

IN THE SUPREME COURT OF THE CHEROKEE NATION

Robin C. Mayes,)
)
Petitioner,)
vs.)
)
Cherokee Nation Election)
Commission,)
)
and)
)
Marilyn Vann,)
Respondents.)

Case No. SC-21-

CHEROKEE NATION
SUPREME COURT
KENDALL CARR, COURT CLERK

2021 MAR 17 AM 11:59

FILED

AND

In Re: Challenge to the Eligibility)
of Victoria Vazquez, Candidate for)
Council District 11 for the 2021)
General Election.)

Case No. SC-21-02

NOTICE OF FILING OF TRANSCRIPT OF HEARINGS BEFORE THE
CHEROKEE NATION ELECTION COMMISSION
OF THE CHEROKEE NATION
ON FEBRUARY 22, 2021

In Re: Challenge to the)
Eligibility of Marilyn)
Vann, Candidate for At)
Large Council for the 2021)
General Election.)

Eligibility Hearing No. 2021-1

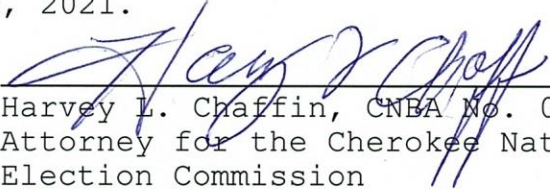
AND

In Re: Challenge to the)
Eligibility of Victoria)
Vazquez, Candidate for)
for District 110.3 Council)
for the 2021 General)
Special Election.)

Eligibility Hearing No. 2021-2

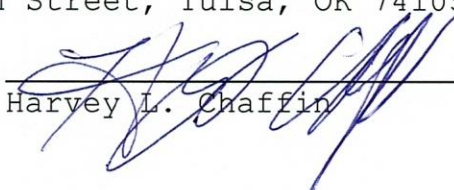
Notice is hereby given that the Cherokee Nation Election

Commission has forwarded the Transcript of Hearings before said Commission related to the above captioned Appeals to the Supreme Court on this ____ day of March, 2021.

 3-17-21
Harvey L. Chaffin, CNBA No. 0459
Attorney for the Cherokee Nation
Election Commission
215 W. Shawnee
Tahlequah, Ok 74464
(918) 453-2800

CERTIFICATE OF MAILING

I, Harvey L. Chaffin, do hereby certify that on the ____ day of March, 2021, I mailed a true and correct copy of the within and foregoing Notice via United States Mail, with postage thereon prepaid, addressed to and E-Mailed a courtesy copy to James L. Cosby, 210 S. Muskogee Avenue, Tahlequah, OK 74464 and Carly Griffith Hotvedt, 1515 E 60th Street, Tulsa, OK 74105.

 3-17-21
Harvey L. Chaffin

BEFORE THE CHEROKEE NATION ELECTION COMMISSION
OF THE CHEROKEE NATION

In Re: Challenge to the)
Eligibility of Victoria) Eligibility
Vazquez, Candidate for) Hearing No. 2021-2
Council, District 11 for the)
2021 General Election)

ORIGINAL

* * * * *

SPECIAL MEETING AGENDA

FEBRUARY 22, 2021

CHALLENGES OF ELIGIBILITY FOR THE
2021 GENERAL ELECTION

* * * * *

REPORTED BY:

TAMMIE SHIPMAN, CSR
(918) 855-1855

A P P E A R A N C E S

CHEROKEE NATION ELECTION COMMISSION

Ms. Shawna Calico, Chairman
Ms. Pam Sellers, Vice-Chairman
Mr. Rick Doherty, Secretary
Ms. Elizabeth Ballew, Member
Mr. Randy Campbell, Member

ON BEHALF OF THE COMMISSION

Mr. Harvey Chaffin
Attorney at Law
215 W. Shawnee Street
Tahlequah, Oklahoma 74464

ON BEHALF OF THE CONTESTANT

Ms. Deborah A. Reed
Attorney at Law
REED LEGAL, PLLC
3101 N. Hemlock Circle, Suite 112
Broken Arrow, Oklahoma 74012

ON BEHALF OF CANDIDATE, VICTORIA VAZQUEZ

Mr. Ralph Keen
Attorney at Law
KEEN LAW OFFICE, PC
205 W. Division Street
Stilwell, Oklahoma 74960

1 CHAIRMAN CALICO: I will entertain a
2 motion to reconvene at 2:12.

3 MS. SELLERS: Make a motion to
4 reconvene at 2:12.

5 MS. BALLEW: Second.

6 CHAIRMAN CALICO: I have a motion and a
7 second. All in favor?

8 (At which time, the Commission answered
9 collectively in the affirmative.)

10 CHAIRMAN CALICO: Everyone -- or both
11 parties were given the hearing procedures,
12 correct?

13 MS. REED: Yes, ma'am.

14 CHAIRMAN CALICO: The only part I'm
15 going to read is Section 2 that says, "The
16 parties, counsel for the parties, and the
17 audience shall conduct themselves in a
18 respectful and courteous manner, and anyone
19 creating a disturbance will be asked to leave."

20 MR. KEEN: I'll do my best.

21 MS. REED: Okay.

22 CHAIRMAN CALICO: Okay. That being
23 said, I guess we're ready for --

24 (At which time, Commissioner's Exhibit
25 No. 1 was made a part of the record.)

1 MR. CHAFFIN: Yes. First item, Madam
2 Chairman, is the hearing procedure and notice to
3 the candidate and the contestant, and the actual
4 complaint and any briefs or documents submitted
5 in support by the parties should be made a part
6 of the record. And the administrator has that
7 for the court reporter, and that should be
8 marked as Commissioner's Exhibit 1.

9 With that, you may proceed.

10 CHAIRMAN CALICO: Okay. I guess that
11 would be you, Ms. Reed. Do you want to begin
12 for us, please.

13 MS. REED: I'm sorry?

14 CHAIRMAN CALICO: Go ahead.

15 MS. REED: I'm sorry. These masks.

16 Okay. Well, I'm here today
17 representing Mason Hudson, candidate for
18 Cherokee Nation Tribal Council, District 11.
19 He's filed a challenge against his opponent,
20 Victoria Vazquez. She's not eligible to run or
21 serve as tribal council representative for this
22 term, that she must sit out this term.

23 I assume that everyone's read the
24 complaint that's been filed. And in this
25 complaint, Hembree vs. Cornsilk is quoted, but I

1 also want to quote -- in addition to this, I
2 want to draw your attention to a case that
3 opposing counsel, Mr. Keen, has cited in his
4 brief, and it is Case CS-2019-03, and I brought
5 a copy.

6 I didn't -- I apologize. I did not
7 bring enough for everyone, but I did -- sorry.

8 I brought you a copy. We can make one
9 for everyone else. And if you just want to
10 write it down, I'll read it to you.

11 MR. KEEN: I've got a copy.

12 MS. REED: Do you have a copy already?

13 MR. KEEN: Yeah.

14 MS. REED: Okay. So we have an extra
15 one, which is great.

16 So I'd like to draw your attention to
17 page -- it's numbered down here. Page numbers
18 are down here, page four of six. And if you
19 don't have this case --

20 Is it -- is it part of your brief?

21 MR. KEEN: No, I cited it but I didn't
22 attach it.

23 MS. REED: Okay. Well, this brief --
24 this is Buel Anglen who wanted to run, and he
25 was prevented from running in the last election

1 cycle because he had run and then sat out a
2 short term, and then ran again when he was
3 eligible, because he was -- the district was the
4 district it is -- he didn't have a district, so
5 he couldn't run. And the next time he was
6 eligible, he ran.

7 And so, anyway, the Court ruled that he
8 had to observe term. In other words, they
9 defined term. They spent some time defining
10 term. And on page 4 of 6 -- I've highlighted
11 this on mine, but it's going to be the last two
12 sentences of that paragraph, and it reads as
13 follows:

14 "It is undisputed, however, that he ran
15 in two consecutive elections, although the terms
16 of office he served were different in length.
17 As we stated in Cornsilk v. Hembree, the
18 Cherokee Constitution should be read as it is
19 plainly written to carry out the will of the
20 Cherokee people.

21 It is clear that the framers of the
22 Constitution intended to require that one term
23 of office be allowed to pass before an
24 individual could return for a third term. To
25 give meaning and effect to the requirements of

1 the Constitution, Anglen cannot be elected to a
2 third straight term on the Council without
3 sitting out for one full four-year term. The
4 two-year wait between the end of his first term
5 under the 1999 Constitution and the initiation
6 of a second term of office notwithstanding,
7 under no circumstances could this period of time
8 be considered a term as that word is defined
9 under the Constitution."

10 So I believe, if you pay attention to
11 that part of this case, that -- that really
12 talks about what is a term. And they consider
13 the fact that he ran for that term and he served
14 that term, and they didn't take into account the
15 length of his term. So I would -- I submit this
16 to you as an additional part of our argument, in
17 addition to what was already submitted in
18 writing.

19 CHAIRMAN CALICO: Okay. Anybody have
20 any questions, for Mr. Reed?

21 MS. REED: You want me to repeat where
22 it was?

23 CHAIRMAN CALICO: I'm sorry, I --

24 MS. REED: It's at the bottom of page
25 4, starting at the last two sentences of that

1 last full paragraph, where it says, "It is
2 undisputed"...

3 CHAIRMAN CALICO: Anybody have any
4 questions for her?

5 Do you have anything, Harvey, or are we
6 ready to go --

7 MR. CHAFFIN: No.

8 CHAIRMAN CALICO: All right, Mr. Keen.

9 MR. KEEN: Thank you, Madam Chair.

10 Ralph Keen appearing on behalf of Councilor of
11 District 11, Victoria Vazquez. And I trust you
12 all received a copy of our written response.
13 I'm going to be quoting a little bit out of
14 that.

15 And quite simply, this matter has
16 already been decided by the Cherokee court.
17 This same challenge was brought up three years
18 ago when she came up for -- or the last election
19 cycle her candidacy was challenged. I'm not
20 clear how this Commission ruled initially, but
21 it's really moot, because that was appealed to
22 the Cherokee District Court.

23 And also the Attorney General had
24 issued an opinion on it, specifically on the
25 question of her candidacy, and that opinion is

1 attached to our written response, as well as the
2 Cherokee Nation District Court opinion by Judge
3 Barteaux. And quite simply the AG found in
4 2018 -- this is AG opinion CNAG-04. Again, it's
5 attached to my other materials. But in a
6 nutshell, the AG went through the analysis of
7 the framers' intent when our Constitution was
8 drafted back in 1999.

9 And General Hembree had special
10 experience with that intent, because he was one
11 of our delegates, as was I. And I think several
12 in this room was part of that process as well.
13 And I recall very well that the topic of term
14 limits was hotly debated. I was probably one of
15 the most controversial new additions to our
16 Constitutions that was adopted.

17 And I also specifically remember in
18 depth the discussion about what those term
19 limits should be and what they should not be.
20 And the ultimate compromise was nobody wanted
21 strict term limits, where you only served one or
22 two terms and were disqualified for life
23 thereafter, but nobody wanted no term limit, we
24 wanted a hybrid, and so that's what we came up
25 with. You serve two full terms and you sit one

1 full term out.

