



Council of the Cherokee Nation

Tribal Council Minutes

Tribal Council

Monday, October 13, 2008

6:00 PM

Council Chambers

CALL TO ORDER

Speaker Frailey called the meeting to order at 6:00 p.m.

INVOCATION

Councilor Garvin gave the invocation.

ROLL CALL

Present 17 - 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; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. ; Julia Coates and Bill John Baker

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Councilor Bill John Baker made a motion to approve the September 15th regular session minutes. Councilor Thornton seconded the motion. Motion carried.

Councilor Bill John Baker made a motion to amend the agenda to move old business item 2 to prior to reports, add agenda item 10 as a resolution for lease of tribal land to Bell school district, and item 11 as a resolution in support of the Boys and Girls Clubs. Councilor Cowan Watts seconded the motion. Motion carried.

STATE OF THE NATION

Principal Chief Chad Smith gave remembrance and requested a moment of silence for those fellow Cherokee citizens who have passed over the last month. Those lost are Dorothy Wolfe Brackett, Todd Bark, J.D. Johnson, Jack Wofford, Eliza Trammel and Eva Cheek Gilbert. Chief Smith announced there are four blue star flags hanging in the front glass of the Complex representing each employee who is currently on military service. One of the flags represents Keith Tanner who was awarded a bronze star this week in Iraq. Veterans honored this month were Jim Weaver and Ronnie McLemore. Chief Smith announced both the Senate and House passed a measure preserving the Cherokee Nation's funding for housing services resulting from the Freedman controversy. He announced the opportunity to be with the Eastern Band last week for Joint Council. The Cherokee Nation recently received two major health recognition; the Oklahoman Champion Health Minority Health Champion Award and special recognition from the Oklahoma Alliance of Health and Tobacco. He showed the presentation video. He announced the Cherokee National Youth Choir received their fourth Native American Music Award for the Best Gospel Recording among Tribal Entities. Last week they received the Governor's Award by the Oklahoma Music Hall of Fame. The Cherokee Nation's Education Department will be taking students to participate in the American Indian Science and Engineering

Conference in Anaheim, California at the end of this month. The Commerce Department is opening a small business assistance center satellite office in Claremore on the 5th of November. The Cherokee Nation's Government Relations Group has been busy with Get Out the Vote activities to encourage everyone to get registered to vote in the upcoming elections. The Male Seminary Recreation Center will have it's ground breaking ceremonies tomorrow from 4:00 to 6:00 p.m. They have had over 900 people to register to participate to date. The Cherokee Nation Talking Leaves Job Corp celebrates its 30 year anniversary this Wednesday and Thursday. The Cherokee Nation Cancer Program will host the 9th Annual Brest Cancer Survival Dinner on Saturday October 25th. The Sequoyah Girls Fastpitch Softball Team earned a trip to the State Tournament but lost in the second round of the tournament. On October first Cherokee Nation assumed operations of W.W. Hastings Hospital as a result of a planning process that began in January. He re-emphasized the planning process that went into the Hastings transition. For almost seven months there was intense planning by groups who looked at every aspect of the transition. He stated this is in contrast of what is on the agenda tonight. The first item of unfinished business deals with his veto of an Act that passed in the last Council meeting. He acknowledged the dedication of this Council. He stated from his perspective the vetoed Act limits the ability of the Cherokee Nation health care system by placing deadlines and priorities on particular health projects. He stated we need to be conscious of our product which is not buildings but services to our people. He stated this Act hamstrings and impede our ability. Chief Smith read from the constitution that the Council shall have the power to establish laws which would be deemed necessary and proper for the good of the Nation not the good of a particular district or or particular councilman. He stated his commitment to each and every member of the Council is to work with them on how to best provide the highest quality of health care for all of our constituents. He stated there has been a master health care plan in place for the last five years. Because of that plan services have been expanded at Sallisaw, a clinic was built in Muskogee and Nowata. He stated two facilities listed in this legislation are already in the pipeline to be built or expanded. He doubled his commitment to the Council to discuss, debate and analyze so as a body do what is good for the Cherokee Nation not necessarily what is good for a particular aspect or community within the nation to the exclusion of others. Chief Smith announced the first baby boy and girl have been delivered at Hastings since the operation of the hospital was assumed by the Cherokee Nation.

ACTION OF UNFINISHED BUSINESS

Speaker Frailey announced the unfinished business is what Chief Smith has been speaking about. The vetoed legislation is an Act establishing certain health clinics and a dental clinic as well as identifying funding and setting a time frame for construction of those clinics. The Council's decision tonight is to either override or sustain the veto.

1.

