



Council of the Cherokee Nation

Meeting Minutes Rules Committee

Thursday, June 25, 2009

1:00 PM

Legislative Conference Room

CALL TO ORDER

Speaker Frailey called the meeting to order at 1:10 p.m.

INVOCATION

Councilor Soap 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; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

Late Arrival 2 - Jodie Fishinghawk and Janelle Fullbright

APPROVAL OF MINUTES

Councilor Cobb made a motion to approve the May 11th special session, May 12th sub committee and the May 28th regular session minutes. Councilor Thornton seconded the motion. Motion carried.

Councilor Garvin made a motion to amend the agenda to move the nominations prior to the reports. Councilor Coates seconded the motion. Motion carried to move new business items 2 through 8 to prior to the reports.

Councilor Coates moved to amend the agenda to substitute the Linda Vann nomination for Mary Horsechief as new business item 6. Ms. Vann has declined the nomination. Councilor Cowan Watts seconded the motion. Motion carried.

Councilor Hoskin Jr. moved to amend the agenda to include a resolution to join the appeal of Councilors Fishinghawk and Jordan. Councilor Cowan

Watts seconded the motion. Motion carried to place this resolution on the agenda following new business item 1.

NEW BUSINESS

2. A RESOLUTION CONFIRMING THE RENOMINATION OF JOHNNIE EARP AS A BOARD MEMBER OF THE ECONOMIC DEVELOPMENT TRUST AUTHORITY BOARD OF DIRECTORS
A motion was made by Councilor Harley Buzzard and seconded by Councilor Curtis Snell, that this matter be Approved and Forwarded to Council. The motion carried.
3. A RESOLUTION CONFIRMING THE RENOMINATION OF BART FITE AS A DISTRICT JUDGE OF THE CHEROKEE NATION DISTRICT COURT
Councilor Glory-Jordan made a motion to table for one month. Councilor Hoskin Jr. seconded the motion. The motion carried by the following vote:
Yea: 9 - Bill John Baker; S. Joe Crittenden; Cara Cowan Watts; Buel Anglen; Tina Glory Jordan; Harley Buzzard; Curtis Snell; Chuck Hoskin, Jr. and Julia Coates
Nay: 6 - David Thornton Sr. ; Don Garvin; Meredith Frailey; Jack D. Baker; Chris Soap and Bradley Cobb
Late Arrival: 2 - Jodie Fishinghawk and Janelle Fullbright
4. A RESOLUTION CONFIRMING THE NOMINATION OF BILL ANDOE AS AN ADVISORY COMMITTEE MEMBER OF CHEROKEE NATIONAL TREASURES PROGRAM
A motion was made by Councilor Jack D. Baker and seconded by Councilor Bill John Baker, that this matter be Approved and Forwarded to Council. The motion carried.
5. A RESOLUTION CONFIRMING THE NOMINATION OF ALAN HERRIN AS AN ADVISORY COMMITTEE MEMBER OF CHEROKEE NATIONAL TREASURES PROGRAM
A motion was made by Councilor Bill John Baker and seconded by Councilor Jack D. Baker, that this matter be Approved and Forwarded to Council. The motion carried.
6. A RESOLUTION CONFIRMING THE NOMINATION OF LINDA VANN AS AN ADVISORY COMMITTEE MEMBER OF CHEROKEE NATIONAL TREASURES PROGRAM
This matter was Withdrawn
6. A RESOLUTION CONFIRMING THE NOMINATION OF MARY HORSECHIEF AS AN ADVISORY COMMITTEE MEMBER OF CHEROKEE NATIONAL TREASURES PROGRAM
A motion was made by Councilor Bradley Cobb and seconded by Councilor Jack D. Baker, that this matter be Approved and Forwarded to Council. The motion carried.

