

**RULES COMMITTEE  
LEGISLATIVE CONFERENCE ROOM  
May 29, 2008  
1:12 P.M.**

**STANDING COMMITTEE:**

**Rules Committee**

**COMMITTEE PRESIDED BY:**

**Meredith Frailey, Chair**

**COMMITTEE MEMBERS PRESENT:**

**Meredith Frailey  
Jack D. Baker  
Bradley Cobb  
Janelle Fullbright  
Curtis Snell\*  
David Thornton**

**Bill John Baker  
Joe Crittenden  
Buel Anglen  
Chuck Hoskin, Jr.  
Chris Soap**

**Julia Coates\*  
Don Garvin  
Jodie Fishinghawk  
Tina Glory-Jordan  
Cara Cowan Watts**

**\* Entered after roll call**

**COMMITTEE MEMBERS ABSENT:**

**Harley Buzzard**

**STAFF PRESENT:**

**Vickie Hanvey  
Sharon Swepston  
Callie Catcher  
Diane Kelley**

**Nason Morton  
Melanie Knight  
Diane Hammons  
Ginger Brown**

**Becky Johnson  
Sharon Wright  
Doug Evans**

**VISITORS:**

**Charles Dry  
Emily Bushyhead  
Shawn Slaton  
Mike Miller**

**Todd Hembree  
Jim Ketcher  
Brad Carson**

**Robert Huffman  
David Stewart  
Brent Thompson**

**QUORUM ESTABLISHED:**

**Yes**

**LEGISLATION:**

**Yes**

**MINUTES:**

**Attached**

**RULES COMMITTEE**  
**LEGISLATIVE CONFERENCE ROOM**  
**May 29, 2008**  
**1:12 P.M.**

**CALL TO ORDER:**

Chair Frailey called the meeting to order at 1:12 p.m. Councilor Crittenden gave the invocation. Roll was called and a quorum was established.

**APPROVAL OF MINUTES:**

Councilor Jack Baker moved for the approval of April 24, 2008 regular session minutes. Councilor Cowan Watts seconded the motion. Motion carried. Councilor Jack Baker made a motion to approve the May 12, 2008 sub committee minutes. Councilor Garvin seconded the motion. Motion carried.

**REPORTS:**

Marshal Service:

Ms. Sharon Wright announced she would answer any questions from the written report provided.

Justice Department:

Ms. Hammons stated the written report has been provided and added the highlight that they are currently in the process of hiring 4 summer interns, 3 attorneys and possible additional attorneys in the fall. Councilor Thornton inquired as to how many attorneys total. Ms. Hammons stated 9 total including current staff and her. Councilor Thornton inquired if any could practice in Washington DC. Ms. Hammons stated she is in the process of obtaining her license to practice in Washington DC. Councilor Fishinghawk stated a request was made for an opinion a few months ago regarding state tax and she inquired if a response was ever received. Councilor Hoskin Jr. stated he remembers a request regarding a treaty or a court decision involving state sales tax or income tax. Councilor Hoskin Jr. stated he would review his email and forward the request to Ms. Hammons. Ms. Hammons stated Indians living on Indian country and working for the tribes do not have to pay state income taxes. Councilor Glory-Jordan inquired under the Governmental Records Act if the confidentiality under Title 75 meant a Council member was unable to share the information with other Council members. Ms. Hammons stated her interpretation would be it must stay within the Council. She stated other Council members could have requested the information as well. She suggested making note of which Council members the information was shared with. Councilor Glory-Jordan inquired if Mr. Hembree was of the same opinion. Mr. Hembree agreed and stated the Council members who are given the information by another Councilor are still bound by the same confidentiality requirements of the original Councilor receiving the information.

