



# Council of the Cherokee Nation

## Meeting Minutes Rules Committee

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Thursday, October 29, 2009

1:00 PM

Legislative Conference Room

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### CALL TO ORDER

Chair Frailey called the meeting to order at 1:03 p.m.

### INVOCATION

Councilor Snell 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; Jodie Fishinghawk; Janelle Fullbright; Curtis Snell; Chris Soap; Chuck Hoskin, Jr. and Julia Coates

**Late Arrival** 2 - Harley Buzzard and Bradley Cobb

### APPROVAL OF MINUTES

Councilor Cowan Watts moved to approve the September 24th regular session minutes. Councilor Anglen seconded the motion. Motion carried.

### REPORTS:

#### 1. Marshal Service - Sharon Wright

*Mr. Frankie Dreadfulwater reported in the absence of Ms. Wright. He provided a brief overview of the written report provided. He gave 1-866-456-9224 as the citizen contact number to the 24 hour Marshal dispatch. Councilor Fishinghawk stated they had requested approximately three months ago to be able to review in private the tape of the accident at Will Rogers Downs. Mr. Dreadfulwater stated he would check into the situation.*

#### 2. Office of the Attorney General - Diane Hammons

*Mr. Nason Morton offered to answer questions from the written report in the absence of Attorney General Hammons. Councilor Hoskin Jr. referred to a letter written to the poultry industry by the AG where it indicated that prior to being a part of the lawsuit we had worked in the background to reach resolution. He requested if she could provide in detail what this meant.*

## 3. GEG Investigation Report - Diane Hammons

*Mr. Morton didn't have any new information to report in regard to GEG.*

## 4. Election Commission -

*The Election Commission Attorney, Mr. Lloyd Cole, announced he had two items for consideration this afternoon. One is the revision of the Election Law. The Commission met earlier this morning and went over red line revision #4. He provided a handout of a mark up of a proposed amendment to § 21 C2 where they suggest 45 days rather than 180 and regular mail rather than registered. He stated other than this recommendation they are comfortable with the legislation. Councilor Hoskin Jr. inquired if Mr. Cole and the Commission would remain here during the discussion of the election law revisions. Mr. Cole stated they would. Secondly Mr. Cole commented earlier this morning they approved the apportionment that the Court remanded to them in the litigation regarding the redistricting. He stated he would be filing this report tomorrow and furnishing copies to all attorneys involved. Councilor Hoskin Jr. inquired if the Commission developed a reapportionment to be approved or that they have approved the apportionment that the Council passed. Mr. Cole stated the District Court remanded it to the Commission to do the apportionment. He stated the statute does state it is to be approved by the Council. He stated the will file it with the Court and leave it in the hands of the District Judge as to what disposition is to be made. They will file it along with a map tomorrow. Councilor Glory-Jordan inquired if the Commission saw as their duty as obtaining the numbers. Mr. Cole agreed. Councilor Glory-Jordan inquired about the map referred to. Mr. Cole stated they generated a map based upon the Council's fifteen districts with the numbers that were generated. Councilor Glory-Jordan inquired if this is what is called for in the Constitution as a portion of the Election Commission's duties. Mr. Cole stated when his report is viewed he alludes to the Constitutional provision as well as the statutory provision that places the responsibility on the Commission. He stated it is not their responsibility to divide into fifteen districts just to make the apportionment of the fifteen districts that the Council has adopted in the legislation that is subject of the lawsuit. Councilor Glory-Jordan inquired if it is his interpretation that the Commission is to go beyond getting the numbers and create a map. Mr. Cole stated the Council created the map. Councilor Glory-Jordan inquired if the fifteen districts on the Commissions map the same fifteen districts that have been approved by this Council. Mr. Cole agreed. Councilor Glory-Jordan inquired if the boundary lines are the same. Mr. Cole agreed. He stated they made the apportionment based on the districts set out by the Council. Councilor Glory-Jordan inquired if the map being filed tomorrow is the same map cut up the same way as the fifteen districts that have been approved by this body. Mr. Cole stated he didn't know what was meant by the same but they are similar. They are the same fifteen districts but the numbers they used are from May 22nd when the judge remanded it to the Election Commission. They applied the apportionment they understood they were responsible to do to the fifteen districts. Councilor Glory-Jordan inquired as to the deviation between the districts. Mr. Cole stated he would have that tomorrow. Councilor Glory-Jordan inquired if the deviations are consistent with the deviations the Council had. Mr. Cole stated he doesn't know if it is consistent but reflects the numbers of the Commission. There are disparities the same as the Council's. Councilor Glory-Jordan inquired if the map could be shared with the Council today. Mr. Cole stated he doesn't have it finalized that they had just met earlier today. He stated he would file it tomorrow and then be able to provide copies. Councilor Glory-Jordan voiced concern that it is not in the Constitution or in Judge Fite's ruling that allows the Election Commission to create a map of any sort. She stated what she sees in the Constitution and in the judges direction is the Commission was to*