AN ACT ESTABLISHING ADDITIONAL CHEROKEE NATION HEALTH CLINICS, IDENTIFYING FUNDING AND ESTABLISHING TIME FRAMES FOR CONSTRUCTION

Councilor Bill John Baker stated there have been allegations made. He stated he is not a sponsor nor an author of this legislation however the veto message refers to him as being an author of the bill. He went on to refer to the veto message stating the proposal was last minute and there wasn't a briefing. Councilor Bill John Baker stated this isn't true that there was a meeting with the Chief when the Mayo of Indian Country was discussed. They were not given timelines even when asked. He stated there has been a health master plan in place for years but Hastings hasn't been a part of it until several months ago. He sat in on many of the phone calls and negotiations to be as informed as possible to make a decision. He stated on of the

most cost saving things that came out of the meetings was to stop using the emergency room as a clinic. He stated it makes sense to build an urgent care clinic to provide after hours care for our people. He stated he asked for the 600 Hastings employees who were offered IPA's or MOA's a guarantee until retirement but couldn't get this guaranteed therefore he didn't vote in favor of taking over Hastings. The Act doesn't state it must be a major clinic. The legislation gave six months to determine how to finance, determine what it would look like and what it would be and we don't want to wait ten years like Salina has for a dental clinic. We need to move now and make Hastings the best it can possibly be. This is not to get re elected it is just right. He stated he was one of the 12 who voted to pass this legislation and hopes those 12 vote to override tonight.

Councilor Cowan Watts stated good things will come to those who wait. She voiced concern for rushing to get things done and not looking at the entire picture and how it may impact the whole tribal community. The technical issues she has with the legislation is that it is inappropriate to mandate a job for anyone for a lifetime. Personnel issues are to be left with the people who administer programs. She further voiced concern for the funding implications. She stated technically and politically she doesn't feel this is the right thing to do and will be voting to sustain the veto.

Councilor Hoskin Jr. stated he supports the override of the veto. He stated for the first time this legislation establishes in law a number of clinics across Cherokee Nation. In contrast what we have now are plans in the administration that can be changed. This legislation established assurances for the employees at Hastings and provides a stable work force. This legislation does not say when these clinics will be built. It does not infringe on the administration's role in working out the fine details such as where they will be constructed or if a new building is necessary. This legislation doesn't tie the administration's hand as suggested tonight. What this legislation does do is establish an important benchmark as the funding source and funding level. In response to the executive order pertaining to the IPA's for the Hastings employees it needs to be known that the executive order can be revoked by the Chief who wrote it or future office holders. Legislation can not be unilaterally revoked. He stated the clinics listed in the legislation have already been committed to in the health plan therefore why not allow this Council to embrace them in law.

Councilor Fishinghawk announced she has repeatedly asked to see the long term plan and have been told it would be January or February to allow time for additional updates. Salina listed as a priority on the plan for a dental clinic. The space was built and the administrative offices moved in not the dental clinic. She pointed out that there have been several changes to the master plan therefore doesn't understand the need to stay with the master plan. She stated in response to this being political to show constituents what has been done before the next election that tomorrow they will see the review of the master plan in Health committee. The Burchette masterplan of just over \$45ml shows \$15ml going to health programs for 60,000 square feet of offices and administration. She stated her constituents will see her tomorrow saying she doesn't want to give a 1/3 of this budget to administration that she would rather it go to the people.

Councilor Glory-Jordan stated the purpose of this act was two fold. First it would mandate by law that we would identify within a reasonable amount of time the funding sources for the construction of clinics in Tahlequah, Vinita, Jay and an expansion of the dental clinic in Salina. Secondly it mandated by law the assurances of Chief Smith to employees of W W Hastings that their inter governmental personnel service agreements would always be available to the Hastings employees. Chief Smith in his veto message accused the sponsors of this Act of political grandstanding and trying to steal the ideas of the administration and the work of his employees. Councilor

Glory-Jordan stated nothing could be further from the truth. Chief Smith has promised the clinics in a master plan and as we all are aware and have been pointed out plans change and although the intentions may be there the clinics have been moved back. The effect of this law is to mandate the identification of the funding sources. Councilor Glory-Jordan stated it wasn't but a few short years ago that Chief Smith made assurances to the employees of W.W. Hastings that the Cherokee Nation would never take over the operations of the hospital, obviously his plans have changed. Councilor Glory-Jordan stated Chief Smith came to the Council House the day the take over was complete and made a offer to her to not veto this Act if she would change her vote on the take over of the hospital. She stated that is why we are here tonight. She stated she hopes each of the twelve Tribal Council Members who voted this into law will join in and vote for the override.