2 And it was contemplated, especially
3 with the respect to the seat on the Tribal
4 Council, that councilors come and go. They do
5 resign, they pass away in office, they move up
6 or they resign to run for other office. So we
7 had more turnover with our Tribal Council than
8 we do with the Office of Chief or Deputy Chief,
9 and the delegates understood that.

10 And so we built in stronger language
11 with respect to the Constitutional language for
12 the term limits for council seats. And that
13 language is cited directly by Judge Barteaux in
14 his decision, and he compares this language, it
15 specifically spells out four years. So you must
16 serve four years -- two consecutive four-year
17 sentences, and then you must sit out four years.
18 It can't be shortened by any -- by any outside
19 third-party means, election contest or anything
20 like that.

21 And, specifically, Judge Barteaux --
22 and I'm looking at page 3 of my response. It's
23 actually in his decision. His ruling was, "If a
24 Councilor's first placed into office by virtue
25 of being a runner-up or elected in a special

1 election for a term less than four years," which
2 is the case here, "then the shortened term shall
3 not be counted as their first term for term
4 limit purposes."

5 Now, that was Judge Barteaux's ruling
6 in 2018. This case also involved election
7 challenges concerning the Chief and Deputy
8 Chief. Those rulings were appealed up to our
9 Cherokee Supreme Court, and they made a ruling
10 on that concerning those matters. However --
11 and I cite to this in Footnote 3 of my response,
12 in the Cherokee Supreme Court decision of
13 Cornsilk v. Hembree, the Supreme Court
14 specifically recognized and acknowledge -- and
15 I'll close this Footnote 1 in that decision.
16 "There is also a similar issue decided by the
17 District Court for the Tribal Council seat held
18 by Victoria Vazquez. Neither of the parties
19 appealed her status and as such, it will not be
20 decided here."

21 So therefore the Supreme Court
22 precedent that we have on Cornsilk v. Hembree
23 does not apply to Ms. Vazquez or for any seat on
24 the Tribal Council. That ruling was very
25 specific, the Deputy Chief, Crittenden, in

1 whether or not he was eligible, and the Court
2 ultimately ruled he was not.

3 But that decision did not overturn,
4 void, set aside or recall, or in any way disturb
5 the decision of Judge Barteaux at the District
6 Court level. So, therefore, it's our position
7 that both the AG opinion and the District
8 Court -- the AG decision decided it as a matter
9 of administrative law. The District Court
10 decided it as a matter of Cherokee Judicial law.

11 So it's our opinion that this matter
12 has already been decided once before and it
13 still stands today. So with all due respect to
14 this Commission and your powers, and your duties
15 and obligations, this decision should be a very
16 easy one for you to make today. We have a valid
17 order of our own District Court saying that she
18 is eligible to run.

19 With that, we will entertain any
20 questions that the Commission might have.

21 CHAIRMAN CALICO: Anyone have one?

22 Nobody?

23 Harvey, you got anything?

24 MR. CHAFFIN: No.

25 CHAIRMAN CALICO: With that, we will

1 let Ms. Reed respond.

2 MR. CHAFFIN: Closing arguments.

3 MS. REED: I just want to point out
4 that that order -- two things about that order.
5 It was for the 2017 election; it's not for this
6 2021 election. And then, also, that was a lower
7 court order. Anything that comes from here goes
8 directly to the Supreme Court, unless that has
9 changed.

10 That court has not heard this matter.
11 The Supreme Court has not heard this matter.
12 That District Court verdict only stands because
13 it wasn't appealed up to the Supreme Court.
14 And, again, it only governs the last election;
15 it doesn't govern this election. And she was
16 already brought up on this challenge in the last
17 election. It seems reasonable that it would be
18 valid this time. That's all I have.

19 MR. KEEN: In response to Ms. Reed's
20 arguments, what we're dealing with here is, for
21 the attorneys in the room, Stare decisis and res
22 judicata. Stare decisis meaning, Let the
23 decision stand. It's already been decided by a
24 court of competent jurisdiction. And res
25 judicata is even more specific, meaning that

1 this particular matter has already been decided.

2 This fact pattern, not just in general,
3 but the question of her eligibility with respect
4 to her first time and special election has
5 already been decided, and that doesn't change
6 one election cycle to the next. I mean, they're
7 challenging the exact same core facts that was
8 challenged one cycle ago. So this has already
9 been decided. This is not a new challenge.
10 This is a repeat of the challenge that they've
11 already tried and lost on a couple of years ago.

12 Also, I want to make just a quick
13 comment about -- Ms. Reed brought up the Anglen
14 case, that precedent. Of course, that was
15 dealing with a question of how do you define a
16 term with respect to how long you have to
17 abstain from running to, quote, sit out, as our
18 Constitution put it. What constitutes a term
19 for that purpose?

20 And the Court, quite correctly, as she
21 cited, the Court said four years means four
22 years. The Constitution is clear and
23 unambiguous. So you -- not only can you not
24 shorten the elected term less than four years,
25 you cannot shorten the term you must sit out for

1 any -- under any circumstance.

2 I believe Mr. Anglen was one of the
3 very -- one of the few councilors that, by lot,
4 drew a six-year term for the purpose of
5 establishing staggered term limits. Staggered
6 terms is under our Constitution, which is a
7 requirement. We had to start that process
8 somehow, and so what they did is they come up
9 with a system of lottery where certain
10 councilors drew two-year terms, and then
11 four-year terms, and then six-year terms.

12 And so Mr. Anglen was one of those that
13 served a six-year term. And he argued that,
14 well, you know, I was here -- I've only served
15 this one term and I sat out, but -- two years
16 until the next election cycle, and now I'm
17 eligible to run again. And the Supreme Court
18 said, no, that's not what our Constitution says.
19 It doesn't matter that you served six years.
20 That's a special circumstance. That does not
21 shorten the four years that you're required to
22 abstain before you're eligible again.

23 So, really, the Anglen case really
24 affirms and strengthens Judge Barteaux's ruling
25 in his analysis and that of our Attorney

1 General, that four years means a complete
2 four-elected-year term. Four elected years.
3 And with that, we would rest.

4 CHAIRMAN CALICO: Okay. Does anybody
5 have any questions or anything? I guess --

6 MR. CHAFFIN: When we finish the other
7 hearing, we'll consider this in executive
8 session and the Commission will make a decision
9 today. And either party has five days from the
10 receipt of that decision, business days, to
11 appeal to the Supreme Court.

12 MS. REED: Thank you.

13 CHAIRMAN CALICO: Thank you.

14 MR. KEEN: Thank you.

15 MS. BALLEW: You want to recess?

16 CHAIRMAN CALICO: Yeah, we probably --
17 I guess we'll recess. Our next one's not until
18 3:30. So I'll entertain a motion to recess
19 until 3:30.

20 MR. CAMPBELL: I think it's time for a
21 siesta.

22 MS. SELLERS: I make that motion to
23 recess.

24 MS. BALLEW: Second.

25 MR. CAMPBELL: 3:30 or 3:15?

1 CHAIRMAN CALICO: 3:15. It's set for
2 3:40, but --

3 MR. CAMPBELL: Did she say everybody
4 was here?

5 MS. BALLEW: Is everybody here?

6 MS. REED: We are.

7 MR. CAMPBELL: Grab them up.

8 (Off-the-record discussion had.)

9 CHAIRMAN CALICO: Do we want to take a
10 few minute break?

11 So I'll entertain a motion to adjourn
12 from 2:15 until -- I mean 2:30 -- I'm sorry --
13 until 2:45.

14 MR. CAMPBELL: Yeah, 2:45.

15 MR. CHAFFIN: Yeah. Well, they just
16 need to put on the record that they all agreed
17 to it.

18 CHAIRMAN CALICO: They all agreed to
19 it?

20 Okay. So I'll entertain a motion to
21 adjourn until 2:45. And Pam made that motion,
22 and Elizabeth seconded it.

23 MS. BALLEW: Yeah. Sure.

24 MR. CHAFFIN: Not adjourn, but recess.

25 CHAIRMAN CALICO: Recess until 2:45.

1 Okay. I will entertain a motion to reconvene at
2 2:45.

3 MS. SELLERS: Make a motion.

4 MS. BALLEW: Second.

5 CHAIRMAN CALICO: I have a motion and a
6 second. All in favor?

7 (At which time, the hearing was
8 concluded and soon thereafter a ruling was
9 reached by the Commission and recited into the
10 record.)

11 CHAIRMAN CALICO: Okay. On to -- it
12 says before the Cherokee Nation Election
13 Commission of the Cherokee Nation, in reference
14 to the challenge to the eligibility of Victoria
15 Vazquez, candidate for Council, district 11 for
16 the 2021 General Election, Eligibility Hearing
17 No. 2021-2. Decision.

18 (At which time, Madam Chair Calico read
19 the decision of the Cherokee Nation Election
20 Commission in re: Challenge to the Eligibility
21 of Victoria Vazquez, Candidate for Council, into
22 the record.)

23 CHAIRMAN CALICO: And this was also
24 signed by all five Commissioners.

25 MR. CHAFFIN: Motion to approve.

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CHAIRMAN CALICO: I will entertain a
motion to approve.

MS. SELLERS: I make that motion.

MS. BALLEW: Second.

CHAIRMAN CALICO: I have a motion and a
second. All in favor?

(At which time, the Commission answered
collectively in the affirmative.)

(Hearing 2021-2 concluded.)

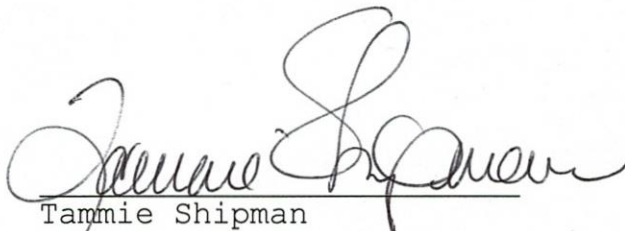
C E R T I F I C A T E

STATE OF OKLAHOMA)
)
COUNTY OF TULSA)

I, Tammie Shipman, Certified Shorthand Reporter
in and for the State of Oklahoma, do hereby certify
that the foregoing proceedings are a true and correct
transcript of the record of the machine shorthand
notes taken by me and transcribed into written form
under my supervision, direction and control.

I further certify that I'm neither related to nor
attorney for any interested party in the named action,
nor otherwise interested in the outcome of said
action.

WITNESS MY HAND, this 12th day of March, 2021.



Tammie Shipman
Shorthand Reporter



Tammie Shipman
State of Oklahoma
Certified Shorthand Reporter
CSR #1564

My Certificate Expires _____

Cherokee Nation Election Commission

P.O. Box 1188, Tahlequah, OK 74465-1188

Email: election-commission@cherokee.org

Website: <https://election.cherokee.org/>



Phone: 918-458-5899

Toll Free: 1-800-353-2895

Fax: 918-458-6101

February 12, 2021

To: Victoria Vazquez
cherokeepots@gmail.com

To: Mason Hudson
jmudson6@yahoo.com

Notice is hereby given pursuant to Section 37 of Title 26 (Elections) of the Cherokee Nation Code Annotated that a contest of your eligibility as a candidate for At-Large Council has been filed. A copy of said contest is attached.