7. A RESOLUTION CONFIRMING THE NOMINATION OF JANE OSTI AS AN ADVISORY COMMITTEE MEMBER OF CHEROKEE NATIONAL TREASURES PROGRAM
- A motion was made by Councilor Julia Coates and seconded by Councilor Bill John Baker, that this matter be Approved and Forwarded to Council. The motion carried.**

8. A RESOLUTION CONFIRMING THE NOMINATION OF LORI SMILEY AS AN ADVISORY COMMITTEE MEMBER OF CHEROKEE NATIONAL TREASURES PROGRAM
- A motion was made by Councilor Bill John Baker and seconded by Councilor Cara Cowan Watts, that this matter be Approved and Forwarded to Council. The motion carried.**

1. DISCUSSION AND POSSIBLE ACTION ON APPEAL OF SMITH VS. ELECTION COMMISSION ORDER
- Council Attorney, Todd Hembree, stated the purpose of this agenda item is to the direction to be taken in regard to the appeal. Last month he was given the directive to move forward with the appeal on the redistricting issue. The due date for this appeal is July 1. He requested a definitive direction from the Council as to the term limit issue should be appealed. He stated the purpose of the lawsuit was to get a definitive answer on the three issues. He felt the definitive answers should come from the Supreme Court.*
- Councilor Jack D. Baker made a motion to appeal the redistricting portion of the lawsuit. Councilor Bill John Baker seconded the motion. Motion carried with Councilor Soap opposed.**

Councilor Jack D. Baker made a motion to appeal the portion of the lawsuit relating to term limits for the Council and the Principal Chief. Councilor Bill John Baker seconded the motion. Motion carried

A RESOLUTION AUTHORIZING THE CHEROKEE NATION TRIBAL COUNCIL TO SUPPORT THE APPEAL OF COUNCILORS FISHINGHAWK AND JORDAN CONCERNING TRIBAL COUNCILOR'S RIGHT TO INDIVIDUALLY HAVE ACCESS TO COUNSEL OF THEIR CHOICE AND HAVE ACCESS TO THE COURTS

Sponsors: Councilor Tina Glory Jordan and Councilor Jodie Fishinghawk

Mr. Hembree stated this resolution was drafted at the requested of Councilor Glory-Jordan to join and support their appeal as to only as to their ability to carry on a lawsuit in their individual Councilor capacity with their individual attorney. Judge Fite ruled in his District Court decision that they were not permitted to bring their own position. This resolution states we support individual Councilors and their ability to get access to the court and their own attorneys. He referenced the case of Phillips vs. Eagle. The ability of an individual Councilor to bring forward their own action is an important part of the Tribal Council. Councilor Glory-Jordan moved to approve. Councilor Bill John Baker seconded the motion. Councilor Bill John Baker stated attorney fees are set aside for each Council person with the intent that one Council person who didn't agree with the majority would have the ability to obtain an attorney other than the Council attorney. Councilor Hoskin Jr. commented this just restates the current law. He stated this is the exact same authority that members of the U. S. Congress have. Councilor Hoskin Jr. requested he be added as a sponsor. Councilor Glory-Jordan accepted the request and offered co-sponsorship to other members of the Council. Councilor Cowan Watts requested clarification of the decision and questioned if it was due to timing that they weren't permitted to enter

into the case and not an issue of them having the right as individual Councilors to enter the case. Mr. Hembree stated Jude Fite ruled they were requesting to enter into the case to late and also that they were already represented by the Council attorney. He gave clarification that the joining of this appeal is only on the sole issue that they have the right to act in their official capacity as a Councilor to bring forth issues before the court but nothing else. Councilor Cowan Watts stated she would like to also sponsor however the title precludes her because she doesn't want to join this particular issue. She does support the issue of Councilor having their individual rights to allow them to do their job for the Cherokee people. Councilor Cobb stated part of the job as elected officials is to come to a consensus. Mr. Hembree responded the consensus of the majority of the Council would be represented by the Council Attorney. He referenced a past issue where a consensus of the Council approved a reapportionment of nine districts. This gave Cherokee County three representatives which Councilor Lay disagreed with based on numbers and calculations. Councilor Lay filed a lawsuit and won with the decision of Cherokee County having two representatives and giving Tulsa and Washington Counties two representatives. Chair Frailey if there was a particular reason why the resolution was written so specifically. Mr. Hembree stated he drafts legislation as directed. Councilor Jack D. Baker offered a friendly amendment for the title and the therefore be it resolved clause to change "to join" to "support". Councilors Glory-Jordan and Bill John Baker accepted the friendly amendment. Councilor Hoskin Jr. stated a citizen doesn't have the ability to file a lawsuit, but a Council member in their official capacity does have the ability. Councilor Glory-Jordan voiced concern for the decision being inconsistent with cases already decided by the Supreme Court. If this decision stands it takes away our fundamental right that has been given to each Tribal Council member in their official capacity. Councilor Bill John Baker called for the question.