Chief Smith requested a moment since he had been addressed in Councilor statements. Councilor Glory-Jordan called point of order that he has already had his opportunity. Chief Smith stated it is the decision of the Speaker to let him speak to address the unstatesman comments. Speaker Frailey gave Chief Smith a few minutes to respond.

Chief Smith expressed his gratitude for the lawyers on the Council, Chuck Hoskin Jr and Tina Glory-Jordan as each have presented a very good trial case. He stated by sound planning and looking at the options we have been able to excel health care. These decisions should not be political decisions. We have a health committee who participates with administration in developing policies. Invitations have been extended to assist in the revision of the master plan. He suggested Councilor Fishinghawk tell her citizens tomorrow that we could get 30% more out of the hospital buy building an administrative wing at half the cost per square foot than building a new facility. Joint ventures have allowed the Muskogee and Vinita clinics rather than having tribal operating funds invested. He stated plans change because opportunities change. It it was a resolution benchmarking they would have been more than delighted to work with the Council to create the feasibility study to compile the data to make wise decisions after having data in hand rather than politically mandating a clinic and trying to justify it later. Chief Smith stated in the Council House Councilor Glory-Jordan stated she needed a clinic before the next election and in committee went around and asked the committee members if there was anything else to put in the legislation. It was political and unwise.

Councilor Bill John Baker called for the question.

A motion was made by Councilor Bill John Baker and seconded by Councilor Tina Glory Jordan, that this matter be Override the Chief's Veto. The motion FAILED by the following vote:

Yea: 9 - S. Joe Crittenden; David Thornton Sr. ; Meredith Frailey; Tina Glory Jordan; Jodie Fishinghawk; Harley Buzzard; Chris Soap; Chuck Hoskin, Jr. and Bill John Baker

Nay: 8 - Don Garvin; Cara Cowan Watts; Buel Anglen; Jack D. Baker; Janelle Fullbright; Curtis Snell; Bradley Cobb and Julia Coates

A RESOLUTION AUTHORIZING A LIMITED WAIVER OF THE SOVEREIGN IMMUNITY OF CHEROKEE NATION ENTERPRISES, L.L.C. AND THE CHEROKEE NATION

Board Member Adolph Lechtenburger announced this resolution is requesting the approval of a limited waiver of sovereign immunity pertaining to a contract in which they are negotiating. The waiver would only allow the other party to sue Cherokee Nation Enterprises and not the Cherokee Nation if obligations of the contract are not

met.

Councilor Jack Baker made a motion to approve. Councilor Cowan Watts seconded the motion. Motion for approval carried unanimously.

Enactment No: R-82-08

COMMITTEE REPORTS

Monthly Reports:

Councilor Jack Baker announced last week twelve of the Tribal Council members joined the Eastern Band for Joint Council in Cherokee, North Carolina. He stated they toured their new school set to open next year, various economic development sights, and they walked along part of the trail of tears road. The Council members participated in the Fall Festival parade and attended the Cherokee Fair. During Joint Council they passed resolution for Joint Council next Spring to be held at Red Clay as the 25th anniversary of the first joint council meeting.

Housing Authority - David Southerland

Mr. David Southerland announced the next board meeting will be held on the 21st at 5:30 in the Alene Hogner Administrative board room. He attended the Amereron Annual Risk Management meeting last week. He stated their claims are down from last year. The current premiums are \$326 for a stick built home and \$424 for a mobile home. The auditors for the Housing Authority should be complete with the 2008 audit to present to the board in January or February. The road at Hill Top addition was paved last week.

Cherokee Nation Enterprises - David Stewart

Mr. Shawn Slaton reported for the month of August and announced it was their second best month ever and they continue to see strong financial results in September as well. In addition to the dividend paid they contributed an additional \$107,000 in tax collection to the Nation. He announced the Siloam Springs expansion project is scheduled to open on the 10th of November. The new gaming floor will open in Catoosa on the 15th of December with floors on the hotel opening in February or March. The convention is opening in April. In regard to cultural tourism they have completed some initial stabilization at the Ross project and the Saline Courthouse. The work has began at the Historical Society and will soon begin at the Supreme Court building. The employment at CNE for the end of September is at 3100 employees with Cherokee employment at 60% and total Native American employment at 72.4%. The management is 58% Cherokee and total Native American employment at 66.6%. The hiring for phase 1 of the West Siloam project is almost complete phase 2 hiring will be in April or May for the hotel project.