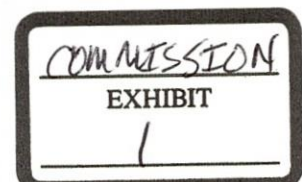
Pursuant to the above Section 37 and pursuant to Section 2.09 of the Rules and Regulations of the Cherokee Nation Election Commission, (the "Commission"), notice is also given to the Candidate and Contestant that a hearing will be held by the Cherokee Nation Election Commission office on February 18, 2021 at 2:15 PM, at the Election Commission office, 17763 S. Muskogee Ave, Tahlequah, OK 74464, at which the Commission will hear evidence and render it's decision. The Candidate and contestant, and/or their respective legal counsel, may appear and present evidence and argument in support of their respective positions.

COVID-19 procedures pursuant to Cherokee Nation Executive Order 2020-02-CTH must be followed.

Dated this 12th day of February, 2021

Cherokee Nation Election Commission

BY: Shawna Calico
Shawna Calico, Chairman



BEFORE THE CHEROKEE NATION ELECTION COMMISSION
OF THE CHEROKEE NATION

In Re: Challenge to the)	
Eligibility of Victoria)	
Vazquez, Candidate for)	Eligibility Hearing No. 2021-2
Council, District 11 for)	
the 2021 General Election)	

Hearing Procedure

This hearing is being conducted pursuant to Section 37 of Title 26 of the Cherokee Code Annotated and the Rules and Regulations of the Commission. Notice of this Hearing has been given as provided by law to the Candidate, with a copy of the Protest. Proof of service on the Candidate and Contestant shall be made a part of the record.

The Procedure for this hearing will be as follows:

1. The Chairman will preside over the hearing and make any necessary rulings, and may consult with Commission legal counsel. Any Commission Member who disagrees with the Chairman's Ruling may request a voice vote by full Commission and the Majority vote shall control.
2. The parties, counsel for the parties and the audience should conduct their selves in a respectful and courteous manner and anyone creating a disturbance will be asked to leave.
3. The formal rules of evidence shall not apply unless the Commission in its discretion rules otherwise.
4. The Commission Members and Commission Attorney may ask questions at any time. Commission Members, Commission Staff or Commission Attorney may not be called as a witness.

5. The proceeding shall be recorded by a Certified Court Reporter, who shall also swear any witness.

6. First, the Commission shall make a part of the Record the Protest and Challenge, all Documents related to Eligibility submitted by the Candidate at the time of filing for Tribal Council and all Information obtained by the Commission pursuant to Authorization by the Candidate.

7. Second, the Protestant and Challenger shall be given the opportunity to present any evidence in support of their Protest and Challenge; and, the Candidate shall be allowed to cross exam any witness called and redirect and recross will be allowed. All Exhibits shall be marked and made a part of the record.

8. Third, the Candidate shall be given the opportunity to present any evidence in opposition to the Protest and Challenge; and, the Protestant and Challenger shall be allowed to cross exam any witness called and redirect and recross will be allowed. All Exhibits shall be marked and made a part of the record.

9. At the end of the evidence, the parties will be allowed closing arguments to the Commission within a time frame set by the Commission; and, after such closing argument, the Commission will consider the evidence in executive session.

10. The Commission will reconvene the hearing to render its decision.

Approved by the Cherokee Nation Election Commission on
February 12, 2021.

Cherokee Nation Election
Commission, Defendant

BY: Shawna Calico
Shawna Calico, Chairman

February 11, 2021

Cherokee Nation Election Commission

Po Box 1188

Tahlequah Oklahoma, 74464

Election Commission:

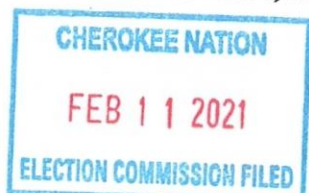
COMES NOW Mason Hudson, a Cherokee Nation citizen, registered voter, and candidate for Tribal Council District 11 during this 2021 election. I hereby file a complaint against candidate Victoria Vazquez. I ask the election commission to immediately investigate the following violations and stop Victoria Vazquez from continuing her campaign for the following reasons:

- I. Victoria Vazquez is not eligible to run or serve as the Tribal Council Representative for District 11 during the term beginning in 2021.**
- II. The Cherokee Nation Election Commission is required, both by the CN Constitution and precedent of the CN Supreme Court, to void Vazquez's candidacy for a third consecutive term.**

The Cherokee Constitution lays out the requirements to serve on the Tribal Council (further "Council") of the Cherokee Nation (further "CN"). See C.N. Const. art. VI, § 3; art. VII §§ 2 & 3. Hudson contends that Vazquez is not eligible by the term limits requirement in Article VI, Section 3. The CN Constitution requires that "All Council members be limited to two (2) consecutive elected terms on the Council." C.N. Const. art. VI, § 3. Vazquez was elected to her first term on October 12, 2013, through a special election. This special election was held by the CN Election Commission due to the vacancy established when Chuck Hoskin, Jr. was appointed CN Secretary of State by former Chief Bill John Baker. Vazquez was re-elected to her second term unopposed in 2017.

Vazquez has filed to seek a third consecutive term on the Council. Vazquez may contend she is eligible for another term because she did not take office until approximately two-months after her office's general election. However, this partial-term reasoning has been rejected by the Supreme Court of the Cherokee Nation. See *Hembree v. Cornsilk*, SC-18-04 (2018). The Supreme Court of the Cherokee Nation requires that the "The Cherokee Constitution should be read as it is plainly written to carry out the will of the Cherokee people" *Id.*

The Cherokee Nation Supreme Court made this clear when they said "[t]his constitutional provision could not be more clearly written. Once a person has been 'elected' for 2 consecutive terms of office, that person becomes ineligible for the next election. There is no room for



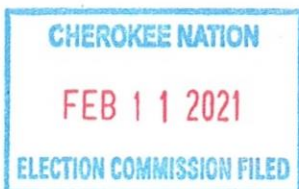
extension by way of challenge or other event which might shorten the number of days in office.”
Id.

Hudson does not deny that Vazquez may file to run for said office in a future election, but the term for 2021 breaches the Constitutional limit on consecutive terms. The language could not be more clear.

Therefore District 11 Candidate Mason Hudson is seeking a decision from the Election Commission voiding Victoria Vazquez’s candidacy for a third consecutive term in Cherokee Nation District 11.



Mason Hudson



Marcus Fears

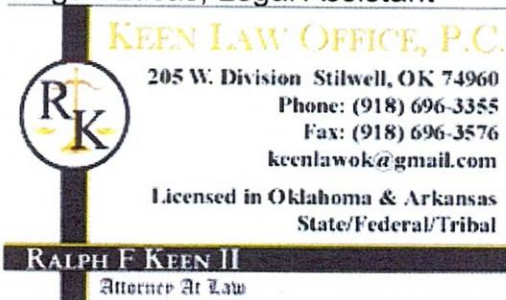
From: Keen Law OK <keenlawok@gmail.com>
Sent: Friday, February 19, 2021 11:05 AM
To: Election Commission
Subject: <EXTERNAL> Response to the Challenge to the Eligibility of Reelection of Councilor Victoria Vazquez, Candidate for Council District 11 for the 2021 General Election
Attachments: 2021-2-19. Response to CNEC. Vazquez Eligibility Challenge.pdf

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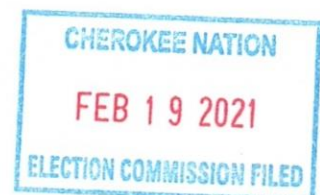
Thank you: The Cherokee Nation - Information Technology Department

Please find attached Mr. Keen's response on behalf of Councilor Vazquez to the challenge to her eligibility for reelection.

Kind regards,
Megan Lucas, Legal Assistant



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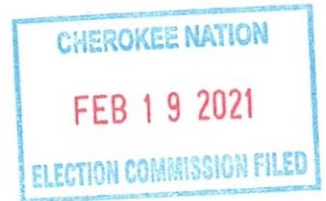




Keen Law Office, P.C.

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Licensed in Oklahoma
and Arkansas

February 19, 2021

VIA EMAIL

Cherokee Nation Election Commission
P.O. Box 1188
Tahlequah, OK 74465
election-commission@cherokee.org

**RE: Response to the Challenge to the Eligibility of Reelection of Councilor
Victoria Vazquez, Candidate for Council District 11 for the 2021
General Election**

Honorable Commissioners:

I have been retained to represent District 11 Councilor Victoria Vazquez in connection with the challenge to her reelection eligibility filed by Mr. Mason Hudson. Please accept the following as her formal response to the same.

The question of Councilor Vazquez's eligibility for reelection has already been decided by the office of the Attorney General at the administrative level,¹ and by our Cherokee Nation District Court at the judicial level. Attorney General's Opinion 2016-CNAG-04 undertook an in-depth analysis of the two constitutional provisions applicable to Council term limits and found the language defining terms of office to be clear and unambiguous that "*any period of time in office less than four (4) years would be excluded from a calculation of term limits. . .*"² The AG's Office

¹ Cherokee Nation Attorney General Opinion 2016-CNAG-04, attached hereto as Exhibit "A," was initially requested by the Election Commission via counsel Harvey Chaffin to address the proper constitutional construction of "term" in relation to term limits.

² *Id.* at 6.

found a distinct difference in the framers' intent between the provisions for Chief/Deputy Chief term limits as opposed to Council seat term limits.

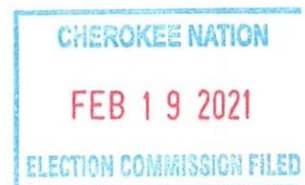
The fact that these two provisions define a term of office differently shows that the authors knew exactly what words to use in defining a term of office. Had they intended the definition of "term" in Section 3 to include a period of time in office of less than four (4) years, such as provided for in Section 13, they would have done so in the same clear and unambiguous language. However, such language is not present in these provisions. Thus, a period of time in office of less than four (4) years resulting from a special election does not meet the definition of "term" for purposes of calculating consecutive terms of office. Any Tribal Council member who has not served two (2) consecutive four (4) year terms following a general election shall be able to stand for re-election following the completion of his or her first term of office.

Applying a similar analysis, the Cherokee Nation District Court reached the same conclusion in the subsequent case of David Cornsilk v. Todd Hembree, CV-2018-122, attached hereto as Exhibit "B". Cornsilk took up three separate eligibility issues involving then Principal Chief Bill John Baker, then Deputy Chief Joe Crittenden and District 11 Councilor Victoria Vazquez. The District Court found that Mr. Baker was eligible for reelection, but that Mr. Crittenden was not. These rulings were appealed up to the Cherokee Nation Supreme Court.

