

**RULES COMMITTEE
LEGISLATIVE CONFERENCE ROOM
February 23, 2007
1:05 P.M.**

STANDING COMMITTEE: Rules Committee

COMMITTEE PRESIDED BY: Joe Crittenden, Co-Chair

COMMITTEE MEMBERS PRESENT:

Meredith Frailey*	S. Joe Crittenden	Buel Anglen
Bill John Baker	Jack Baker	Audra Conner
Don Garvin	Chuck Hoskin	Bill Johnson
Taylor Keen	John F. Keener	Jackie Bob Martin
Melvina Shotpouch*	David Thornton	Cara Cowan Watts*
Phyllis Yargee		

***Entered meeting after roll call.**

COMMITTEE MEMBERS ABSENT:

Linda O'Leary

STAFF PRESENT:

Gregg Simmons	Dr. Gloria Sly	Sharon Swepston
Jamie Hummingbird	Vicki Hanvey	Sharon Wright
Sheila Sawney	Nason Morton	Todd Enlow
Ginger Brown	Dana Jim	Jon Parris
Mike Miller	Tom Elkins	Becky Johnson
Sarah Hill		

VISITORS:

Todd Hembree	Rick Daugherty	Callie Catcher
Susan Ruckman	Charles Dry	Raymond Vann
Marilyn Vann	Ron Graham	Patsy Morton
Billy Bob Daugherty	Stacy Leeds	Callie Catcher
John Cripps		

QUORUM ESTABLISHED: Yes

LEGISLATION: Yes

RULES COMMITTEE
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February 23, 2007
1:05 P.M.

CALL TO ORDER:

Chair Crittenden called the meeting to order at 1:05 p.m. Councilman John Keener gave the invocation. Roll was called and a quorum was established.

APPROVAL OF MINUTES:

Councilman Anglen moved for the approval of the January 25th regular session. Council member Conner seconded the motion. Motion carried.

REPORTS:

Chair Crittenden stated unless the Council has specific questions from the staff or if there is information that needs to be reported, written reports will be submitted.

Patsy Morton stated the Election Commission has prepared a packet for the Council which included special election dates, the Cherokee Nation Citizen letter that was sent out, Voter Registration form, Special Election absentee ballot request, precinct locations, and Cherokee Nation Election Commission dates and information. She reported the red voter cards were not printed correctly by the company but they will be corrected by the June elections. There will be a place to vote on Tuesday, Wednesday, and Thursday of next week at the Election Commission office. Should there be any problems with "At Large" voters for on site they will be allowed to do a challenge vote ballot and that ballot will be sent to the Commission and when it is opened with all others then it will be considered as an absentee ballot.

Todd Hembree stated the challenge ballot is like a provisional ballot in the State of Oklahoma where you walk into a district, they can't find your name, and you can cast a ballot and put it in an envelope. The ballot gets cast and then there is a decision whether that person is registered to vote and if so the vote is cast.

Patsy Morton reported 16,500 "At Large" letters were mailed, 4,505 asked for absentee ballots.

Vicki Hanvey reported February 15th there was a joint Resolution for funding in 2007 which was at 2006 appropriation levels rolled into 2007. This means DOI took a double rescission, a 1% across the board rescission and DOI took a .476 rescission off the top of that. The IHS side, there was \$126 million that Congress did not give instructions as to how IHS is to spend that so they have been given sixty days to come up with a spending plan to submit to the Office of Management and Budget. They are currently in the process of deciding of how they will divide the funds. This was funded at the 2006 level but it removed the earmarks.

Councilman Martin moved to amend the agenda to add a Resolution confirming John Cripps for an appointment as item #9 under new business and to also move item #7 under new business before the committee gets into the old business. Councilman Garvin seconded the motion. Motion carried.

Freedmen Dawes Roll Presentation: Marilyn Vann, President, Descendants of Freedmen Association and Ron Graham, Professional Genealogist provided general information to the committee regarding the upcoming Special Election. Information was also provided on the Dawes Rolls, their makeup, and why they were made as well as some court cases dealing with those rolls.