come up with what they believe a valid number of membership is within the inter boundaries of the Cherokee Nation. Once that number is provided then the Council takes that number and splits it in what they feel is the most appropriate way then devises a map. She voiced concern stating it exceeds the Constitutional duty of the Commission to provide a map to the Court. Mr. Cole stated she is ably represented at this time by Counsel in that lawsuit and certainly through that counsel have the right to raise that question. Mr. Cole stated their understanding of the remand is that they have to report back to the Court. Councilor Glory-Jordan stated there isn't a deadline for the report to be back to the Court. She felt he could share the information with the Council prior to filing anything with the Court. Mr. Cole stated it would be done simultaneously. Councilor Glory-Jordan stated the Council may need to take the lawsuit a step further in regard to the Commission doing more than the Court asked and more than the Constitution requires. Mr. Cole stated he is responding to what he thinks is the intention of the Judge. Councilor Glory-Jordan stated if Mr. Cole files anything other than the appropriation numbers than the Commission has exceeded their powers. Mr. Cole commented no one will be happy with the way this is decided. The Commission is not interested in the outcome just the finality so they can move forward and prepare for the next election. He stated the Commission doesn't have a dog in this fight. Councilor Hoskin Jr. stated he viewed the same concerns as Councilor Glory-Jordan. He inquired if Mr. Cole was saying but for the Court's remand there would be no legal obligation for the Commission to construct and produce a map. Mr. Cole stated his understanding of the judge's order was it was remanded to the Election Commission to do its statutory requirement. Councilor Bill John Baker questioned the different dates used to determine the numbers. Mr. Cole stated they used the date of the remand which is May 22nd and the Council used the date of November 2007. Councilor Cowan Watts pleaded with the Election Commission to continue with the process to get the voters informed of the process that the election is already upon us. Councilor Glory-Jordan inquired if the fifteen districts were taken as approval by this Council and put what the Commission believes to be the correct numbers without changing the district lines. Mr. Cole agreed.

5. Tax Commission - Sharon Swepston

*Ms. Swepston offered to answer questions from her written report. She announced they hope open the Jay office after the first of the year.*

6. Self-Governance - Vickie Hanvey

*Ms. Knight offered to answer questions from the written report provided by Ms. Hanvey. She announced the Interior Appropriations held a conference and announced for 2010 a substantial increase for contract support cost.*

7. Gaming Commission - Jamie Hummingbird

*Chair Frailey gave appreciation to Mr. Hummingbird and the great work he did with Mr. Echohawk. Mr. Hummingbird apologized for his report not making it into the packet. He stated he would leave a copy today. He announced the Secretary of the Interior has nominated a Chickasaw tribal member to be an Associate Commissioner for the NIGC by the name of Stephanie Cochran. There is rumor that there may be three people going up for NIGC Chair. He stated there isn't anything major going on at the gaming facilities at this time. He announced they are nearing 3,500 licensees. Compact games take up 65% of the floor. Chair Frailey requested a quick briefing of Mr. Hummingbird's experience serving on the panel during Mr. Echohawk's conference last week. Mr. Hummingbird stated the purpose of the panel was to*

