendly amendment to remove section f. Councilor Soap requested time to be allocated for public comment. Councilor Bill John Baker raised question to Section 5b that this could impact the Heritage Center and other non profits. He made a friendly amendment to strike 5b. Councilor Cobb stated the language states someone who falsely claims. This isn't saying we can't be a part of a Willard Stone art exhibit as long as the family doesn't try to say they are of Cherokee citizenry. Councilor Jack Baker stated as long as they are not claiming to be a member of the 5 civilized tribes then we can sponsor. Councilor Cowan Watts didn't accept the friendly amendment. Councilor Buzzard inquired if this would allow a sign to be placed on the door stating all Indian art is labeled. Councilor Cowan Watts stated it could be included.

Ms. Donita Squirrel Mackey stated she is an art lover and collector not an artist. She is the vice president of the Cherokee Arts and Humanities Council. She voiced their concerns about the current condition of Cherokee society. She stated there is a federal law in place to protect federally recognized Indian artist. If this Act should pass the Cherokee Nation as a government will create redundant legislation to reiterate federal law that is rarely invoked. This is a matter of policy and procedure not legislation. Policy and procedure can handle the needs within the organizations that already exist to work with the Cherokee artists. Councilor Cowan Watts stated the concerns voiced today are not meant to be addressed in this Act. She stated the federal law is different in that it includes state recognized

tribes. Ms. Mackey stated she doesn't feel art should be legislated it can be taken care of in policy and procedure.

Ms. Linda Taylor, manager of the gift shops, requested clarification as far as the writing and music are concerned. She inquired if there is going to be a committee to tell them what is and isn't acceptable. Councilor Cowan Watts stated the only issue that we have with this act is if the person writing the books claims to be Cherokee then they must be a member of the Cherokee Nation, UKB or the Eastern Band. Ms. Taylor stated she has no way to verify this. She requested a committee be formed. Councilor Cowan Watts stated assistance can be provided.

Mr. Richard Allen, policy analyst for the Cherokee Nation. He stated he deals with the want a be's daily. He stated a few years ago an installation was done in Chattanooga, Tennessee using Cherokee artists. This art work came about as a result of one of his consultations with the city of Chattanooga with regard to the impact occurring to Ross's landing. What was being proposed by the want a be's in this city was a huge display of Cherokee's being imprisoned. The representatives of the Eastern Band and himself representing the Cherokee Nation disagreed stating this is not the way to display the Cherokee people. The outcome of this discussion was a request for proposals for artwork and in this there was a requirement that only citizens of the Cherokee Nation, the Eastern Band of Cherokees, the United Keetoowah Band of Cherokees, and the Creek Nation be eligible to submit the requests. They received 12 requests from people who are nationally recognized. This is Ga Du Gi art. The legislation is to protect. It may not have been enforced by the federal government but they are beginning to do this.

Ms. Sharon Urla, representing the Cherokee Artist Association stated the members of the association have met and have voiced concerns for this legislation. She stated it has appears since the date of their discussion wisdom has prevailed and the items of concern have been modified or stricken completely from the Act. She stated the association has not had an opportunity to discuss the latest version at any length and made a request for additional time. She stated the association does support proper identification and labeling.

Chair Frailey reminded the committee of the amendment to remove section 5f and include a change in section 4a. Councilor Cowan Watts read section 4a with amendments of inserting contemporary arts following other performing arts. Councilor Bill John Baker made a motion tot table for 30 days to allow the Artist Association time for review. Councilor Tina Glory Jordan seconded the motion. Roll call is as follows:

David Thornton, Sr.	<u>Yea</u>	Chris Soap	<u>Yea</u>
Curtis Snell	<u>Nay</u>	Tina Glory-Jordan	<u>Yea</u>
Chuck Hoskin, Jr.	<u>Yea</u>	Don Garvin	<u>Nay</u>
Janelle Fullbright	<u>Yea</u>	Meredith Frailey	<u>Yea</u>
Jodie Fishinghawk	<u>Yea</u>	Joe Crittenden	<u>Yea</u>
Brad Cobb	<u>Nay</u>	Julia Coates	<u>Nay</u>
Harley Buzzard	<u>Nay</u>	Jack D. Baker	<u>Nay</u>
Bill John Baker	<u>Yea</u>	Buel Anglen	<u>Nay</u>
Cara Cowan Watts	<u>Nay</u>		

The motion to table for 30 days passed by a vote of nine (9) yeas; eight (8) nays. Councilor Cowan Watts inquired if the motion to table would be to the next Rules meeting not 30 days. Councilor Bill John Baker stated he meant to table to the next Rules meeting.

4. A Resolution Requesting the U. S. Congress to Declare the Claremore Indian Hospital and Surrounding Parcel of Land as Indian Country Under 18 U. S. C. §1151 (b). Councilor Cowan Watts moved for the approval. Councilor Anglen seconded the motion. Motion carried.
5. A Resolution Nominating Jennifer Barger Johnson to the Elected Officials Compensation Committee. Chair Frailey inquired if there is a resolution for items 5 and 6. Mr. Hembree stated there are not resolutions this matter just came about this afternoon. He stated if the committee approves and moves to full council there will be resolutions at that time. Councilor Cowan Watts moved for the approval of the nominations of both Jennifer Barger Johnson and John A. Ketcher. Councilor Garvin seconded the motion. Motion carried.
6. A Resolution Nominating John A. Ketcher to the Elected Officials Compensation Committee. – see above.

ANNOUNCEMENTS:

Next Regular meeting is tentatively scheduled for December 20th at 1:00 p.m.

Councilor Jack Baker gave appreciation to the recording secretary for sending out the packets in booklet form.

ADJOURNMENT:

Councilor Bill John Baker moved for adjournment. Councilor Crittenden seconded the motion. Motion carried.

APPROVAL / DISTRIBUTION:

Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator

Motion to approve minutes made by: Jack Baker

Minutes attested and concurred by: Meredith Frailey

Date: 12/20/07