Council member Cowan Watts made a motion to amend the agenda to consider at this time, item #1 under new business, A Resolution Confirming the Appropriation of Troy Wayne Poteete as a Justice of the Supreme Court of the Cherokee Nation". Councilman Anglen seconded the motion. Motion carried.

A Resolution Confirming the Appointment of Troy Wayne Poteete as a Justice of the Supreme Court of the Cherokee Nation. Ginger Brown stated on behalf of Principal Chief she respectfully recommends the appointment of Troy Wayne Poteete as Justice of the Supreme Court of Cherokee Nation.

Councilman Anglen moved for the approval of the appointment. Councilman Garvin seconded the motion. Roll call is as follows:

Buel Anglen	<u>Yea</u>	Bill John Baker	<u>Nay</u>
Jack D. Baker	<u>Yea</u>	Audra Conner	<u>Nay</u>
Joe Crittenden	<u>Nay</u>	Meredith Frailey	<u>Yea</u>
Don Garvin	<u>Yea</u>	Chuck Hoskin	<u>Nay</u>
Bill Johnson	<u>Yea</u>	Taylor Keen	<u>Nay</u>
John F. Keener	<u>Nay</u>	Jackie Bob Martin	<u>Yea</u>
Linda O'Leary	<u>Absent</u>	Melvina Shotpouch	<u>Abstain</u>
David Thornton	<u>Absent</u>	Cara Cowan Watts	<u>Yea</u>
Phyllis Yargee	<u>Yea</u>		

The motion for the approval of the appointment passed by a vote of eight (8) yeas; six (6) nays, one (1) abstention.

OLD BUSINESS:

A Legislative Act Relating to Employment of Relatives of Elected Officials and Amending Title 28, "Ethics", Adding New Sections; and Repealing Certain Sections of the Cherokee Nation Code Annotated. Todd Hembree stated this Act would allow siblings to work for Cherokee Nation with certain disclosures and it would also allow or require every official and employee of the Cherokee Nation to submit written statement of all outside businesses owned. This would repeal the current nepotism law and would replace it with this modified version. It would repeal Title 19, Section 51 which states members of the Tribal Council, employees of first degree cannot be employed with the tribe and replaces this section with "No person shall be prohibited from employment by

Cherokee Nation government or its instrumentalities because he/she is a relative of an elected official unless the position sought is in the same branch of government as the persons relative who is the elected official”.

Councilman Martin moved for the approval. Councilman Garvin seconded the motion. Roll call is as follows:

Chuck Hoskin	<u>Nay</u>	Bill Johnson	<u>Yea</u>
Taylor Keen	<u>Nay</u>	John F. Keener	<u>Nay</u>
Jackie Bob Martin	<u>Yea</u>	Linda O’Leary	<u>Absent</u>
Melvina Shotpouch	<u>Nay</u>	David Thornton	<u>Nay</u>
Cara Cowan Watts	<u>Yea</u>	Phyllis Yargee	<u>Nay</u>
Buel Anglen	<u>Yea</u>	Bill John Baker	<u>Nay</u>
Jack D. Baker	<u>Yea</u>	Audra Conner	<u>Nay</u>
Joe Crittenden	<u>Nay</u>	Meredith Frailey	<u>Yea</u>
Don Garvin	<u>Yea</u>		

The motion for approval failed by a vote of seven (7) yeas; nine (9) nays.

A Legislative Act Amending Title 42, “Language” of the Cherokee Nation Code Annotated; Adding Provisions Relating to the Cherokee Syllabary. Dr. Gloria Sly stated they would like to permanently withdraw this item and bring it back later in another form.

Councilman Martin moved to withdraw this item permanently. Council member Cowan Watts seconded the motion. Motion carried.