discuss some of the pending gaming issues on the National scale. He stated it was refreshing to hear that there are a number of issues, a number of internal control publications, and some rural modifications with the NIGC that will be retracted and looked at again. They will also be looking at land into trust issues and a hard look at the NIGC's consultation policy. Councilor Fishinghawk inquired about the status of the shower door incident at Catoosa. She also questioned why the Council wasn't notified of the incident. Mr. Hummingbird stated there are actually two incidents. The first incident they were not aware of but were notified of the second. The shower door installation was faulty. One of the incidents occurred when the shower door slipped off of the track and fell and cracked. The second incident occurred when a patron accidentally pushed on the door and it came off, cracked and cut the hand young girl. The wounds were taken care of and addressed. Immediately after the second incident all shower doors were removed and replaced with shower curtains. Flintco and the company who performed the installation of the shower doors were called in to isolate the problem. It was determined that some of the parts used were not installed correctly. All of the shower doors will be refurbished and replaced with new shower doors. Councilor Fishinghawk inquired if they had considered tempered glass.

8. Codification - Todd Hembree

Mr. Morton provided an update on Codification while Mr. Hembree is out of State. He stated they are working to determine cost for the book form. They need to determine the number of copies, they of binding, and printing to be able to place bids.

Councilor Fishinghawk requested Ms. Hammons provide an update on ICI next month.

Councilor Glory-Jordan requested samples of the codification binding be provided next month.

9. Cherokee Nation Education Corporation - Shelley Butler-Allen

Ms. Butler-Allen gave appreciation to At Large Councilors Jack D. Baker and Coates for their generous donation to the At Large Scholarship. She offered to answer questions from her written report.

**Councilor Coates moved for the Cherokee Nation Education Corporation quarterly report be moved to the Executive and Finance Committee. She stated it is more appropriate on that committee as it is a corporation and has a significant amount of financial resources. Councilor Garvin seconded the motion. Motion carried.**

OLD BUSINESS

1. AN ACT AMENDING LA#7-97 AND LA#39-05; REVISING TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED

Chair Frailey stated she spoke to Mr. Hembree and believes the only issues remaining are the two pages of amendments behind the old business #1tab and the paragraph handout with the Election Commission's recommended changes. Councilor Cowan Watts introduced the amendments as follows:

§ 21 C 2  
At Large Registered Voters

Councilor Cowan Watts moved to approve the 180 days and registered mail version as proposed by Councilor Garvin. Councilor Cobb seconded the motion. Councilor Garvin offered a friendly amendment to accept the Election Commission's recommendation of 45 days and regular mail. Councilor Cowan Watts didn't accept. Councilor Jack D. Baker made a motion to change the 180 days to 45 days. Councilor Bill John Baker seconded the motion. Councilor Hoskin Jr. offered a friendly amendment to change from 45 days to 90 days. Chair Frailey inquired of the Election Commission the reasoning for the 45 days. Mr. Roger Johnson, Chairman of the Commission commented Ms. Martha Calico has recommended the change and has many years of experience on the Commission. The request to change to regular mail instead of registered is strictly due to cost. Councilor Jack D. Baker stated he didn't accept and would prefer 60 days. Councilor Cowan Watts stated we had problems before because of the short time frame. Councilor Cobb stated there are still constituents who are mad from the last time. He requested the time frame be reconsidered for at least 90 to 180 days. Councilors Jack D. Baker and Councilor Bill John Baker upon reconsideration accepted the friendly amendment of 90 days. Councilor Fishinghawk asked Ms. Calico for her reasoning. Ms. Calico stated this now only applies to the At Large now. She stated they are afraid if the process isn't sped up they will not have enough time to get everything done in time for the 2011 election. Councilor Fishinghawk inquired if they had mail out response statistics. Ms. Calico stated typically if a response isn't received in 21 days you will not receive one at all. The motion to approve the amendment of changing the 180 days to 90 days passed with Councilors Crittenden and Fullbright opposed.