### Election Commission:

No one was present to report. Councilor Cowan Watts inquired if the election commissioners appointed by the Council have been sworn in. Chair Frailey stated they haven't at this time waiting on the Chief's appointees. She stated the Council could go ahead with swearing in their two. Councilor Cowan Watts inquired as to how to move along that it is unfair to the appointees. Mr. Hembree stated under the statute they are commissioners and there is no reason for them to not take the oath of office. He recommended a Justice of the Supreme Court be invited to the next full Council meeting to administer the oath of office. He stated it is his understanding that in the near future the Chief will have his 2 appointees and then those 4 would pick the 5<sup>th</sup>. Chair Frailey inquired if business could be conducted with only 2 commissioners. Mr. Hembree stated no two does not constitute a quorum.

### Tax Commission:

Ms. Swepston stated their report has been provided and offered to answer any questions. Councilor Glory-Jordan inquired how the flex hours for the tag offices were progressing. Ms. Swepston stated at this time she has one employee who has agreed to work flex hours and at least two are needed. She stated they are in the process of hiring additional staff at this time. She hopes to have it worked out by July. She stated they will start in Tahlequah being open till 7:00 p.m. on Tuesdays and Thursdays and see how flex hours work. Chair Frailey requested the Council be briefed on the ruling in Mayes County for the smoke shops. Ms. Swepston stated the smoke shops had filed a lawsuit in Mayes County with regard to the constitution stating everyone should be treated equally. They received a favorable ruling from the judge stating \$2.58 would be the tax for everyone there. The State stated they would appeal and request a stay then the judge stayed his ruling waiting for the State to file their appeal. She announced as of Tuesday the State has not filed their appeal. Ms. Swepston stated she has sent out letters to all of the wholesalers and the shops with notification of the waiving of the fifty cent tax as of the 12<sup>th</sup> of May.

### Self-Governance:

Ms. Vickie Hanvey provided a written report. She stated they received the DOI, MOU's, MFA and have been paid the DOI funds. She provided a handout from the self-governance conference and stated they are working on a self-governance report card to provide the tribes progress over the last 20 years. The BIA has produced a brief video with Chief Smith participating in regard to self-governance. She stated she would share the video with the Council once she receives a copy. She stated the self-governance planning process continues with Hastings. She stated an update on the negotiations was provided during the Health committee meeting. Employee offers are being made this week at Hastings. She stated several conference calls have been held since the Health committee met. They are making incremental progress on negotiation. She announced they have negotiations are scheduled all next week IHS in Oklahoma City. She stated there is a correction on her written report. In number 3 under initiatives that they have received \$17ml less rescissions on the Muskogee joint venture project. She announced Cart Artman has tendered his resignation as the Assistant Secretary of Indian Affairs. Bob McSwain has been confirmed as the Director of IHS. Councilor Hoskin Jr. questioned who produced the self-governance negotiation timeline being circulated in