The District Court also took up Councilor Vazquez's term limit eligibility following her initial election via a special election on October 12, 2013 and her unopposed first four (4) year elected term in 2017. The Court examined the constitutional term limit language specific to seats on the Council, which is patently different language than the term limits applicable to the Principal Chief and Deputy Chief. The Court found that if a councilor is first placed in office as a runner up, a Council appointee, or by a special election, then the resulting shortened term shall not be counted as their first term of office for term limit purposes. The Court's analysis finding that Councilor Vazquez's first special 2013 term was not a constitutional "*term*" for term limit purposes are as follows:

The Issue of Councilor of the Cherokee Nation, Victoria Vazquez

Councilor of the Cherokee Nation, Victoria Vazquez, is eligible for reelection. The Councilor was first elected to the Council of the Cherokee Nation in October 2013 during a special



election and was subsequently elected to her first full four (4) year term as council during a general election. Article VI, Section 3, of the Constitution states:

...Each Council member shall be elected in the general election for a term of four (4) years and until his or her successor is duly elected and installed. All Council members shall be limited to two (2) consecutive elected terms of the Council. All Council members having served two consecutive terms must sit out one (1) term before seeking any seat on the Council...

Article VI, Section 13, goes on to state the procedure to fill a vacancy of the Council of the Cherokee Nation as follows:

In the case of removal, death, resignation or disability of any of Council member, such seat shall be filled by the candidate having the next highest number of votes in that district, who is available and willing to serve and whose eligibility is confirmed by the Election Commission. In the event no such candidate exists, the Council shall fill the vacated seat in the following manner: If a majority of the four-year term remains to be served, the Council shall authorize a special election in the district of the vacated seat to be conducted within ninety days; if a minority of the four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve from the district of the vacated seat.

When read together the plain meaning of Article VI, Sections 3 and 13, is if a Councilor is first placed into office by virtue of being a runner up or elected in a special election for a term less than four (4) years then that shortened term shall not be counted as their first term for term limit purposes and therefore is said Councilor is elected thereafter during the general election for a four (4) year term the Councilor would still be eligible to run a second full four (4) year term in office.

IT IS ORDERED that the Court's findings set out above be incorporated herein as Orders of the District Court of Cherokee Nation as is fully set out hereafter.

IT IS SO ORDERED.

/s/ T. Luke Barteaux



T. Luke Barteaux
District Court Judge of the Cherokee
Nation

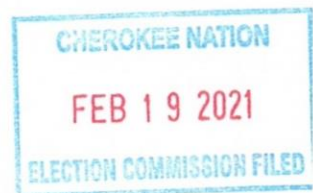
While the Court's Order concerning the Principal Chief and Deputy Chief were appealed up to the Cherokee Supreme Court, the Court's Order concerning Councilor Vazquez was not. The Vazquez ruling still stands as binding legal precedent and, with respect to her candidacy, controlling Cherokee law. In fact, the Cherokee Nation Supreme Court specifically commented in its subsequent Cornsilk v. Hembree Opinion that the Vazquez ruling had not been appealed and would therefore remain undisturbed.³

Judge Barteaux correctly interpreted the Constitution to conclude that for council term limit purposes, a "term" must be a complete four (4) year elected period and does not include any partial terms resulting from filling vacated seats following the removal, death, resignation, or disability of the office holder. Moreover, the Cherokee Supreme Court has since agreed with Judge Barteaux's complete four (4) year definition of "term" and applied it to the time period one must abstain from running after having served two consecutive terms. In the 2019 case of In re: Challenge to the Eligibility of Buel Anglen; SC-2019-03 the issue was whether Mr. Anglen was eligible to run again after only abstaining for two years, from 2013 to 2015, following his six-year term to establish staggered seats on the Council. The Cherokee Supreme Court found:

This provision of the Constitution prohibits a Tribal Council member from serving more than two consecutive terms of office and further defines a "term" to mean a period of four years.

...
As we stated in Cornsilk v. Hembree, "the Cherokee Constitution should be read as it is plainly written to carry out the will of the Cherokee people." SC-2018-04

...
It is clear that the framers of the Constitution intended to require that one term of office be allowed to pass before an individual could return for a third term. To give meaning and effect to the requirements of the Constitution, Anglen cannot be elected to a third straight term of the Tribal Council without sitting out for one full, four-year term.

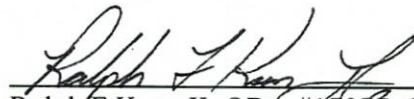


³ See Cherokee Supreme Court Opinion Cornsilk v. Hembree, SC-2018-04, fn1: "There is also a similar issue decided by the District Court for the Tribal Council seat held by Victoria Vazquez. Neither of the parties appeal her status and as such, it will not be decided here."

As the Attorney General's Office and the District Court has already found in this matter, which has now been reinforced by the Supreme Court in Anglen, for council seat term limit purposes, a term can only be defined as a complete four (4) year elected period, which Mrs. Vazquez has only served one and remains eligible to serve a second four (4) year elected period.

In conclusion, under legal principles of *stare decisis* and *res judicata*, this matter has already been decided by both the Office of the Attorney General and the Cherokee District Court. With full respect to the Commission and its unique powers concerning election disputes, the Commission is bound by these legal precedents and is not at liberty to act contrary to them. Judge Barteaux's Order remains in full force and effect and can only be overturned by the Cherokee Nation Supreme Court sitting in proper jurisdiction. Premise and precedents considered, Councilor Vazquez respectfully asks that this Commission rule her eligible for reelection in 2021 and deny the contest filed by Candidate Mason Hudson on February 11 in its entirety; and for such other relief the Commission deems just and equitable.

Respectfully submitted,



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Attorney for Councilor Vazquez





CHEROKEE NATION
OFFICE OF THE ATTORNEY GENERAL

215 S. Muskogee Avenue
2nd Floor
Tahlequah, OK 74465
918-453-5000

Todd Hembree
Attorney General

OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL

Question Submitted by: Cherokee Nation Election Commission,
via Attorney Harvey Chaffin

Opinion Number: 2016-CNAG-04

Date Decided: December 9, 2016

This office has received your request for an official Attorney General Opinion in which you state:

[T]he Chairman of the Commission has respectfully requested that we ask for an official opinion of the Attorney General of the Cherokee Nation as to the definition of the word "Term" as it is used in the Cherokee Nation Constitution and whether a time in office of less than four years is a "term" under the Cherokee Nation Constitution.

You have asked, in essence, whether a period of time in office of less than four (4) years meets the definition of "term" as used in Article VI, Section 3, and Article VII, Section 1, of the Cherokee Nation Constitution for purposes of calculating term limits. For the reasons discussed below, it is the opinion of the Attorney General that a period of time in office of less than four (4) years does not meet the definition of "term" as used in these respective provisions and is excluded from a calculation of term limits. Thus, any candidate for elected office having served less than two (2) consecutive four (4) year terms of office is eligible to stand for re-election in the next general election.



TERMS AND LIMITATIONS OF ELECTED OFFICE UNDER THE CONSTITUTION OF THE CHEROKEE NATION OF 1999

1. Term Limits of Tribal Council Members

Article VI, Section 3, of the Cherokee Nation Constitution sets forth the qualifications for membership on the Council of the Cherokee Nation ("Tribal Council"). This section also defines the term of office and sets limits on the consecutive terms of office that one can hold. This section, in pertinent part, provides as follows:

Each Council member shall be elected in the general election for a term of four (4) years and until his or her successor is duly elected and installed. All Council members shall be limited to two (2) consecutive elected terms on the Council. All Council members having served two consecutive terms must sit out one (1) term before seeking any seat on the Council.¹

Article VI, Section 13, sets forth the procedure by which a vacancy on the Tribal Council is filled depending on the length of time remaining in the vacated term. This section, in its entirety, provides as follows:

In the case of removal, death, resignation or the inability to discharge the powers and duties of office of any of Council member, such seat shall be filled in the following manner: If more than one year of the four-year term remains to be served, the Council shall authorize a special election in the district of the vacated seat to be conducted within ninety (90) days, unless a general election is to be held within one hundred and twenty (120) days from the vacancy at which time this special election may be held as part of the general election; if one year or less of the four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve from the district of the vacated seat.²

2. Term Limits of the Principal and Deputy Principal Chief

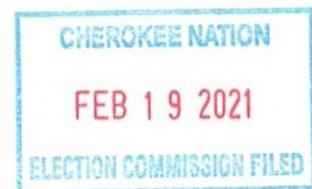
Article VII, Section 1, of the Cherokee Nation Constitution defines the term of office and sets term limits for the Principal Chief. This section, in pertinent part, provides as follows:

The Principal Chief shall hold office for a term of four (4) years. No person having been elected to the office of Principal Chief in two (2) consecutive elections shall be eligible to file for the office of Principal Chief in the election next following his or her second term of office.³

¹ Cherokee Nation Const. art. VI, § 3.

² *Id.* at art. VI, § 13 (amended June 25, 2011).

³ *Id.* at art. VII, § 1.



Article VII, Section 3, defines the term of office for the Deputy Principal Chief. This section, in pertinent part, provides that the Deputy Principal Chief shall serve “for a term of four (4) years at the same time and in the same manner as herein provided for the election of the Principal Chief. The Deputy Chief shall be subject to the same term limitations as provided for the Principal Chief in this Constitution.”⁴

Article VII, Section 4, provides for the succession of the Deputy Principal Chief and the Speaker of the Council, respectively, to the offices of the Principal and Deputy Principal Chief when vacant. This section provides as follows:

In the case of the absence of the Principal Chief from the office due to death, resignation, removal or inability to discharge the powers and duties of office, the same shall devolve upon the Deputy Principal Chief for the remaining portion of the four (4) year term to which the Principal Chief has been elected. In case of disability, such powers shall continue during the term of such disability.

In the event of the death, resignation, or removal of the Deputy Principal Chief, or his or her inability to discharge the powers and duties of the office, the person who is then the Speaker of the Council shall succeed to the office of the Deputy Principal Chief for the balance of the term. In the case of temporary disability, said person shall serve as Acting Deputy Principal Chief for the duration of the disability and thereafter shall reassume the office of Speaker.⁵

ANALYSIS

When interpreting the provisions of the Cherokee Nation Constitution, this office looks first to the text of the document itself.⁶ In doing so, this office interprets the language contained therein as the people voting on it would have understood it and in the sense most obvious to the common understanding at the time of its adoption.⁷ If this office can reach its conclusion by looking to the text alone, there is no need to look to additional sources.⁸ Where the text of the Constitution is clear and unambiguous, this office will take no liberty in searching for meaning beyond the instrument itself.

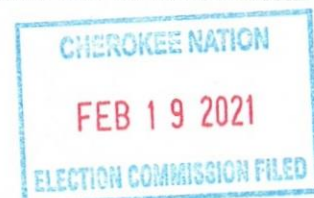
⁴ *Id.* at art. VII, § 3.

⁵ *Id.* at art. VII, § 4 (emphasis added).

⁶ See *DeMoss v. Jones*, JAT No. 96-01-K, 7-8 (1998) (adopting the Oklahoma Supreme Court’s rule for interpretation of the Oklahoma Constitution).

⁷ See *id.*, 8 (providing that words or terms used in a constitution, being dependent on ratification by the people voting upon it, must be understood in the sense most obvious to the common understanding at the time of its adoption, although a different rule might be applied in interpreting statutes at legislative acts).

⁸ See *Allen v. Cherokee Nation Tribal Council*, JAT-04-09 (2006) (stating that if the court can reach its conclusion by looking to the plain language of a legislative act or constitutional provision there is no need to look to additional sources).