A Legislative Act Amending Title 51, “Officers” of the Cherokee Nation Code Annotated; Relating to the Duties of the Office of the Marshal; and Declaring an Emergency. Councilman Bill John Baker stated due to the lengthy agenda and because the committee has just received it with new amendments he moved to table this item to give the committee time to review it for next month’s meeting. Councilman Thornton seconded the motion. Motion carried.

A Legislative Act Amending Title 51, “Officers”, of the Cherokee Nation Code Annotated; Relating to Duties of the Attorney General. Becky Johnson stated in Section 7, B-12, language has been added to the end of the paragraph that reads “and provided further that, in order to preserve the independence of the Office of Attorney General and to avoid actual and perceived conflicts of legal advice, the Office of Attorney General shall not provide legal advice on day-to-day operations of the Office of Principal Chief or Deputy Chief”.

Council member Cowan Watts moved for the approval. Councilman Anglen seconded the motion. Roll call is as follows:

Jackie Bob Martin	<u>Yea</u>	John F. Keener	<u>Nay</u>
Taylor Keen	<u>Yea</u>	Bill Johnson	<u>Yea</u>
Chuck Hoskin	<u>Nay</u>	Don Garvin	<u>Yea</u>
Meredith Frailey	<u>Yea</u>	Joe Crittenden	<u>Nay</u>
Audra Conner	<u>Yea</u>	Jack D. Baker	<u>Yea</u>

Bill John Baker	<u>Nay</u>	Buel Anglen	<u>Yea</u>
Phyllis Yargee	<u>Yea</u>	Cara Cowan Watts	<u>Yea</u>
David Thornton	<u>Nay</u>	Melvina Shotpouch	<u>Yea</u>
Linda O'Leary	<u>Absent</u>		

The motion for approval passed by a vote of eleven (11) yeas; five (5) nays.

The Cherokee Nation Administrative Procedures Act. Chair Crittenden stated this item was tabled because of a question in Section 306 in the last meeting. Todd Hembree stated he had a question about the implementation of Section 306 on the Chief having sole responsibility of implementing emergency clause in this Act. Todd and Jon Parris have communicated and Mr. Parris has sent over a revised section 306 that sets a deadline as to the amount of time an emergency clause can be put forth. Todd Hembree recommended moving this item to the bottom of the list until they can make copies of the revision.

Council member Yargee made a motion to move this item to the bottom of the agenda. Council member Cowan Watts seconded the motion. Motion carried.

Donation Act. Todd Hembree stated Council member Cowan Watts requested this item be withdrawn.

Corporation Reform Act. Todd Hembree stated this Act has a listing of reforms to the Corporation Act. The reforms mirror the outline the Committee has had for several months now. Callie Catcher stated she has not seen a copy of this proposed Act therefore she requested the Council to table this.

Councilman Martin moved to table this item until next month. Councilman Garvin seconded the motion. Motion carried with opposition from Councilors Bill John Baker and David Thornton.

Codification Update. Todd Hembree stated included in their packets the committee will have a memorandum to Melanie Knight and Diane Hammons from Oklahoma City University who is helping with the publications project. This is a team job and a codification committee job which may take some additional funding but currently it is all volunteer but eventually Administration will come with a budget modification to expend some funds. There is work being done on this and progress is being made and by the end of this term they hope to have a set of books and compact disks with all the statutes. Todd Hembree asked this item be a regular report each month.

Council member Cowan Watts moved to add the codification report to the agenda under reports each month. Councilman Jack D. Baker seconded the motion. Motion carried.

The Cherokee Nation Administrative Procedures Act (Cont'd). Todd Hembree stated the previous version of section 306 stated the Principal Chief could call the emergency or urgent commercial issue and it remained in effect indefinitely. He felt there were some inherent problems in that and he brought it up in committee and Jon Parris worked diligently on this and now there is a timeframe that the emergency rule may not be in

effect more than ninety days. This would give time for a meeting of the commission or any other body that needed to take action and he sees no problem with the new section 306.