regard to Hastings. Ms. Hanvey stated the team worked together to produce the timeline. Councilor Hoskin Jr. pointed out there is not an item in regard to Council ratification of the compact. He questioned if it is the understanding that the Council would ratify the final product the IHS and administration compacts. Ms. Hanvey questioned what was meant by ratify. She stated the compact has already been approved by the Council at the beginning of self-governance with the original compact and a resolution to reaffirm was brought before the Council when negotiations were held for the new compact in 2005. Councilor Hoskin Jr. referred to a Legislative Act calling for ratification of a compact. Mr. Hembree stated he has been very open with his opinion regarding the necessity of this Council to ratify the Hastings take over. He stated it is his opinion that the Council should and must ratify the decision for a number of reasons. It is constitutional; there will be a need for funds to effectuate this acquisition either through budget modifications or new appropriations and the Council is the only body who can authorize the expenditure of funds. He stated Legislative Act 15-01 requires anything involving substantial assets of the Cherokee Nation in compacts, treaties, contracts etc require Council approval. The Resolutions referred to are general in nature and merely just reaffirmations of what has been done in the past. He stated the Legislative Act is more specific and therefore would control over general language. He explained the difference between Legislative Acts and Resolutions as being a resolution by definition under the statute is a statement of will or wishes of the Council and a Legislative Act is defined as something that must be adhered to or followed. He stated in this regard the Legislative Act trumps the resolutions. He stated it is his hope that this will be brought before the Council for approval. Councilor Hoskin Jr. stated Mr. Hembree shouldn't have to hope that Legislative Act 15-01 mandates it. He stated he is very sensitive to a timeline that doesn't contemplate any action by the Council. Ms. Melanie Knight stated they are familiar with the Act being referenced in terms of ratification of a compact. She stated at this point they are not proposing a change to the compact. She stated they are negotiating a funding agreement that is associated with the compact. She stated it is their position that the approval of the compact has occurred. She agreed the budget has to be approved by the Council. She stated they have been reporting to the Council on the progress of these negotiations and plan to continue to do so. She encouraged discussion of what type of action if any further beyond a budget approval and approval of the compact itself that this Council would like to do in regard to Hastings. She stated if there needs to be an additional approval of a specific program under the funding agreement then they would support it in any way possible. Councilor Bill John Baker stated last month during the meetings The Speaker and the Chair of the Health Committee stated it had to come back before the Council and Melissa Gower agreed. He inquired if this is Secretary of State Knight's position as well. Ms. Knight stated it certainly has to come back in the form of an amendment to the budget. Councilor Bill John Baker inquired if they are prepared to negotiate, sign off and take over Hastings with or without the Council. Ms. Knight stated they negotiate funding agreements routinely. Councilor Bill John Baker stated Hastings is not routine. Ms. Knight agreed stating this is a substantive additional program through that funding agreement. The process is this is a funding agreement and we negotiate those for multiple years and annually and they are operational agreements under an umbrella compact. She stated the compact was approved, the compact stands and if this Council decides it wants to take some sort of action in regard to that program due to the substantive then she doesn't feel they would be opposed. Councilor Bill John Baker made a motion that we do not take over Hastings Hospital until the Council fully discusses it and takes a vote. Councilor Hoskin Jr. seconded the motion. Councilor Hoskin Jr. stated this action may not be needed with LA#15-01 but he does still support it. He requested Council Attorney Hembree to provide an opinion in regard to this

discussion. Mr. Hembree stated he would provide a written memo. He stated at the end of these negotiations there will be a signature required. He stated the Act stated substantial is anything over \$25,000 and includes a definition of a contract, compact, memorandum of understanding and treaty. He stated as Attorney for this Council he doesn't see how this doesn't fall under LA#15-01. He welcomed the motion but felt it is required by law. Councilor Cowan Watts stated she has a different understanding. She stated the motion seems to indicate that this process has been done in the dark. She stated they have been more than open. She stated in past meetings two resolutions were provided that clearly indicated that this body had given authority to compact with Hastings. She stated the action of the body would be to rescind those resolutions if in disagreement. It is redundant and unnecessary for this Council to affirm with a motion. She stated there was discussion and this body concurred to move forward with taking over Hastings. Councilor Cobb stated he fully understands the concern. He agreed this motion may be redundant but does feel this Council has a say. He stated this hasn't been done in the dark and is of the opinion that this Council will have a say once the feasibility study and negotiations are complete. Councilor Hoskin Jr. stated in regard to the notion that this has some how been done in the dark he disagrees. The Council of the Cherokee Nation if this motion passes and if Mr. Hembree is right is simply as an institution asserting its authority to have final say on the ratification of this compact. It is not inconsistent with the two branches agreeing with the take over of Hastings but an important procedural step that the Council ratifies this very important very substantial agreement. He stated this motion shouldn't be opposed due to its redundancy. He stated it is in his opinion that the administration has lost sight of the Council's role in ratifying this agreement. He stated we should confirm here today with Councilor Baker's motion that we are going to ratify this agreement. Councilor Thornton stated this discussion began after this elected term began. He stated it was his understanding to negotiate the feasibility of this Nation taking over the functions of Hastings Hospital. He stated it was never brought before this Council to decide if to or not to take over the hospital. He stated he has people in his district that are for the take over and against the take over. He agreed the Council should have a vote on the ratification of this take over simply because of the constitution stating the Council approves all funding. Ms. Hanvey stated the timeline document has a budget approval step included. Councilor Bill John Baker stated he has been attending the negotiations and the Cherokee Nation has not received enough information from IHS to make a decision. They have not provided all of the financial information or technical information yet we are asking employees Friday to determine if they want to be employees of the Cherokee Nation or IHS not knowing what the pay would be. He stated there are numerous questions unanswered and wants there to be no doubt that this comes back before the Council for a vote. He withdrew his motion due to redundancy but stated he is relying on LA#15-01 that this will come back to this Council. Councilor Soap inquired if the Council has passed resolutions in previous terms regarding the construction of clinics in the Cherokee Nation. Mr. Hembree stated he would have to do research to be able to answer. Ms. Knight stated a long range plan was presented of needs but is unsure if action was taken. Councilor Bill John Baker stated Councilor Garvin brought forward the Muskogee Clinic where the Council voted unanimously to move forward with the clinic. Councilor Garvin agreed. Ms. Knight stated resolutions are needed for joint ventures projects and funding the construction of joint venture projects. Councilor Thornton stated a resolution was passed giving approval to purchase the property for the Muskogee clinic then the resolution followed giving approval to build the clinic. He stated he brought forward a resolution for the Redbird Clinic for funding to purchase property then brought forth a resolution for an annex. Councilor Cobb asked Mr. Hembree's opinion in regard to if the limit if this Councils involvement