In Article VI, Section 3, and Article VII, Section 1, the words "term" are accompanied by the words "four (4) year(s)".⁹ It is clear from the text alone that the authors of these provisions intended a "term," as used therein, to be "four (4) years" long. In normal election cycles, such terminology would be dispositive of this issue. However, in the present situation, Tribal Council members Joe Byrd and Frankie Hargis have previously served, and in the case of Victoria Vasquez is currently serving, a period of time in office of less than four (4) years following special elections.¹⁰ Similarly, Principal Chief Bill John Baker and Deputy Principal Chief S. Joe Crittenden have both previously served less than four (4) years following the lengthy appeals of the 2011 Principal Chief's election and subsequent special election.¹¹ Thus, the issue now before us questions how we apply limitations on subsequent terms to periods of time in office that do not satisfy the "four (4) year" test?

The framers of the 1999 Constitution were well-educated and knowledgeable of Cherokee Nation legal history.¹² They understood the historical and legal implications of the language they chose in drafting the provisions of the Constitution. Therefore, when the framers spoke, they spoke purposefully and intentionally in defining the terms and limitations of elected office. Article VI, Section 3, and Article VII, Section 1, of the Constitution, respectively, define the terms and limitations of elected office in clear and unambiguous terms.¹³ While these two provisions both define a term of office as four (4) years limited to two (2) consecutive terms there are distinctions within these two provisions which demonstrate the intent of the framers in defining term limits.

Article VI, Sections 3 and 13,¹⁴ respectively, define the terms and limitations of elected office for Tribal Council members in clear and unambiguous language. Article VI, Section 3, provides that each Council member "shall be elected in the general election for a term of four (4) years" which "shall be limited to two (2) consecutive elected terms"¹⁵ Article VI, Section 13, sets forth the procedure by which a vacancy on the Tribal Council is filled and provides for an term of office

⁹ *Supra* nn. 1, 3.

¹⁰ Council member Hargis was elected in a special election on December 2, 2011 and then elected to her first four (4) year term in the general election on June 22, 2013. Council member Byrd was elected by special election on January 14, 2012 and then elected to his first four (4) year term in the general election on June 22, 2013; Council Member Vasquez was elected by special election on October 12, 2013 and is currently serving a period of time in office of less than four (4) years and has not served her first term for the purpose of applying term limits.

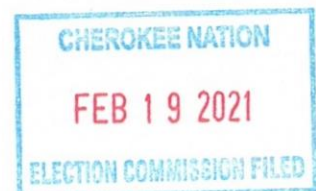
¹¹ Principal Chief Baker took the oath of office on October 29, 2011, following a special election on October 14, 2011. Deputy Principal Chief served as Principal Chief from August 14 to October 29, 2011. Both are currently serving their first term for the purpose of applying term limits.

¹² See *Allen*, JAT-04-09 at 15.

¹³ *Supra* nn. 1, 3.

¹⁴ *Supra* nn. 1-2.

¹⁵ *Supra* n. 1.



of less than four (4) years in specific circumstances.¹⁶ The fact that these two provisions define a term of office differently shows that the authors knew exactly what words to use in defining a term of office.¹⁷ Had they intended the definition of “term” in Section 3 to include a period of time in office of less than four (4) years, such as provided for in Section 13, they would have done so in the same clear and unambiguous language. However, such language is not present in these provisions. Thus, a period of time in office of less than four (4) years resulting from a special election does not meet the definition of “term” for purposes of calculating consecutive terms of office. Any Tribal Council member who has not served two (2) consecutive four (4) year terms following a general election shall be able to stand for re-election following the completion of his or her first term of office.

Article VII, Sections 1 and 4, respectively, define the terms and limitations of the offices of Principal Chief and Deputy Principal Chief in clear and unambiguous language. Article VII, Section 1, provides for a term of four (4) years and that “[n]o person having been elected to the office of Principal Chief in two (2) consecutive elections shall be eligible to file” for re-election “in the election next following his or her second term of office.”¹⁸ Article VII, Section 4, provides for the succession of the Deputy Principal Chief and the Speaker of the Council, respectively, to the offices of the Principal and Deputy Principal Chief when vacant.¹⁹ As with the provisions pertaining to Tribal Council members, these provisions too must be read together in order to give meaning to the intent of the framers. The fact that these two provisions carefully define a term of office in one instance, and provide for an abbreviated term of office under specific circumstances elsewhere, shows that the authors knew exactly what words to use in defining a term of office.²⁰ Had they intended the definition of “term” in Section 1 to include a period of time in office of less than four (4) years, such as provided for in Section 4, they would have done so in clear and unambiguous language. Again, such language is not present in these provisions. Thus, a period of time in office of less than four (4) years, such as those served by Principal Chief Bill John Baker and Deputy Chief S. Joe Crittenden following the special election in 2011, do not meet the definition of “term” for purposes of calculating consecutive terms of office. Principal Chief Baker and Deputy Chief Crittenden are, likewise, eligible to stand for re-election in the next election cycle because they have only served one “term” per the constitutional definition.

This conclusion is supported by the discussion of the matter by the framers during the 1999 Constitution Convention. It was here that the delegates discussed amending the language of

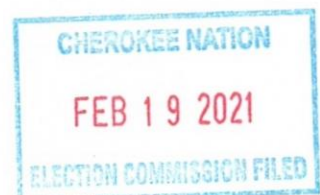
¹⁶ *Supra* n. 2.

¹⁷ See *Allen*, JAT-04-09, at 11 (interpreting Article III of the 1975 Constitution’s usage of “by blood” requirement).

¹⁸ *Supra* nn. 3-5.

¹⁹ *Supra* n. 4.

²⁰ See *Allen*, JAT-04-09, at 11.



Article VII, Section 1, to include the words "full terms" to the definition of term limits.²¹ Following a lengthy debate, the delegates were satisfied that the plain language of the text, when read as a whole, provided for a term of office of four (4) years limited to two (2) consecutive four (4) year terms and that any period of time in office of less than four (4) years was excluded from a calculation of term limits.²² By the reasoning of the delegates, the first clause of the provision defines a term of office as four (4) years. This necessarily defines its meaning in the second clause for purposes of calculating a "second term of office." Thus, because a period of time in office of less than four (4) years would not meet the definition of "term" in the first clause, any period of time in office of less than four (4) years would be excluded from a calculation of term limits in the second clause. Based upon such reasoning, the framers chose not to amend the definition to include the words "full terms" as the provision had already made this intent clear.

This interpretation is in keeping with previous opinions by the Office of the Attorney General. This office has previously opined on these same provisions with respect to filling a vacancy in the office of the Principal Chief.²³ In doing so, this office relied upon the maxim of construction *expression unius est exclusion alterius* (the expression of one thing is the exclusion of the other), which means that the enumeration of certain specifics in a provisions will be construed to exclude all things not enumerated. In other words, given that the framers specifically define a provision of law in one instance, but define a distinguishing provision on a similar subject elsewhere, it is assumed that the distinction was purposeful and intentional. Thus, where the framers have provided clear and unambiguous language, this office will take no liberty in searching for meaning beyond the instrument itself.

CONCLUSION

Article VI, Section 3, and Article VII, Section 1, of the Constitution, respectively, define the terms and limitations of elected office within the Cherokee Nation. In drafting these provisions, the framers defined a term of office as four (4) years limited to two (2) consecutive terms.²⁴ Elsewhere within these same provisions, the framers defined terms of office of less than four (4) years in clear and unambiguous language. By defining the terms of office differently within these respective provisions, the framers confirm they knew exactly what words to use in defining a term of office. Had they intended to include a period of time in office of less than four (4) years when defining term limits, they would have done so in the same clear and unambiguous language.²⁵ Absent such language, this office will take no liberty in adding or subtracting from

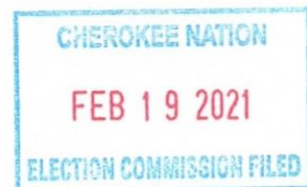
²¹ Cherokee Nation 1999 Constitution Convention, vol. 5, 41:10 (Mar. 2, 1999).

²² *Id.* at 41:1-42:13.

²³ See 2011-CNAG-01 (opinion of the Attorney General regarding vacancy in the office of Principal Chief).

²⁴ *Supra* n. 1, 3.

²⁵ See *Allen*, JAT-04-09, at 11.



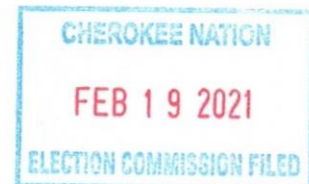
this definition. Thus, it is the opinion of the Attorney General that a period of time in office of less than four (4) years does not meet the definition of "term" as used in these respective provisions and is excluded from a calculation of the term limits.

Council members Byrd and Hargis were each previously elected in special elections as defined in Article VI, Section 13, which resulted in a period of time in office of less than four (4) years. These periods of time in office of less than four (4) years do not meet the definition of "term" as used in Article VI, Section 3, and are excluded when calculating consecutive terms of office. Thus, these Council members have previously served one (1) four (4) year term of office and are eligible to stand for re-election in the general election following their first term of office. Additionally, Council member Vasquez was elected in a special election as defined in Article VI, Section 13, which resulted in a period of time in office of less than four (4) years. This period of time in office of less than four (4) years does not meet the definition of "term" as used in Article VI, Section 3, and is excluded when calculating consecutive terms of office. Thus, Council member Vasquez has not served a term of office and is eligible to stand for re-election in the next two general elections. Principal Chief Baker and Deputy Principal Chief Crittenden, respectively, have served periods of time in office of less than four (4) years following the protracted challenges to the 2011 Principal Chief's election. These respective periods of time in office of less than four (4) years do not meet the definition of "term" as utilized in Article VII, Sections 1 and 3, and are likewise excluded when calculating consecutive terms of office. Similarly, Principal Chief Baker and Deputy Principal Chief Crittenden, having yet to serve second four (4) year terms of office, will each be eligible to stand for re-election upon completion of their present and first terms of office.



M. Todd Hembree
Attorney General
Cherokee Nation

John Chapman Young
Chrissi Ross Nimmo
Chad Harsha
Courtney Jordan
Jeremy Hamby
Assistant Attorneys General



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TODD HEMBREE,
Attorney General of the Cherokee Nation,
Respondent.

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...to give an official opinion ... Said opinions shall have the force of law in Cherokee Nation until a differing opinion or order is entered by a Cherokee Nation Court.

Attorney General Act §105 (4)

Further, the parties hereto at this time have agreed that this Court does have jurisdiction to hear and resolve this matter. *Leach v. Tribal Election Comm'n*, JAT-94-1 (1994).

The general issue before the Court is whether or not *Opinion of the Cherokee Nation Attorney General, 2016-CNAG-04*, is in contradiction to the Constitution of the Cherokee Nation 1999 and the political term limits contained therein. Specifically, at hand is the issue of whether or not The Principal Chief of the Cherokee Nation, Bill John Baker, The Deputy Principal Chief of the Cherokee Nation, S. Joe Crittenden, and Councilor of the Cherokee Nation, Victoria Vazquez, are eligible to run during the next electoral cycle for their current offices.