Councilor Glory-Jordan made a motion to accept the recommendation of regular mail instead of registered mail. Councilor Garvin seconded the motion. Motion carried.

Councilor Cowan Watts called for the question on § 21 C 2.

**The motion to accept as amended carried.**

§ 22 A

Councilor Cowan Watts moved to approve the added language. Councilor Anglen seconded the motion. Chair Frailey inquired why the web wasn't included. Councilor Cowan Watts commented she would accept a friendly amendment to include the Cherokee Nation web sites.

**Motion carried.**

§ 23 D

Councilor Cowan Watts moved to approve this amendment. Councilor Garvin seconded the motion.

**Motion carried.**

§ 24

Councilor Cowan Watts made a motion to approve. Councilor Anglen seconded the motion. Councilor Jack D. Baker commented he didn't see the necessity in doing on an annual basis as the law already states it is to be done upon receipt of satisfactory evidence. Councilor Cowan Watts stated the wording doesn't preclude them from doing it as they get them but it does require they be done on an annual basis. Ms. Calico stated the Registration Department provides notice monthly of the deaths.

**The motion failed by the following vote:**

**Yea:** 5 - Don Garvin; Cara Cowan Watts; Buel Anglen; Janelle Fullbright and Julia Coates

**Nay:** 12 - Bill John Baker; S. Joe Crittenden; David Thornton Sr. ; Meredith Frailey; Jack D. Baker; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb and Chuck Hoskin, Jr.

§ 34

*Councilor Cowan Watts moved to approve. Councilor Crittenden seconded the motion. Councilor Cobb inquired as to what qualifies as bona fide. Mr. Todd Hembree the Council attorney stated this is a catch all that would contain any other documentation that the Election Commission would deem appropriate. Councilor Glory-Jordan stated as a married person she would have difficulty meeting four of these requirements. She inquired as to what the current legislation requires. She offered a friendly amendment to reduce the requirement to three documents instead of four. Councilors Cowan Watts and Crittenden accepted the friendly amendment. Councilor Bill John Baker stated everything he as goes to his business address. Councilor Fishinghawk stated most of her constituents don't have a driver's license, don't own their home, and don't vote in other elections she inquired as to the Election Commission's opinion as to the number required. Mr. Johnson stated it worked properly before and questioned why change if the current legislation isn't an issue. Chair Frailey stated it is of her opinion that this is the Election Commission's responsibility as an administrative function. Councilor Glory-Jordan made a motion to table. Councilor Bill John Baker seconded the motion.*

**The motion failed by the following roll call vote:**

**Yea:** 5 - David Thornton Sr. ; Meredith Frailey; Tina Glory Jordan; Jodie Fishinghawk and Chuck Hoskin, Jr.

**Nay:** 12 - Bill John Baker; S. Joe Crittenden; Don Garvin; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Janelle Fullbright; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb and Julia Coates

*Councilor Glory-Jordan called for the question. Chair Frailey stated she has two Councilors who haven't spoke yet. Councilor Cowan Watts stated there is a broad group of her constituents who believe this was an issue two elections ago.*

**The motion carried with Councilors Bill John Baker, Fishinghawk, and Glory-Jordan opposed.**

§ 36

*Councilor Cowan Watts moved to approve. Councilor Glory-Jordan seconded the motion with a friendly amendment to add "voting board member of a voting commission member". Mr. Hembree suggested inserting voting board or commission member. Councilors Cowan Watts and Glory-Jordan accepted. Councilor Jack D. Baker stated as long as the Heritage Center is 50% funded by the Cherokee Nation it would preclude any Council member from being on the board. Councilor Glory-Jordan requested clarification that Council members are on advisory members on boards. She inquired if there are some boards Council members serve on that have a vote. Councilor Jack D. Baker stated the Cherokee Heritage Center is not a Cherokee Nation organization but it is a non profit that is currently 50% funded by the Cherokee Nation. Councilor Cobb requested verification that if the vote is yes on this motion then Councilor Jack D. Baker can no longer be a member of the Heritage Center Board as it is more than 50% funded by the Cherokee Nation. Councilor Bill John Baker offered a friendly amendment to exclude the Cherokee Nation Heritage Center. Councilor Cowan Watts stated she understands the importance of Council members sitting on the Heritage Center board but felt they needed to move forward with the amendments to finish and send to Council next month. She suggested passing as is and work on alternate language before the next Council meeting. She voiced concern for placing the Heritage Center in a political position by making them*