limited to the budgetary process of the situation. Mr. Hembree stated he does not believe the Council's only involvement is in the budget process. He stated it is first and foremost because it is constitutional. He stated LA#15-01 states the Principal Chief or his designee has a right to negotiate but prior to them becoming effective or approved they must be approved by the Council. This legislation overrides any resolution from the past. He stated the resolutions referred to were passed in 1993 and 2006 were general in nature. The 1993 resolution enacting clause states now therefore be it resolved that the Council of the Cherokee Nation does fully support and endorse this request for a self-governance compact and annual funding agreement under the authority of public law 93-638 as amended by public law 100-472. The proposed and effective date for this compact is July 1, 1993. Be it further resolved that the Principal Chief and or his designee is authorized to sign necessary papers to complete and execute this grant proposal. The 2006 resolution enacting clause states Be it resolved by the Cherokee Nation that the Council of the Cherokee Nation fully supports and endorses the continuation of the Nation's self-governance, reaffirms its previous authorization of Resolution number 11-93 and authorizes the Principal Chief or his/her designee to execute and amended and restated compact of self-governance with the United States Health and Human Services, Indian Health Service, and Be it further resolved by the Cherokee Nation that the Principal Chief or his/her designee is hereby authorized to negotiate and execute each associated funding agreement to operate programs, services, functions and activities of the Indian Health Service as authorized by the compact. He stated he is of the opinion that before it can become effective the Council's approval must be obtained. Councilor Cobb inquired about still needing information from IHS. Ms. Knight stated this never ends but is getting better. She stated it is a struggle to get the information needed when needed to make decisions. She stated they still have not received information regarding the program amount and what is available. They have been working on what they consider to be the most prudent numbers but know there are additional numbers they need to provide. During the discussions today it was stated the information would be provided tomorrow. Councilor Cobb inquired if an employee chooses to become a tribal employee if they would lose 50% of their salary. Ms. Knight stated no. Detailed offers went out yesterday to the temporary staff that are not eligible for an IPA MOA and all were offered their same rate of pay. Councilor Glory-Jordan inquired if in this room Ms. Knight as the Secretary of State is the highest ranking official from the executive branch. Ms. Knight stated she was unsure that the Attorney General is also present. Councilor Glory-Jordan requested she come to the podium as well. Ms. Hammons stated Sharon Wright from the Marshals is also here. Councilor Glory-Jordan requested she come forward to the podium as well. She asked Ms. Knight if she intends on coming back to this body for ratification of what is happening regarding the take over of Hastings hospital. She stated she receives numerous emails and phone calls from employees and patients who are concerned. These people want to know that the Council person that they put into office still has a hand in this decision. Ms. Knight stated she would answer the best she knew how 1) they will be back with a budget request 2) she has asked the Attorney General for an opinion on LA#15-01. She stated whatever the opinion is once received is what will be followed in terms of ratification. Councilor Glory-Jordan inquired as to how long it would take to get the opinion rendered. Ms. Hammons stated she would provide the opinion within a week. Councilor Glory-Jordan stated they have people asking daily if they as a Council will have a say and are unable to provide an answer because of not knowing administrations position on LA#15-01. Ms. Knight stated there is a position on LA#15-01 and there is also beyond that. She stated depending the AG's opinion it may not be required for ratification but that doesn't mean this Council can not take action. Councilor Glory-Jordan stated