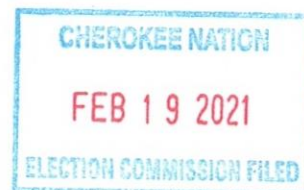
The Issue of Principal Chief of the Cherokee Nation, Bill John Baker

Principal Chief of the Cherokee Nation, Bill John Baker, is eligible for reelection. The term limit provision for Principal Chief is found in Article VII, Section 1, of the Constitution, as follows:

...The Principal Chief shall hold office for a **term of four (4) years**. No person having been elected to the office of Principal Chief in **two (2) consecutive elections** shall be eligible to file for the office of Principal Chief in the election next following his or her **second term of office**...

[Emphasis added]

The phrases "term of four (4) years", "two consecutive elections", and "second term of office" must be read in conjunction with each other just as a citizen of the Cherokee Nation would have read them before voting to ratify the Constitution. The citizens would have read and understood the plain meaning of the term limit language to be that an elected Principal Chief



would hold office for a full four (4) year term, and up to two (2) full four (4) year terms consecutively.

The citizens would have also understood that the Constitution provides a mechanism in Article VII, Sections 4 and 5 for filling any gap between elected Principal Chiefs exiting and being sworn into office.

Borrowing Petitioner's theater analogy, if you bought a movie ticket and you showed up on time, but the theater started the movie halfway through instead of at the beginning then you would be able to demand another ticket. In this case Principal Chief won the election and should have been sworn into office on August 14, 2011 but was not sworn in until nine (9) weeks later due to no fault of his own.

The Issue of Deputy Principal Chief of the Cherokee Nation, S. Joe Crittenden

The Deputy Principal Chief of the Cherokee Nation, S. Joe Crittenden, is not eligible for reelection.

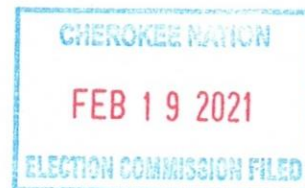
It is stated in the Constitution in Article VII, Section 3, that "The Deputy Chief shall be subject to the same term limitations as provided for the Principal Chief in this Constitution." In effect the Deputy Chief term limit provision is found in Article VII, Section 1, as follows:

...The ~~Principal~~ Deputy Chief shall hold office for a term of four (4) years. No person having been elected to the office of ~~Principal~~ Deputy Chief in two (2) consecutive elections shall be eligible to file for the office of ~~Principal~~ Deputy Chief in the election next following his or her second term of office...

[Emphasis Added]

Deputy Principal Chief at this time has been elected to two (2) consecutive four (4) year terms.

The Constitution goes on to say in Article VII, Section 4, in its entirety, that:



In case of the absence of the Principal Chief from office due to death, resignation, removal or inability to discharge the powers and duties of the office, the same shall devolve upon the Deputy Principal Chief for the remaining portion of the four (4) year term to which the Principal Chief had been elected. In case of disability, such powers shall continue during the term of such disability.

In the event of the death, resignation, or removal of the Deputy Principal Chief, or his or her inability to discharge the powers and duties of the office, the person who is then the Speaker of the Council shall succeed to the office of the Deputy Principal Chief for the balance of the term. In the case of temporary disability, said person shall serve as Acting Deputy Principal Chief for the duration of the disability and thereafter shall reassume the office of Speaker.

When there was not a Principal Chief sworn into office on August 14, 2011 the Deputy Chief assumed the office of Principal Chief pursuant to Article VII, Section 4, in faithful discharge of his duties as Deputy Principal Chief. Deputy Chief was elected, sworn into office on August 14, 2011, completed his first four (4) year term of office four (4) years later without any loss of time from his first term, and is now in his second consecutive four (4) year term.

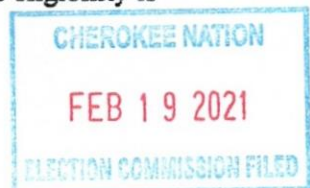
The Issue of Councilor of the Cherokee Nation, Victoria Vazquez

Councilor of the Cherokee Nation, Victoria Vazquez, is eligible for reelection. The Councilor was first elected to the Council of the Cherokee Nation in October of 2013 during a special election and was subsequently elected to her first full four (4) year term as council during a general election. Article VI, Section 3, of the Constitution states:

...Each Council member shall be elected in the general election for a term of four (4) years and until his or her successor is duly elected and installed. All Council members shall be limited to two (2) consecutive elected terms on the Council. All Council members having served two consecutive must sit out one (1) term before seeking any seat on the Council...

Article VI, Section 13, goes on to state the procedure to fill a vacancy of the Council of the Cherokee Nation as follows:

In the case of removal, death, resignation or disability of any of Council member, such seat shall be filled by the candidate having the next highest number of votes in that district, who is available and willing to serve and whose eligibility is

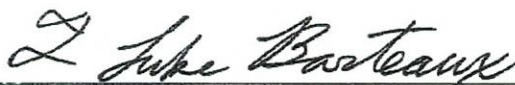


confirmed by the Election Commission. In the event no such candidate exists, the Council shall fill the vacated seat in the following manner: If a majority of the four-year term remains to be served, the Council shall authorize a special election in the district of the vacated seat to be conducted within ninety days; if a minority of the four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve from the district of the vacated seat.

When read together the plain meaning of Article VI, Sections 3 and 13, is if a Councilor is first placed into office by virtue of being runner up or elected in a special election for a term less than four (4) years then that shortened term shall not be counted as their first term for term limit purposes and therefore if said Councilor is elected thereafter during the general election for a four (4) year term the Councilor would still be eligible to run for a second full four (4) year term in office.

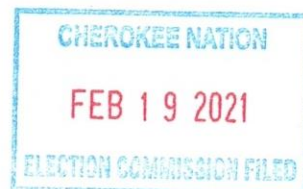
IT IS ORDERED that the Court's findings set out above be incorporated herein as Orders of the District Court of Cherokee Nation as if fully set out hereafter.

IT IS SO ORDERED.



T. Luke Barteaux,
District Court Judge of the Cherokee Nation

Copies to be furnished to:
All parties of record.



Headmen -- and the *Mohaves* were personally present by "Iretaba," their Head chief, and certain of his Captains and Headmen, and after full conference the 2 bands agreed upon the following terms:

to wit: --

First - - All hostilities heretofore existing between *Mohaves* and *Chemehuevis* cease on and after this day and perpetual amity shall exist between the two bands.

Second - - The *Mohaves* shall occupy and cultivate the lands on the left bank of the Colorado River, and the *Chemehuevis* the lands of the right bank of the Colorado River. Provided, that Indians of either tribe may freely visit or travel over either country, and shall not be molested therein either in their person or their property.

Third - - It is also agreed between the parties to this agreement that they will use their best exertions to prevent the members of either of (the) tribes from committing an(y) depredations upon the persons or property of American citizens in the country occupied by them, and should any such depredations be committed, that they will endeavor to recover property taken and bring offenders and deliver them to the Superintendent of Indian Affairs at La Paz.

In testimony to the above agreement we have set our hands and our seals at La Paz, Arizona, on the day and year just written.

(Signed)	Iretaba, Head Chief of Mohaves his x mark	SEAL
(Signed)	Pan Coyer, Head Chief of Chemehuevis his x mark	SEAL

Signed and sealed in presence of - -

(Signed)	J. W. Dent
	Special Indian Agent, Colorado River Indians.

SOURCE: Robert F. Heizer and Thomas R. Hester, *Some Early Treaties with California Indians*, University of California Archaeological Research Facility Contributions vol. 9, no. 5 (1962): 111.

TREATY BETWEEN THE CHEROKEE AND DELAWARE

April 8, 1867

Articles of Agreement Between the Cherokee and Delaware Nations made this 8th day of April, A.D. 1867, between the Cherokee Nation, represented by William P. Ross, Principal Chief, Riley Keys, and Jessie Bushyhead, delegates, duly authorized, parties of the first part, and the Delaware tribe of Indians, represented by John Connor, Principal Chief, Charles Journey Cake, Assistant Chief, Isaac Journey Cake, and John Sarcoxie, delegates for and on behalf of said Delaware tribe, duly authorized, witnesseth:

WHEREAS, by the 15th article of a certain treaty between the United States and the Cherokee Nation, ratified August 11, 1866, certain terms were provided, under which friendly Indians might be settled upon unoccupied lands in the Cherokee country, east of the line of 96° of west longitude, the price to be paid for such lands to be agreed on by the Indians to be thus located and the Cherokee Nation, subject to the approval of the President of the United States; and whereas, by a treaty between the United States and the Delaware tribe of Indians, ratified August 10, 1866, the removal

TREATIES BETWEEN INDIAN NATIONS

of the said Delawares to the Indian country, south of Kansas was provided for, and in the 4th article whereof an agreement was made by the United States to sell to the Delawares a tract of land, being part of a tract the cession of which by the Cherokees to the United States was then contemplated; *and, whereas*, no such cession of land was made by the Cherokees to the United States, but in lieu thereof, terms were provided as hereinbefore mentioned, under which friendly Indians might be settled upon their lands; *and whereas*, a full and free conference has been held between the representatives of the Cherokees and the Delawares, in view of the treaties herein referred to, looking to a location of the Delawares upon the Cherokee lands, and their consolidation with said Cherokee Nation: *now, therefore*, it is agreed between the parties hereto, subject to the approval of the President of the United States, as follows:

The Cherokees, parties of the first part, for and in consideration of certain payments, and the fulfillment of certain conditions, hereinafter mentioned, agree to sell to the Delawares, for their occupancy, a quantity of land east of the line of the 96° west longitude, in the aggregate equal to 160 acres of land for each individual of the Delaware tribe who has been enrolled upon a certain register made February 18th, 1867, by the Delaware agent, and on file in the office of Indian affairs, being the list of the Delawares who elect to move to the "Indian country," to which list may be added, only with the consent of the Delaware Council, the names of such other Delawares as may, within one month after the signing of this agreement, desire to be added thereto; and the selections of the lands to be purchased by the Delawares, may be made by said Delawares in any part of the Cherokee reservation east of said line of 96°, not already selected and in possession of other parties; and in case the Cherokee lands shall hereafter be allotted among the members of said Nation, it is agreed that the aggregate amount of land herein provided for the Delawares, to include their improvements according to the legal subdivisions, when surveys are made (that is to say, 160 acres for each individual), shall be guaranteed to each Delaware incorporated by these articles into the Cherokee Nation; nor shall the continued ownership and occupancy of said land by any Delaware so registered be interfered with in any manner whatever without his consent, but shall be subject to the same conditions and restrictions as are by the laws of the Cherokee Nation imposed upon the native citizens thereof: *Provided*, That nothing herein shall confer the right to alienate, convey, or dispose of any such lands, except in accordance with the constitution and laws of said Cherokee Nation.