Councilman Garvin moved for the approval. Councilman Keen seconded the motion. Motion carried by acclamation.

Council member Frailey moved to amend the agenda to move the Resolution confirming the renomination of John Cripps for District Judge to item #1 under new business. Councilman Martin seconded the motion. Motion carried.

NEW BUSINESS:

A Resolution Confirming the Renomination of John T. Cripps as a District Judge of the Cherokee Nation District Court. Councilman Martin moved for the approval of the renomination. Councilman Thornton seconded the motion. Motion carried with opposition from Councilors Keen and Chuck Hoskin.

A Legislative Act Amending Title 11, "Citizenship", of the Cherokee Nation Code Annotated; Relating to Cherokee Nation Citizenship. Nason Morton stated this Act has two parts to it and the first part is to bring the statutory language in line with the decision of JAT 04-09, the Lucy Allen case as well as make the language mirror that of the Constitution. The second part pertains to the second paragraph on page 3. It was originally as a number 3 and it actually strikes one of the classes of people that can be a sponsor for a minor child for purposes of disenrolling them. On Page 4, listed as section 7 and the reference code is section 34 regarding relinquishment. It changes the process for relinquishment by taking it out of a court process and putting it into more of an administrative process where you go in and fill out the required information that says I wish to relinquish my membership with the tribe. As soon as the form is correctly filled out with all information required it is effective instantaneous and there is no longer a waiting period.

Todd Hembree stated this Act is to codify the Lucy Allen decision and between now and the next regular council meeting there will be an election that may have drastic ramifications on the Lucy Allen decision. He requests the Council to table this because he believes the part about relinquishing citizenship needs to be addressed prior to the election but he does not think it needs to be done before the special election.

Councilman Bill John Baker moved to table this item. Councilman Thornton seconded the motion. Motion carried.

A Legislative Act Amending Title 68 Chapter 4 of the Cherokee Nation Code Annotated – Tobacco Tax; Adding Definitions, and Allowing for the Repeal of Sections of the Tobacco Tax Compact Act. Sharon Swepston stated this Act removes the proposed tax rate that has been in the previous versions. It would also be a safety net for retailers in the event they do not have a compact with the State or an adverse decision in the Tribunal. It causes a safety net to allow them to be able to provide product to the licensed retailer shops. There is a trigger in the Act that states it can only be

implemented on those certain things. She stated Mr. Joe Lane with the tobacco retailers alliance is in support of this Act. Sharon Swepston stated if there are issues with this they would like to work this out and ask for it to be tabled to work on it.

Dan Carter, Smoke Shop Owner from Gore, Oklahoma stated this is an issue where they are not actually opposed to the tribe helping them on this matter and they think the tribes motive is to protect them against a future state regulation or rule. The problem is they feel like the tribe does not fully understand that they are not going to be able to attain the products the smoke shop owners need to sell.

Councilman Garvin moved to table this item until they can get the work done. Council member Frailey seconded the motion. Motion carried with opposition from Councilman Thornton.

A Legislative Act Amending title 51 "Officers" of the Cherokee Nation Code Annotated; Relating to Duties of the Delegate to Congress. Taylor Keen stated in the 2003 Constitution one of the historic movements that was made was to look at the old treaty rights to prescribe a delegate to Congress and this Act simply would bring that into law and allow the Principal Chief to nominate someone and then to be confirmed by this body. Sarah Hill stated the purpose of this Act is to prescribe by law the duties and authority of the Delegate to the United States House of Representatives (Congress) as required by the Cherokee Nation Constitution drafted in 1999 and ratified in 2003.