Cherokee Nation Industries - Bryan Collins

Mr. Bryan Collins passed around an award they received from Governor Henry for Manufacturing Leadership. He stated the results for September continue to be somewhat disappointing. The profitable divisions include construction, aerospace and defense distribution, and communications. In September they had a loss of \$312,000 for an approximate \$2.4ml loss for the year. He stated more details would be given in the Executive and Finance meeting. They have a total of 398 employees with Cherokee employment at 87%. He announced they held a veterans retirement event in Stilwell. The next board meeting is scheduled for December 16th at 2:00 p.m. in Stilwell.

Cherokee Nation Business, Inc - Brad Carson

Mr. Brad Carson announced the construction on the cell at the landfill will begin around the 20th of the month. They continue to staff up with a marketing and CEO. The environmental report as requested by this body is in the final stages of its completion. They have been dealing with the transfer of all of the landfill employees to CNB. He stated last week an announcement was made for the acquisition of Aerospace Products South East. This company was involved in supply change management. He stated in moving forward he wants to bring in representatives of the companies in which we are investing. He announced Cherokee CRC is growing by a 45% annual rate. He introduced new employee Jay Calhoun and announced CNB now has 61 employees.

OLD BUSINESS

1. **A RESOLUTION AUTHORIZING THE LEASING OF MINERALS AT CHILOCCO, KAY COUNTY, OKLAHOMA**

Councilor Cobb offered a friendly amendment to add an oil and gas attorney be included in the negotiations and a report be provided to the Council. Councilor Anglen accepted the friendly amendment.

Councilor Anglen moved for the approval as amended. Councilor Garvin seconded the motion. Motion carried with Councilor Bill John Baker opposed.

Enactment No: R-83-08

2. **A RESOLUTION AUTHORIZING A LIMITED WAIVER OF THE SOVEREIGN IMMUNITY OF CHEROKEE NATION ENTERPRISES, L.L.C. AND THE CHEROKEE NATION**

Enactment No: R-82-08

NEW BUSINESS

Resource Committee

1. **A RESOLUTION AUTHORIZING THE CHEROKEE NATION OFFICE OF ENVIRONMENTAL PROGRAMS TO SUBMIT A FORMAL GRANT APPLICATION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR A BROWNFIELDS JOB TRAINING GRANT**

Councilor Jack Baker announced the request of Administration to withdraw this item at this time.

2. **A RESOLUTION AUTHORIZING THE CHEROKEE NATION OFFICE OF ENVIRONMENTAL PROGRAMS TO SUBMIT A FORMAL GRANT APPLICATION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR A BROWNFIELDS REVOLVING LOAN FUND**

Councilor Jack Baker made a motion for approval. Councilor Cowan Watts seconded the motion. Motion carried unanimously.

Enactment No: R-84-08

Rules Committee

Councilor Cowan Watts made a motion to approve items 3, 4 and 5 in toto. These Act concern mandatory jail time for sex offenders, update the sex crime codes and contains Adam Walsh compliance. She announced she had 21 letters of support from the local Indian Nations Bikers Against Child Abuse that she wishes to submit into the record. Councilor Thornton seconded the motion. Motion carried unanimously.

Yea: 17 - 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; Harley Buzzard; Curtis Snell; Chris Soap; Bradley Cobb; Chuck Hoskin, Jr. ; Julia Coates and Bill John Baker

3. **A LEGISLATIVE ACT AMENDING CERTAIN SECTIONS OF THE CRIMINAL CODE RELATING TO SEX CRIMES AND OTHER CRIMES AGAINST THE PERSON**

This matter was Approved in toto by consent rollcall

Enactment No: LA-20-08

4. **A LEGISLATIVE ACT AMENDING CERTAIN SECTIONS OF THE CRIMINAL PROCEDURE CODE RELATING TO SENTENCING, POWERS OF THE COURT, AND LIMITATION ON DEFERRED SENTENCES**

This matter was Approved in toto by consent rollcall

Enactment No: LA-21-08

5. **A LEGISLATIVE ACT ADDING SECTIONS TO TITLE 63 OF THE CHEROKEE NATION CODE ANNOTATED CONCERNING PUBLIC HEALTH AND SAFETY; PROVIDING A CIVIL REGULATORY SCHEME REQUIRING SEX OFFENDER REGISTRATION FOR CERTAIN INDIVIDUALS LIVING, WORKING, OR ATTENDING SCHOOL IN THE CHEROKEE NATION, AND REQUIRING NOTIFICATION TO THE COMMUNITY OF CERTAIN SEX OFFENDERS**

This matter was Approved in toto by consent rollcall

Enactment No: LA-22-08

6. **A LEGISLATIVE ACT AMENDING LA#01-01, "THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"; AMENDING AND ADDING DEFINITIONS; AMENDING SECTIONS 204(L) ADDING PROVISIONS FOR UTILITY VEHICLES**

Councilor Hoskin Jr. announced this amendment brings our law up to code to include the small utility vehicles. Councilor Bill John Baker requested a friendly amendment to include all electric vehicles as well. Councilor Hoskin Jr. accepted the friendly amendment.