And the said Delawares, parties of the second part, agree that there shall be paid to the said Cherokees, from the Delaware funds now held or hereafter received by the United States, a sum of money equal to one dollar per acre, for the whole amount of 160 acres of land, for every individual Delaware who has already been registered upon the aforesaid list, made February 18, 1867, with the additions thereto heretofore provided for. And the Secretary of the Interior is authorized and requested to sell any United States stocks belonging to the Delawares, to procure funds necessary to pay for said lands; but, in case he shall not feel authorized, under existing treaties, to sell such bonds belonging to the Delawares, it is agreed that he may transfer such U.S. bonds to the Cherokee Nation, at their market value at the date of such transfer. And the said Delawares, further agree that there shall be paid from their funds, now or hereafter to come into possession of the United States, a sum of money which shall sustain the same proportion to the existing Cherokee National fund that the number of Delawares registered as above mentioned, and removing to the Indian country, sustains to the whole number of Cherokees residing in the Cherokee Nation; and for the purpose of ascertaining such relative numbers, the registers of the Delawares herein referred to, with such additions as may be made within one month from the signing of this agreement, shall be the basis of calculation as to the Delawares; and an accurate census of the Cherokees residing in the Cherokee Nation shall be taken, under the laws of that Nation within four months, and properly certified copies thereof filed in the office of Indian Affairs, which shall be the basis of calculation as to the Cherokees. And, that there may be no doubt hereafter as to the amount to be contributed to the Cherokee National fund by the Delawares, it is hereby agreed by the parties hereto that the whole amount of the invested funds of the Cherokees, after deducting all just claims thereon, is \$678,000. And the Delawares further agree that in calculating the total amount of said National fund, there shall be added to the said sum of \$678,000 the sum of \$1,000,000, being the estimated value of the Cherokee neutral lands in Kansas, thus making the whole Cherokee National Fund \$1,678,000; and this last mentioned sum shall be taken as the basis for calculating the amount which the Delawares are to pay into the common fund: *Provided*, That, as the \$678,000 of funds now on hand belonging to the Cherokees is chiefly composed of stocks of different values, the Secretary of the Interior may transfer from the

Delawares to the Cherokees, a proper proportion of the stocks now owned by the Delawares, of like grade and value, which transfer shall be in part of the *pro rata* contribution herein provided for by the Delawares to the funds of the Cherokee Nation; but the balance of the *pro rata* contribution by the Delawares to said fund shall be in cash or U.S. bonds at their market value. All cash, and all proceeds of stocks, whenever the same may fall due or be sold, received by the Cherokees from the Delawares under this agreement, shall be invested and applied in accordance with the 23d article of the treaty with the Cherokees of August 11th, 1866.

On the fulfillment by the Delawares of the foregoing stipulations, all the members of the tribe registered as above provided shall become members of the Cherokee Nation, with the same rights and immunities, and the same participation (and no other) in the National Funds as native Cherokees, save as hereinbefore provided. And the children hereafter born of such Delawares so incorporated into the Cherokee Nation, shall in all respects be regarded as native Cherokees.

WM. P. ROSS, *Principal Chief*,
RILEY KEYES,
Cherokee Delegation.

JOHN CONNOR, *Principal Chief*, his x mark,
CHARLES JOURNEY CAKE,
ISAAC JOURNEY CAKE,
JOHN SARCOXIE, his x mark,
Delaware Delegation.

Executed and delivered in our presence by the above named delegates of the Cherokee and Delaware Nations at the city of Washington, in the District of Columbia, the day and year first above written.

JOHN G. PRATT,
WM. A. PHILLIPS,
EDWARD S. MENAGUS.

SOURCE: *Laws of the Cherokee Nation, Passed during the Years 1839–1867, Compiled by Authority of the National Council* (St. Louis, 1868): 85–88.

AGREEMENT BETWEEN THE OTTAWA AND CHIPPEWA

June 1, 1868

To all whom it may concern — We, John Wilson Chief — William Hurr, John F. Jones and James Wind — head men of the Council of the Ottawa Nation of Indians of Franklin County Kansas, of the First part herein — and Edward McCoonse, Joseph McCoonse — Lewis Gokey and Antoine Gokey, Head men of the Council of the Chippewa Tribe of Indians of the same County & State of the Second Part herein do hereby for and in behalf of the members and our respective Tribes ordain and make the following agreement to wit:

That whereas the said Chippewa Tribe of Indians being this day engaged in making a Certain Treaty at the City of Ottawa Kansas with the Commissioners of the United States Government now upon the ratification of the Treaty above named by the United States Government the said Chippewa Tribe of Indians for and in Consideration of the Agreement and Covenant hereinafter named do agree to well and truly pay unto the said Ottawa Nation the sum of Seven Thousand Dollars.

And the said Ottawa Nation on their Part do agree to adopt each and every member of the said Chippewa Tribe of

said County of Franklin, after ratification of the Treaty and payment of the Consideration above stated. And each and every member of said Chippewa Tribe when so adopted shall be entitled to equal rights and privileges with the said respective members of the Ottawa Nation in all matters of money and property acquired by said Ottawa Nation after the adoption of the said Chippewa Tribe. It is hereby understood that in the present lands and annuities due or owned by said Ottawa Nation in Franklin County the said adopted members shall have no interest or claim — but in the lands and property to be acquired on the removal of said Ottawa Nation the said adopted members shall share equally and respectively as other members individually in said Ottawa Nation.

In Witness whereof we John Wilson, William Hurr, John T. Jones and James Wind for the Ottawas — and Edward McCoonse, Joseph McCoonse, Lewis Gokey and Antoine Gokey for the Chippewas have this day set our hands and Seals at Ottawa, Kansas, June 1st, 1868.

Edward McCoonse his x mark	{Seal}	John Wilson, Chief his x mark	{Seal}
Joseph McCoonse his x mark	{Seal}	Wm Hurr Councilmens	{Seal}
Lewis Gokey his x mark	{Seal}	J. F. Jones	{Seal}
Antoine Gokey his x mark	{Seal}	James Wind his x mark	{Seal}

SOURCE: OIA-Treaty File, T494, roll 10: 84-87.

AGREEMENT BETWEEN THE SHAWNEE AND CHEROKEE

June 7, 1869

AGREEMENT BETWEEN SHAWNEES AND CHEROKEES, CONCLUDED JUNE 7TH, 1869,
APPROVED BY THE PRESIDENT JUNE 9TH, 1869.

Articles of Agreement, made and entered into at Washington, D.C., this seventh day of June, A.D. 1869, by and between H. D. Reese and William P. Adair, duly authorized delegates representing the Cherokee Nation of Indians, having been duly appointed by the National Council of said Cherokees, parties of the first part, and Graham Rogers and Charles Tucker, duly authorized delegates, representing the Shawnee tribe of Indians, parties of the second part, witnesseth:

WHEREAS, It is provided by the fifteenth article of the treaty between the United States and the Cherokee Indians, concluded July 19th, 1866, that the United States may settle any civilized Indians, friendly with the Cherokees and adjacent tribes, within the Cherokee country, on unoccupied lands east of 96°, on such terms as may be agreed upon by any such tribe and the Cherokees, subject to the approval of the President of the United States, which shall be consistent with certain provisions specified in said article; and,

WHEREAS, The Shawnee tribe of Indians are civilized and friendly with the Cherokees and adjacent tribes, and desire to settle within the Cherokee country on unoccupied lands east of 96°.

It is therefore agreed, by the parties hereto, that such settlement may be made upon the following terms and conditions, viz:

That the sum of five thousand dollars belonging to the Shawnee tribe of Indians, and arising under the provisions of treaties between the United States and said Shawnee Indians, as follows, viz:

For permanent annuity for educational purposes, per fourth article treaty, 3d August, 1795, and third article, 10th of May, 1854, one thousand dollars;

For interest, at five per centum, on forty thousand dollars for educational purposes, per third article treaty, 10th May, 1854, two thousand dollars;

For permanent annuity, in specie, for educational purposes, per fourth article treaty, 29th September, 1817, and third article, 10th May, 1854, two thousand dollars; shall be paid annually to the Cherokee Nation of said Indians, and that the annuities and interest, as recited, and the investment or investments upon which the same are based, shall hereafter become and remain the annuities and interest and investment or investments of the Cherokee Nation of Indians, the same as they have been the annuities and interest and investments of the Shawnee tribe of Indians. And that the sum of fifty thousand dollars shall be paid to the said Cherokees, as soon as the same shall be received by the United States, for the said Shawnees, from the sale of the lands in the State of Kansas, known as the Absentee Shawnee Lands, in accordance with the resolution of Congress, approved April 7th, 1869, entitled: "A resolution for the relief of settlers upon the Absentee Shawnee Lands in Kansas," and the provisions of the treaty between the United States and the Shawnee Indians, concluded May 10th, 1854, and also that the said Shawnees shall abandon their tribal organization.

And it is further agreed by the parties hereto that in consideration of the said payments and acts agreed upon, as hereinbefore stated, that the said Cherokees will receive the said Shawnees—referring to those now in Kansas, and also to such as properly belong to said tribe who may be at present elsewhere, and including those known as the Absentee Shawnees, now residing in Indian Territory—into the country of the said Cherokees, upon unoccupied lands east of 96°, and that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect, and with all the privileges and immunities of native citizens of said Cherokee nation; *provided*, that all of said Shawnees who shall elect to avail themselves of the provisions of this agreement, shall register their names, and permanently locate in the Cherokee country, as herein provided, within two years from the date hereof, otherwise they shall forfeit all rights under this agreement.

In testimony whereof, the parties hereto have hereunto subscribed their names, and affixed their seals, on the day and year first above written.

[SEAL]

[SEAL]

[SEAL]

[SEAL]

H. D. REESE

WM. P. ADAIR

Delegates representing the Cherokee Nation of Indians.

GRAHAM ROGERS

CHARLES TUCKER

Delegates representing the Shawnee Tribe of Indians.

ATTEST:

W. R. IRWIN

H. E. MCKEE

A. N. BLACKLEDGE

JAS. B. ABBOTT

SOURCE: Constitution and Laws of the Cherokee Nation, Published by an Act of the National Council (Parsons, Kansas: The Foley R'y Printing Co., 1892): 403-6.

TREATY BETWEEN THE SISSETON SIOUX AND THE ARIKARA, HIDATSA, AND MANDAN

July 11, 1870

For the purpose of better fulfilling our duty to the Government of the United States and with a desire to live on terms of amity and good will with each other, we the chiefs and head men of the bands of Sisseton Sioux located near Fort Totten, D.T. and we the chiefs and head men of the Arikarees, Grosventre and Mandan of the Fort Berthold Agency D.T. do each for ourselves and for the individual members of our respective Bands, bind ourselves and our respective Bands to the due fulfillment of the following agreement.

MINUTES OF
TRIBAL COUNCIL MEETING
SATURDAY, SEPTEMBER 14, 1991 - 9:00 A.M.

CALL TO ORDER:

President Ketcher called the meeting to order at 9:20 a.m. in the W.W. Keeler Tribal Council Chambers. He extended a welcome to the new members of the Tribal Council.

INVOCATION:

Councilman Rush presented the invocation.

ROLL CALL:

Roll call was presented by Gina Blackfox, Legislative Aide. The following members were present:

Maudie Bazille	Sam Ed Bush
Joe Byrd	Mary Cooksey
Don Crittenden	Harold DeMoss
James Garland Eagle	Mige Glory
Paula Holder	Barbara Mitchell
Harold Phillips	Greg Pitcher
Troy Poteete	Melvina Shotpouch
William Smoke	

A quorum was declared to conduct tribal business.

APPROVAL OF MINUTES:

Councilman Phillips made a motion to approve the August minutes. Councilman Eagle seconded the motion. Minutes adopted.