*the exception. Councilor Glory-Jordan agreed and felt a compromise could be met prior to the Council meeting. Councilors Cowan Watts and Glory-Jordan declined the friendly amendment. Chair Frailey restated the motion is to pass as amended.*

**The motion carried with the following roll call vote:**

**Yea:** 10 - Don Garvin; Cara Cowan Watts; Buel Anglen; Tina Glory Jordan; Jodie Fishinhawk; Harley Buzzard; Curtis Snell; Bradley Cobb; Chuck Hoskin, Jr. and Julia Coates

**Nay:** 6 - Bill John Baker; David Thornton Sr. ; Meredith Frailey; Jack D. Baker; Janelle Fullbright and Chris Soap

**Not In Room:** 1 - S. Joe Crittenden

§ 43 E

*Councilor Cowan Watts moved to approve. Councilor Garvin seconded the motion.*

**The motion carried with Councilor Soap opposed.**

§ 44 C

*Councilor Cowan Watts moved to approve. Councilor Garvin seconded the motion.*

**Motion carried.**

**Councilor Cowan Watts moved to approve the Act with all amendments.**

**Councilor Anglen seconded the motion. Motion carried by acclamation.**

2. A RESOLUTION AUTHORIZING CONFIRMATION OF WILLIAM GRASS AS A MEMBER OF THE BOARD OF MANAGERS OF CHEROKEE MEDICAL SERVICES, LLC  
*Councilor Glory-Jordan made a motion to table items 2 through 5 for one month. She stated she spoke to Mr. David Stewart and there is legislation coming forward that may alleviate some of these positions from being reconfirmed. Mr. Stewart agreed. Councilor Cobb seconded the motion.*  
**The motion to table items 2 through 5 in Toto carried.**
3. A RESOLUTION CONFIRMING THE NOMINATION OF KENNETH LIMORE AS A BOARD MEMBER OF CHEROKEE NATION ADMINISTRATIVE APPEALS BOARD  
**Tabled in Toto.**
4. A RESOLUTION CONFIRMING THE RENOMINATION OF EDDIE HUMPHREY AS A BOARD MEMBER OF CHEROKEE NATION BUSINESSES, LLC  
**Tabled in Toto.**
5. A RESOLUTION CONFIRMING THE RENOMINATION OF ADOLPH LECHTENBERGER AS A BOARD MEMBER OF CHEROKEE NATION BUSINESSES, LLC  
**Tabled in Toto.**

## NEW BUSINESS

1. AN ACT AMENDING LEGISLATIVE ACT 30-04 ESTABLISHING REQUIREMENTS FOR APPOINTMENT OF MEMBERS OF BOARDS AND COMMISSIONS; ENABLING AN EMERGENCY

*Councilor Glory-Jordan made a motion to approve. Councilor Fishinghawk seconded the motion. Councilor Glory-Jordan stated this Act requires all nominations be Cherokee and that a person can only serve on one board at a time. She requested an amendment that a person can serve on multiple boards as long as only one board is a paying board. She stated she has been provided a list of boards and commissions. She stated surprisingly there are only a few boards with non Cherokees. She also provided a list of pay for the boards and commissions. Councilor Cobb stated he could not support due to there only being a few instances with non Cherokees serving. He voiced concern that if it is a requirement that all board members be Cherokee that there may be a position needed in which there isn't a Cherokee. He voiced concern that this could limit our ability to do business. Councilor Fishinghawk stated her family owns various businesses and just completed building her new home. Her new home was constructed by all Cherokees. Councilor Hoskin Jr. stated we are looking to fill positions of public trust and it shouldn't be difficult to fill those positions with Cherokees. They do not have to be an expert they just need to be trustworthy. Councilor Buzzard commented he supports having all Cherokee boards but isn't in favor of having just one board per person. Ms. Knight provided a handout of boards and commissions showing if the members are Cherokee or not.*