realistically this Council will not deny funding to Hastings hospital just because of not agreeing with the take over. She stated we must be at the front end of this decision making process. Ms. Knight stated in addition to the budget there can still be some action of the Council. If this body wants action it will be brought forward. Councilor Glory-Jordan requested a timeline of when the AG's opinion will be provided and immediately be shared with this Council. She questioned if the position is no ratification is necessary from this Council then the Council doesn't have a job and why we are in these positions. Ms. Hammons took the opportunity to clarify her fairly new role as Attorney General. She stated she as well as the Sharon Wright are a part of the Executive Branch but are independent appointed officials. She stated she is unable to state the position of the Executive branch or the administration. What she can say is the opinion asked for will be turned around in one week. Ms Hammons inquired if she was being asked for a formal opinion from both the Executive and the Tribal Council. Chair Frailey agreed. Councilor Glory-Jordan stated she would like to come out of this meeting with a formal request to the Attorney General to provide an opinion as to if they have to come to the Council for ratification prior to the completion of this take over of Hastings hospital. Chair Frailey requested Council Attorney Hembree draft the requested letter. Councilor Bill John Baker stated during the negotiations he has learned that the hospital needs a new roof and their idea of fixing it is to use the maintenance cost for the next 5 to 6 years. The cooling system is in bad shape and will cost \$4ml to fix. He stated one of the reasons for taking over the hospital was to add an operating room as well as make other changes only to discover during the negotiations that it is a federal facility and it can't be touched, added to or taken away. In regard to the offers of same pay to the employees if they become a tribal employee is somewhat true. He stated the Nation doesn't have a pension anything like the Federal government. He stated there continues to be numerous concerns with the employees. Councilor Glory-Jordan inquired if an Act is superior to a resolution. Ms. Hammons stated an Act is supposed to be an embodiment of law and a resolution is supposed to be the will of the Council. However in Cherokee Nation jurisprudence the lines are fairly blurred. Mr. Hembree read the definition of an Act and a resolution from the code book.

#### Gaming Commission:

No one present to report.

Councilor Bill John Baker made a motion to address new business items 4, 5, and 6 before old business to allow the presenter to attend another meeting. Councilor Cowan Watts seconded the motion. Motion carried.

#### Codification:

Mr. Todd Hembree stated Mr. Morton, Ms. Johnson and he have divided up the titles and everything is moving along.

#### GEG Investigation report:

Ms. Sharon Wright stated she hasn't spoken to the investigator in the last month and she hasn't received any new information.