A motion was made by Councilor Chuck Hoskin, Jr. and seconded by Councilor Cara Cowan Watts, that this matter be Approved as amended. The motion carried unanimously.

Enactment No: LA-23-08

7. **A LEGISLATIVE ACT AMENDING LA#01-01,"THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"; AMENDING AND ADDING DEFINITIONS FOR FARM TRACTORS, FARM TRAILERS AND FARM TRUCKS**

A motion was made by Speaker Meredith Frailey and seconded by Councilor Cara Cowan Watts, that this matter be Approved. The motion carried unanimously.

Enactment No: LA-24-08

8. **A LEGISLATIVE ACT AMENDING TITLE 68 CHAPTER 3 OF THE CHEROKEE NATION CODE ANNOTATED - SALES TAX; ADDING EXEMPTIONS FOR NON-PROFIT ORGANIZATIONS**

A motion was made by Speaker Meredith Frailey and seconded by Councilor Cara Cowan Watts, that this matter be Approved. The motion carried unanimously.

Enactment No: LA-25-08

9. **A RESOLUTION AUTHORIZING CHEROKEE NATION TO BECOME A MEMBER OF THE NATIONAL CONGRESS OF AMERICAN INDIANS AND TO APPOINT THE TRIBAL DELEGATE AND ALTERNATES**

Speaker Frailey pointed out a correction in the approval request of 19 members when there are actually 22.

A motion was made by Speaker Meredith Frailey and seconded by Councilor Don Garvin, that this matter be Approved with the corrections. The motion carried unanimously.

Enactment No: R-85-08

A RESOLUTION AUTHORIZING CHEROKEE NATION REAL ESTATE SERVICES TO LEASE TRUST LAND TO BELL DEPENDENT SCHOOL DISTRICT #33 AND TO WAIVE APPRAISAL

A motion was made by Councilor S. Joe Crittenden and seconded by Councilor Cara Cowan Watts, that this matter be Approved. The motion carried unanimously.

Enactment No: R-86-08

A RESOLUTION AUTHORIZING THE BOYS & GIRLS CLUBS OF TAHLEQUAH, INC., THE BOYS & GIRLS CLUBS OF GREEN COUNTRY, THE BOYS AND GIRLS CLUBS OF SEQUOYAH COUNTY, THE BOYS AND GIRLS CLUBS OF NOWATA, THE BOYS AND GIRLS CLUBS OF DELAWARE COUNTY AND THE BOYS AND GIRLS CLUBS OF CHELSEA TO PARTICIPATE IN THE MENTORING PROGRAM FOR AT-RISK TRIBAL YOUTH AND TO ACCEPT FUNDING ON BEHALF OF THE COMMUNITY FROM THE DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS TO SUPPORT THE MENTORING PROGRAM FOR AT-RISK TRIBAL YOUTH

A motion was made by Councilor Bill John Baker that this matter be Approved. The motion carried unanimously.

Enactment No: R-87-08

ANNOUNCEMENTS

Councilor Glory-Jordan invited everyone to her and Councilor Bill John Baker's community meeting in Hulbert this Thursday evening at 5:30. Hamburgers will be provided.

Councilor Hoskin Jr. introduced the new Youth Councilor Dillon Chuckaluck for District 9.

Councilor Hoskin Jr. invited everyone to the Vinita Indian Territory Coalition Days on November 8th.

Councilor Cobb announced he and Councilor Anglen will host a hog fry this Saturday from 11:00 to 2:00 p.m. in Collinsville.


Councilor Cowan Watts gave appreciation to the Eastern Band for all of their hard work as well as the Council, Chief, and staff who participated. She gave appreciation for the staff who made her hog fry a success last Saturday.

Councilor Jack Baker expressed appreciation to Gayle Miller and Rosie McCoy for their hard work in making the Joint Council a success.

ADJOURNMENT

Councilor Cowan Watts moved for adjournment. Councilor Anglen seconded the motion. Motion carried at 7:42 p.m.

Next Tribal Council meeting will be held on November 10, 2008, 6:00 p.m. at the tribal headquarters, W.W. Keeler Complex.


Meredith A. Frailey, Speaker
Council of the Cherokee Nation