Councilman Taylor Keen moved for the approval. Council member Conner seconded the motion. Roll call is as follows:

Buel Anglen	<u>Yea</u>	Bill John Baker	<u>Yea</u>
Jack D. Baker	<u>Yea</u>	Audra Conner	<u>Yea</u>
Joe Crittenden	<u>Yea</u>	Meredith Frailey	<u>Yea</u>
Don Garvin	<u>Yea</u>	Chuck Hoskin	<u>Yea</u>
Bill Johnson	<u>Yea</u>	Taylor Keen	<u>Yea</u>
John F. Keener	<u>Yea</u>	Jackie Bob Martin	<u>Yea</u>
Linda O'Leary	<u>Absent</u>	Melvina Shotpouch	<u>Yea</u>
David Thornton	<u>Yea</u>	Cara Cowan Watts	<u>Yea</u>
Phyllis Yargee	<u>Yea</u>		

The motion for the approval passed unanimously by a vote of sixteen (16) yeas.

A Legislative Act Amending Title 4 Section 21 of the Cherokee Nation Code Annotated; Relating to Gaming Within the Jurisdiction of the Cherokee Nation; and Declaring an Emergency. Jamie Hummingbird stated this Act is simply a clarification of some existing language in which there were a couple of not necessarily discrepancies but some things that needed some clarification in the previous Acts that were approved by this Council. The Commission wanted to clarify this before they proceeded any further as to the actual licensing of gaming facilities and the requirements thereof.

Councilman Thornton moved for the approval. Councilman Keen seconded the motion. Motion carried by acclamation.

Discussion and Possible Action Concerning Appeal of In Re: Legislative Act 39-05; Case No. CV-06-93. Todd Hembree stated as the Council is aware he and Diane Hammons put forward a declaratory judgment action asking nine separate questions concerning the Constitution and the upcoming election. They received on February 12th answers to each of the questions and he is here before the Council to ask guidance on where he goes from here. Which questions do they appeal and which questions are they satisfied with, if any. Is the Council satisfied with the order in Toto or does the majority of this Council wish to give him the direction to appeal.

Councilman Keen made a motion to appeal all nine questions separately to the Supreme Court. Councilman Jack D. Baker seconded the motion. Motion carried.

Todd Hembree invited each Councilor since they will be an interested party to file an amicus curie briefs or whatever information they feel relevant to the court to consider.

Rules Meeting Date Change and Possible Action. Councilman Garvin made a motion to leave the Rules meeting on Thursday. Council member Cowan Watts seconded the motion. Roll call vote is as follows:

Taylor Keen	<u>Nay</u>	John F. Keener	<u>Nay</u>
Jackie Bob Martin	<u>Yea</u>	Linda O'Leary	<u>Absent</u>
Melvina Shotpouch	<u>Nay</u>	David Thornton	<u>Nay</u>
Cara Cowan Watts	<u>Yea</u>	Phyllis Yargee	<u>Nay</u>
Buel Anglen	<u>Yea</u>	Bill John Baker	<u>Nay</u>
Jack D. Baker	<u>Yea</u>	Audra Conner	<u>Nay</u>
Joe Crittenden	<u>Nay</u>	Meredith Frailey	<u>Yea</u>
Don Garvin	<u>Yea</u>	Chuck Hoskin	<u>Nay</u>
Bill Johnson	<u>Yea</u>		

The motion to leave the Rules meeting on Thursday failed by a vote of seven (7) yeas; nine (9) nays.

Councilman Hoskin made a motion to move the Rules and Executive & Finance meetings to Friday for the next three (3) months beginning in March. Council member Cowan Watts seconded with a friendly amendment to move the time to 1:30 p.m. Councilman Hoskin accepted the friendly amendment. Motion carried.

ANNOUNCEMENTS:

The next Rules meeting are tentatively scheduled for March 30th 1:30 p.m.

ADJOURNMENT:

Councilman Johnson moved for adjournment. Council member Cowan Watts seconded the motion. Motion carried.

APPROVAL / DISTRIBUTION:

Minutes submitted by: Gayle Miller, Recording Secretary

Motion to approve minutes made by: Buel Argen

Minutes attested and concurred by: Meredith A. Frailay

Date: 3-30-07