## NEW BUSINESS:

4. **A Legislative Act Relating to Technical Amendments to the Cherokee Nation Limited Sales Act; and Amending Legislative Act #9-04.** Mr. Robert Huffman of CNE stated this is a technical amendment to allow third party lessees on trust property to obtain a tribal liquor license as well as suspends the sales tax on the sale of liquor. This would tighten up the criminal penalty for the sale of liquor to intoxicated people. Councilor Cowan Watts moved for the approval. Councilor Jack Baker seconded the motion. Councilor Glory-Jordan inquired if there would be a shift in liability with this in regard to serving the drunk. Mr. Huffman stated the liability stays with the server. Mr. Stewart stated this is a technicality to allow a third party to serve in our tribal facilities. Councilor Fishinghawk inquired as to what happens to the suspended taxes. Mr. Huffman stated the request is for the tribal tax to be suspended until such time they can enter into an agreement with the State of Oklahoma to determine who exactly does have the jurisdiction to receive the tax. Roll call is as follows:

Buel Anglen	Yea	Bill John Baker	Yea
Jack Baker	Yea	Bradley Cobb	Yea
Joe Crittenden	Yea	Jodie Fishinghawk	Yea
Meredith Frailey	Yea	Janelle Fullbright	Nay
Don Garvin	Nay	Chuck Hoskin Jr.	Yea
Tina Glory-Jordan	Yea	Curtis Snell	Yea
Chris Soap	Nay	David Thornton	Nay
Cara Cowan Watts	Yea		

Motion for approval passes with eleven (11) yeas and four (4) nays.

5. **A Resolution Authorizing Potential Suspension of Cherokee Nation Sales Tax Collection for Non-Indian Lessees.** Mr. Huffman stated this is in relation to the other item in which to allow third party lessees operate on trust property without being taxed by both the state and the tribe. Councilor Bill John Baker made a motion for the approval. Councilor Cowan Watts seconded the motion. Councilor Glory-Jordan inquired if the suspension of tax only applies to State sales tax. Mr. Huffman stated we access a 6% sales tax. He stated this is a suspension of the tribal tax in an effort to not tax a third party by both the state and tribe. Councilor Glory-Jordan inquired as to why we would want to suspend the tax. Mr. David Stewart stated this tax is being waived to give the third party business equal footing as they would have if not on tribal property. He stated they do not want to double tax them. He stated they are being charged a lease fee to be in the facility which in turn brings in people to our establishment to spend money. Mr. Evans clarified the impact to the tribal governments revenues that available for appropriations by this body would be affected by the Tax Commissions revenues not the dividend on the direct basis. Motion carried with Councilor Soap opposed.
6. **A Resolution Preserving a Tax-Exempt Finance Option for Cherokee Nation Businesses in Relation to its Investment in the Cherokee Nation Sanitary Landfill.** Mr. Carson withdrew this item.



## OLD BUSINESS:

1. **Presentation of Recommendations of the Elected Officials Compensation Committee.** Councilor Garvin announced Mrs. Barger Johnson has had her baby. He stated they are in the process of getting additional comparables. He made a motion to table to the June meeting. Councilor Cowan Watts seconded the motion. Motion carried.
2. **An Act Relating to the Amendment of Title 19 Officers and Meetings; Adding Division of Question; and Declaring an Emergency.** Councilor Jack Baker stated this legislation allow for the division of items that are capable of standing on their own. The presiding officer shall determine whether the question is susceptible to division. He stated this only applies to Council standing committees. Councilor Jack Baker moved for the approval. Councilor Cowan Watts seconded the motion. Chair Frailey inquired as to which version he was referring too. Councilor Jack Baker stated the motion for approval is for the handout not the version in the packet. He stated the change is the addition of the last sentence in section 4. Councilor Bill John Baker moved to table to allow time to review the changes. Councilor Glory-Jordan seconded the motion. Roll call is as follows:

Buel Anglen	Nay	Bill John Baker	Yea
Jack Baker	Nay	Julia Coates	Yea
Bradley Cobb	Nay	Joe Crittenden	Yea
Jodie Fishinghawk	Yea	Meredith Frailey	Yea
Janelle Fullbright	Nay	Don Garvin	Nay
Tina Glory-Jordan	Yea	Curtis Snell	Nay
Chris Soap	Nay	David Thornton	Yea
Cara Cowan Watts	Nay		

Motion to table fails by a vote of seven (7) yeas and eight (8) nays.