**Councilor Glory-Jordan made a motion to table. Councilor Cowan Watts seconded the motion. Motion carried with Councilor Soap opposed.**

2. A RESOLUTION CONFIRMING THE NOMINATION OF LARRY ADAIR AS A COMMISSIONER OF THE CHEROKEE NATION GAMING COMMISSION

**Councilor Cobb moved to approve. Councilor Cowan Watts seconded the motion. Motion carried.**

3. A RESOLUTION CONFIRMING THE NOMINATION OF BRAD CARSON AS A BOARD MEMBER OF CHEROKEE NATION BUSINESSES, LLC

**Ms. Knight requested to withdraw. She stated this nomination was a bit presumptive and they would be presenting at a later date.**

*Councilor Glory-Jordan made a motion to adjourn and address the remainder of the agenda next month. Councilor Crittenden seconded the motion. Councilor Cowan Watts questioned the time constraints of item 6. Councilor Glory-Jordan agreed.*

4. SELECTION OF THE CHEROKEE NATION TRIBAL COUNCIL SECRETARY

**Councilor Glory-Jordan made a motion to table items 4 and 5. Councilor Fishinghawk seconded the motion. Motion carried with Councilor Cobb opposed.**



- 5. A LEGISLATIVE ACT AMENDING LA#01-01, "THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"; AMENDING ALLOCATION OF REVENUES  
**Tabled in Toto with Councilor Cobb opposed.**
  
- 6. A RESOLUTION EXPRESSLY WAIVING THE SOVEREIGN IMMUNITY OF THE CHEROKEE NATION AND OF CHEROKEE NATION HOME HEALTH SERVICES TO THE EXTENT IT MAY EXIST, AS IT APPLIES TO THE ARVEST AND CHEROKEE NATION HOME HEALTH SERVICES LOAN AGREEMENT  
**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 to the Tribal Council. The motion carried unanimously.**

ANNOUNCEMENTS

*Councilor Bill John Baker announced Randy Catcher is here and is accepting donations for the Greasy School to have a trunk and treat. He expressed hope with the Council no longer having Community Assistance that they would personally donate to allow these kids who have lost their school the ability to have trick or treat. He commented Mr. Catcher is outside or the donations could be given to Gayle.*

ADJOURNMENT

**Councilor Bill John Baker moved to adjourn. Councilor Crittenden seconded the motion. Motion carried at 3:05 p.m.**

STAFF PRESENT:

<i>Jamie Hummingbird</i>	<i>Frankie Dreadfulwater</i>	<i>Sharon Swepston</i>
<i>Doug Evans</i>	<i>Mike Miller</i>	<i>Nason Morton</i>
<i>Kim Carroll</i>	<i>Rick Richards</i>	<i>Dale Gibson</i>
<i>Jon Overacker</i>	<i>Diane Kelley</i>	<i>Melanie Knight</i>
<i>Nettie Dethridge</i>	<i>Melanie Dodge</i>	<i>Derek Meigs</i>
<i>Williard Mounce</i>	<i>Rob Daugherty</i>	<i>Jeff Vance</i>
<i>Tammy Beaver</i>	<i>Larry Ketcher</i>	

VISITORS PRESENT:

<i>Curtis Rohr</i>	<i>Lloyd Cole</i>	<i>Roger Johnson</i>
<i>Charles Dry</i>	<i>Brenda Walker</i>	<i>Martha Calico</i>
<i>Kim Gilliland</i>	<i>Joe Adair</i>	<i>David Stewart</i>

APPROVAL / DISTRIBUTION

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

**Motion to approve minutes made by:** *Beul Anglen*

**Minutes attested and concurred by:** *Frederick Frasley*

**Date:** *11-17-09*