Motion carried to approve as amended with Councilor Soap in opposition.

REPORTS:

1. Marshal Service - Sharon Wright

No one was present to report.

2. Office of the Attorney General - Diane Hammons

Ms. Hammons announced the Youth Leadership Council will have a moot trial tomorrow evening at 6:00 at the Courthouse. Part of the trial of Major Ridge will be in Cherokee. Ms. Hammons stated her staff has been assisting in some of the trial preparations. She encouraged everyone to attend. The Freedman case in tribal court has been set for hearing on the motions on July 17th at 2:00 p.m. before Judge Cripps. Councilor Hoskin Jr. questioned a cease and desist letter that has been sent by the Office of the Attorney general to a webmaster of a political oriented website. He provided a copy of the letter. He voiced concern for the Office of the Attorney General being involved in a copyright issue of the Cherokee Phoenix. He inquired if she had an obligation to represent the Phoenix or was it discretionary. Ms. Hammons stated she does have a legal obligation to represent the Phoenix. Paragraph 12 of the Attorney General Statute states she has the responsibility to furnish legal advice to Nation Officials, all Executive Departments, Boards, Commissions, Agencies, instrumentalities and officials of the Nation in any matter arising in the connection of exercise of their official capacity and duties... She stated the Phoenix could have hired outside counsel. Councilor Hoskin Jr. inquired if she could have declined to represent them for policy reasons. Ms. Hammons responded

she could have. Councilor Hoskin Jr. voiced concern for a Free and Independent Press asserting its rights on the Attorney General's letterhead. He stated if it is a matter of providing funding for the Phoenix to obtain their own attorney then we need to ensure they have the funds. Ms. Hammons stated she understands the concerns. The issue was not the content of the site but that they were taking articles from the Phoenix and placing them word for word on their site without referencing where the article originated or who the author was. Councilor Hoskin Jr. agreed they had a valid copyright claim. When the letterhead of the Attorney General is used it completely changes the dynamics. He asked in the future that this be considered before using the letterhead. Ms. Hammons stated she would hope that the seal at the top of the letterhead would impress. Mr. Hembree suggested amending the Free and Independent Press Act with a section similar to the Election Commission. The amendment would give the authority to hire independent counsel free of political influence. Councilor Bill John Baker requested Mr. Hembree research this language and bring forward an amendment.

3. GEG Investigation Report - Diane Hammons

4. Election Commission -

No one was present to report. The written report has been provided.

5. Tax Commission - Sharon Swebston

Ms. Swebston offered to answer questions from her report.

6. Self-Governance - Vickie Harvey

Ms. Angela Thompson offered to answer question for Ms. Harvey in her absence. Councilor Buzzard questioned what is being done to obtain stimulus funding for roads. Ms. Thompson stated they are working with the Department of Interior. They have submitted an addendum which we are in the process of reviewing.

7. Gaming Commission - Jamie Hummingbird

No one was present to report for the Gaming Commission.

8. Codification - Todd Hembree

Mr. Hembree reported he met with Mr. Morton where they again divided up projects. He stated we are closer but still a few months out before it can be submitted to this committee for approval.

OLD BUSINESS

None pending.

NEW BUSINESS

All new business items were addressed prior to reports.

ANNOUNCEMENTS

Chair Frailey announced Councilor Garvin had just recently celebrated his 50th wedding anniversary.

ADJOURNMENT

Councilor Cobb moved to adjourn. Councilor Cowan Watts seconded the motion. Motion carried at 2:22 p.m.

STAFF PRESENT:

Bill Andoe	Chrissi Nimmo	Travis Snell
Will Chavez	Bryan Pollard	Diane Hammons
Sharon Swepston	Shay Smith	Melanie Knight
Gregg Simmons	Angela Thompson	

VISITORS PRESENT:

Bart Fite	Todd Hembree	Lorilee Smiley
Jane Osti	Johnnie Earp	

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:

7/20/09