Councilor Fullbright offered a friendly amendment to section 4 in the last paragraph by stopping the sentence at remain divided and remove the remainder of the sentence. Councilors Jack Baker and Cowan Watts accepted the friendly amendment. Councilor Bill John Baker stated this just makes it worse because the majority can't put it back together. He stated if the purpose is to give line item veto then this will accomplish just that. Mr. Hembree recommended thorough debate to so that everyone is cognizant of the ramifications. He stated the act changes drastically without the remainder of the sentence. Councilor Bill John Baker stated right now you can divide anything wanted. He stated this allows for every time there is budget mod or a budget hearing one person can want to divide we will take 400 votes and not have the possibility of putting it back together into one piece of legislation. He stated the only way to stop it is if the chair refuses to honor the request for division. He questioned how Legistar would handle 1 act possibly becoming 400. He stated this would be extremely cumbersome to the staff and would allow line item veto. He stated the legislation was at least palatable until the friendly amendment. This is not good legislation. He inquired as to what the purpose is. The system we have now is not broke the majority of the Council can divide now. Councilor Cobb inquired as to the control of the chair of the

committee in this situation. Mr. Hembree stated it is his understanding with the friendly amendment that any one member of the committee can request division of one or all items. The chair determines if each proposition could stand alone. If the decision of the chair is it is dividable debate would proceed with the vote of each matter. As Attorney for the Council he warned that the legislation brought to the meeting today was agreeable as it still allows the opportunity to combine the legislation in the end. If this committee proceeds in this matter it is a deviation from Robert's Rules of Order. He stated this piece of legislation was based on the interpretation of House Rule 16 clause 5. He stated there is no legislative body that allows someone to splinter a legislative act this way. This would be a major shift of power from the legislative branch to the executive branch. He stated this does allow for a line item veto. Our constitution does not call for line item veto. This would actually be a defacto line item veto. The worst thing is if this progresses in this matter is that it is ripe for abuse. Literally one Councilor could grind this government to a standstill. He stated the budget modification for consideration today has 40 budgets that could be 40 separate acts, with 40 separate numbers and 40 separate votes to present to Council. He stated this would not only create a huge burden to the staff of the legislature but also the staff of the executive. The bill coming into committee today was palatable because it still allowed one councilor to call for division but it also allowed it to be combined after discussion. He stated if this passes today with the amendment it would be very detrimental to this branch of government. Councilor Fishinghawk requested clarification that this in fact allows for line item veto and that there is not other branch of government that allows this. Mr. Hembree stated if there is a legislative branch out there that allows this he can't find it. He stated if this was allowed there would be no such thing as a rider. Councilor Fishinghawk asked the sponsor what the purpose of the legislation is. Councilor Jack Baker stated the purpose is to allow if there is a controversial budget item that it could be split out and if passed out of committee separate it would then move to Council on its own. This wouldn't tie up other items on the budget when there is only 1 that is controversial. Mr. Hembree stated the basic intent is line item veto. He stated this legislation doesn't limit to only controversial items. He stated if the intent is to pass this with the amendment he requested the item be tabled to allow for stronger language. If this is passed today it will cause an unbearable hardship on the staff. Councilor Glory-Jordan made a motion to table. Councilor Bill John Baker seconded the motion. Motion carried with Councilors Jack Baker and Cowan Watts opposed.

## **NEW BUSINESS:**

- 1. A Legislative Act Amending Certain Sections of the Criminal Code Relating to Sex Crimes and Other Crimes Against the Person; Requiring Post-Conviction Supervision for those Convicted of Certain Offenses; and Requiring Mandatory Minimum Sentences for Certain Offenses.** Councilor Cowan Watts stated new business items 1 through 3 are separate acts but are integral to each other. She requested all three be combined in one motion. She provided a brief overview of each and moved for the approval of all 3 items in toto. Councilor Anglen seconded the motion. Councilor Glory-Jordan made a motion to table to allow a month to study. She stated this is a

big step and there are volumes of information. Councilor Hoskin Jr. seconded the motion. Chair Frailey inquired if there is a time line in regard to the Adam Walsh portion. Ms. Becky Johnson stated the final deadline for complete implementation is next July. She stated there must be a law in place that allows for the registering of the offenders and the resister is due by next July. Roll Call is as follows:

Buel Anglen	Nay	Bill John Baker	Yea
Jack Baker	Nay	Julia Coates	Nay
Bradley Cobb	Nay	Joe Crittenden	Yea
Jodie Fishinghawk	Yea	Meredith Frailey	Nay
Janelle Fullbright	Nay	Chuck Hoskin Jr.	Yea
Tina Glory-Jordan	Yea	Curtis Snell	Nay
Chris Soap	Nay	David Thornton	Yea
Cara Cowan Watts	Nay		

The motion to table fails by a vote of six (6) yeas and nine (9) nays.

Councilor Cobb inquired as to what the consensual age is for sex in Oklahoma at this time. Ms. Johnson stated the age of consent is 16. She stated this legislation states if you are under the age of 18 you can consent to sex with someone who is within 4 years of your age. Councilor Fishinghawk inquired as to what happens when someone is sentenced to rape when the tribal courts do not have felonies. Ms. Johnson stated the maximum our courts can sentence is 1 year or \$5000 or a combination of both. She stated normally when there is a rape in Indian country it goes through the federal court system. Councilor Cowan Watts stated the Indian Civil Rights Act of 1968 precludes tribes from sentencing more than 1 year and or \$5000. She stated there is a need for tribal law to address issues not included in this Act. If for some reason the Federal system doesn't prosecute then there is something even though it may be minimal that the tribal courts can do. Councilor Glory-Jordan stated many parts of this act provides for post imprisonment supervision to be done by the department of corrections. She questioned our ability to do this without a department of corrections. Ms. Johnson stated this is in error that it should state the Marshal service. Councilor Glory-Jordan stated this is a pretty big mistake and questioned how they were going to be able to do this along with all their other duties. She stated this is a major concern and is the reason she requested this act be tabled these errors occur throughout the legislation. She stated she is not against the legislation however there are numerous errors and she continues to have questions. Councilor Glory-Jordan made a motion to table. Councilor Fishinghawk seconded the motion. Roll call is as follows:

Buel Anglen	Nay	Bill John Baker	Yea
Jack Baker	Yea	Julia Coates	Yea
Bradley Cobb	Nay	Joe Crittenden	Yea
Jodie Fishinghawk	Yea	Meredith Frailey	Yea
Janelle Fullbright	Yea	Chuck Hoskin Jr.	Yea
Tina Glory-Jordan	Yea	Curtis Snell	Yea
Chris Soap	Yea	David Thornton	Yea
Cara Cowan Watts	Nay		

The motion to table carried with twelve (12) yeas and three (3) nays. Chair Frailey requested clarification that the motion to table was for all 3 pieces of legislation. Councilor Glory-Jordan agreed all 3 items to next month.

2. **A Legislative Act Amending Certain Sections of the Criminal Procedure Code Relating to Sentencing, Powers of the Court, and Deferred Sentences.** Tabled to June.
3. **A Legislative Act Adding Sections to Title 57 of the Cherokee Nation Code Annotated Concerning Persons and Reformatories; Requiring Sex Offender Registration, Post Conviction Supervision for Those Convicted of Certain Offenses, and Notification to the Community of Certain Sex Offenders.** Tabled to June.

**ANNOUNCEMENTS:**

None.

**ADJOURNMENT:**

Councilor Crittenden moved for adjournment. Councilor Thornton seconded the motion. Motion carried at 3:25 p.m.

**APPROVAL / DISTRIBUTION:**

Minutes submitted by: Shelli Brittain, Legal & Legislative Coordinator

Motion to approve minutes made by: Bradley Cobs

Minutes attested and concurred by: Meredith Frailey

Date: 6/26/08