STATE OF THE NATION:

Chief Mankiller welcomed the new members and expressed her excitement of the beginning of a new term. She reported the CNI Board recently met in Stilwell. The end of the year fiscal report was reviewed and found to be similar to the 1990 report. Because of the decrease in defense orders, there is no way to avoid the decline in work. Some business has been generated from a subsidiary known as Cherokee Nation Distributors, Inc. She commented the tribe will continue to receive dividends through 1992, but it is impossible to make projections beyond this point.

Presently, there are 207 students enrolled at Sequoyah High School. The construction of the CN Youth Shelter is near completion. On November 6, the Tribal Services and the Stilwell Business community will sponsor an Adair County Business and Industry Showcase. She reported a concern still exists on the insufficient amount of funds to provide assistance to all applicants who apply for educational scholarships.

She reported full staffing of the Sallisaw Clinic is progressing well. The foundation work is underway and on schedule. Dr. Whistler has been involved in the staffing recruitment plan. There will be a significant increase in employment at the clinic. She reported the sites considered for the Stilwell Clinic have failed to meet the Indian Health Service criteria. There are new sites being considered at this time and presently this project is high priority.

She commented a local banking agency has offered to provide the tribe with direct payroll deposit at no charge. This proposal is presently under consideration.

The pre-close revenue figure of \$75,000 was reported at the end of August. Chief Mankiller concluded many projects are underway within the tribe. She reported the tribal membership is 123,000. Despite the rainy weather the Cherokee Holiday activities were very successful with an increased attendance in every event.

Chief Mankiller recently convened a meeting between local school administrators, who administer the JCM Program, and the Education Task Force. She stated several questions were addressed concerning the improvement of education for Cherokee children in the public school system. The administrators presented their solutions and recommendations.

Jim Wilcoxon, Tribal Attorney, reported a decision has been made on the case of UKB vs. Secretary of the Interior. This particular case is one of two federal court cases pending in Tulsa. The UKB alleged the Secretary unlawfully refused to allow them to administer their own federal 638 Contract Programs and unlawfully refused to convey to the UKB all the lands which had been accumulated by the Cherokees over the decades. They also claim the Secretary refused to take new lands in trust, namely smoke shop sites. The court found against the UKB on all issues. They found the UKB failed to exhaust their administrative remedies with regard to their own 638 funding. The court quoted at length, the Secretary's previous determination on the 1946 Act which recognizes the UKB, in no way, as giving UKB concurrent jurisdictional authority with the Cherokee Nation in eastern Oklahoma. The court made a final finding that in all relationships with the federal government the Cherokee Nation has never ceased to exist. He stated the tribe has spent much time and effort in Washington concerning this issue. He also reported oral arguments have begun on the case of Buzzard vs. Oklahoma Tax Commission. The tribe is not a party in this suit but it raises an additional defense as an indispensable party in order to adjudicate the tribes interest. Due to the illness of an UKB Attorney, they requested a continuance. Mr. Wilcoxon requested there be no delays due to the potential for violence and mischief. After discussions with the Judges Clerk, it was determined to forward the case before the court

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COMMITTEE REPORTS:

President Ketcher explained there are no reports to be given. A law confirming the establishment of standing committees is on the agenda.

NEW BUSINESS:

- 1) A Resolution Supporting the Continuance of the Jack Brown Center/R#69-71

Dr. Patrice Whistler, presented the resolution supporting the continuance of the Jack Brown Center, a regional Adolescent Treatment Center for Substance Abuse. She commented the contract is a continuing resolution for the contract already in effect. The continuation would allow the Jack Brown Center to provide alcohol and substance abuse treatment services to an Oklahoma Indian population in excess of 200,000.

Councilman Byrd motion for approval of the resolution. Councilwoman Cooksey seconded the motion. Resolution adopted unanimously.

- 2) Authorizing the Submission of a Proposal to Department of Health and Human Services, Office of Community Services for Housing Rehabilitation/R#70-91

George Bearpaw, Director of Community Development, presented the resolution to submit a proposal to the Health and Human Service requesting \$250,000 to service 17 homes with repairs or rehabilitation of the existing substandard housing units.

Councilman Bush made a motion for approval. Motion seconded by Councilwoman Mitchell. Resolution adopted unanimously.

- 3) Authorizing the Submission of Funding from the Office of Substance Abuse Prevention, Proposal for the Continuation of Substance Abuse Prevention Program/R#71-91

George Bearpaw, Director of Community Development, commented a demonstration program funded the substance abuse prevention program currently in operation. This resolution will provide a continuation of this program. Presently, the program is providing services to 30 youth.

Councilman Poteete recommended a deletion of the statement "it is the intent of" in the third paragraph of the resolution and the next paragraph to include the statement "to intervene in situations to prevent".

Councilman Byrd made a motion to approve the resolution with amendments. Councilman Poteete seconded the motion. Resolution adopted.

- 4) An Act Relating to Cherokee Nation: Establishing Consolidated Standing Committees of the Council: Amending Certain Items to CNCA (LA 32-89): And Declaring an Emergency/LA#14-91

President Ketcher explained the restructuring of the committee system was discussed in the orientation process. The following standing committees were established: 1) Community Development/Tribal Services, 2) Rules Committee, 3) Resources Committee, 4) Employment Committee, 5) Executive & Finance Committee, 6) Education Committee, and 7) Health Committee.

Councilman Eagle expressed a concern about a previous resolution passed by the council naming the Cherokee Language and Culture Committee as a standing committee. President Ketcher stated the law presented will supercede any other act or resolution enacted prior to this enactment. Chief Mankiller commented in order to make the language and culture program a comprehensive language program, funds must be made available. She encouraged the members to consider allocating funds for a language program during the budget hearings.

After discussion, Councilman Eagle made a motion to approve the law as presented. Councilman Poteete seconded the motion. Yeas and Nays as recorded:

Maudie Bazille	<u>Yea</u>	Mige Glory	<u>Yea</u>
Sam Ed Bush	<u>Yea</u>	Paula Holder	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Barbara Mitchell	<u>Yea</u>
Mary Cooksey	<u>Yea</u>	Harold Phillips	<u>Yea</u>
Don Crittenden	<u>Yea</u>	Greg Pitcher	<u>Yea</u>
Harold DeMoss	<u>Yea</u>	Troy Poteete	<u>Yea</u>
James Eagle	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
		William Smoke	<u>Yea</u>

The law was approved by a vote of fifteen (15) yeas; and none (0) opposing;

- 5) Confirmation of Standing Committees - President Ketcher

Community Development/Tribal Services Committee:
Co Chairs, Harold Phillips and Maudie Bazille

Members: Barbara Mitchell, Mige Glory, Sam Ed Bush, Troy Poteete, William Smoke, Mary Flute Cooksey, Don Crittenden, and Garland Eagle

Councilman Phillips motioned for the adoption. Seconded by Councilman Eagle. Confirmed unanimously.

Rules Committee: (Registration, Codes, Election, Law and Order, Judicial, Constitution Revision)

Co Chairs, Melvina Shotpouch and William Smoke

Members: Greg Pitcher, Troy Poteete, Mary Flute Cooksey, Joe Byrd, Paula Holder, and Mige Glory

Councilman Eagle moved for the adoption. Motion seconded by Councilwoman Cooksey. Confirmed unanimously.

Resource Committee: (Land, Road, Economic & Development, Enterprises)

Co Chairs, Don Crittenden, and Mary Flute Cooksey

Members: Troy Poteete, William Smoke, Greg Pitcher, Melvina Shotpouch, Harold DeMoss, Paula Holder, Sam Bush, Jiggs Phillips, Garland Eagle, Barbara Mitchell, and Mige Glory

Councilman Phillips motioned for approval. Motion seconded by Councilwoman Shotpouch. Confirmed unanimously.

Employment Committee: (Tribal Personnel, Acquisition, TERO)

Co-Chairs, Mige Glory and Harold DeMoss

Members: Melvina Shotpouch, Barbara Mitchell, Paula Holder, Maudie Bazille, Joe Byrd, Sam Ed Bush, Garland Eagle, Mary Flute Cooksey, William Smoke

Councilman Eagle motioned for approval. Motion seconded by Councilman Crittenden. Confirmed unanimously.

Executive and Finance Committee:

Co-Chairs, Greg Pitcher and Sam Ed Bush

Members: Barbara Mitchell, Garland Eagle, Harold DeMoss, Don Crittenden, Mige Glory, Mary Flute Cooksey, Troy Poteete, Jiggs Phillips, Paula Holder, Joe Byrd

William Smoke, inadvertently left out on tape 7-14-91 #2 5b

Councilman Poteete motioned for approval. Motion seconded by Councilman Pitcher. Confirmed unanimously.

Education Committee: (Cherokee Language & Culture, Job Corps, Sequoyah)

Co-Chairs, Joe Byrd and Paula Holder

Members: Harold DeMoss, Mary Flute Cooksey, Garland Eagle, Jiggs Phillips, Barbara Mitchell, William Smoke, Sam Ed Bush, Don Crittenden

Councilman Crittenden motioned for approval. Motion seconded by Councilman Eagle. Confirmed unanimously.

Health Committee:

Co-Chairs, Joe Byrd and Barbara Mitchell

Members: Mary Flute Cooksey, Sam Ed Bush, Garland Eagle, Maudie Bazille, Jiggs Phillips

Councilman Bush motioned for approval. Motion seconded by Councilwoman Mitchell. Confirmed unanimously.

6) Confirmation of Secretary of Tribal Council - President Ketcher

President Ketcher stated Troy Poteete was selected to serve as Secretary of the Tribal Council.

Councilman Byrd made a motion to confirm. Motion seconded by Councilman Bush. Confirmed unanimously.

Councilman Crittenden stated Johnnie Masters and Albert Snell have served as members for the Tribal Land Committee. He inquired about their involvement on the newly formed Resource Committee. Frank Farrell reported prior to the approval of the constitution and seating of the council the Tribal Land was governed by a Board of Trustees appointed by the Principal Chief. Albert Snell and Johnnie Masters were members of that Board and have carried forward into the committee process. They have served in this capacity for twenty-four years. Jim Wilcoxon, Tribal Attorney, commented it is possible they could serve as ex-officio advisors to the Resource Committee without voting power. Councilman Bush suggested they be informed of their new position and if they desire to serve as ex-officio members. Frank commented five members were approved to serve on the former Board of Trustees and Conservation Committee as life time members. The law presented would supercede that particular resolution.

Councilman Crittenden made a motion to approve Albert Snell and Johnnie Masters as ex-officio members. Councilwoman Bazille seconded the motion. Motion carried.

7) Authorizing the Borrowing of Funds for Refinancing of Existing Debt and to Pay for Construction of New Tribal Governmental Office Space and Building/R#72-91

Alan Harder stated the resolution authorizes the Principal Chief to enter an agreement with the firm of Smith-Barney for the purpose of borrowing funds for the construction of an office building in this complex area and for the purpose of borrowing funds for the re-financing of three existing debts. It also waives the sovereign immunity of the tribe as it pertains to these debts only.

Councilman Byrd motioned for the approval. Motion seconded by Councilman Pitcher. Resolution adopted.

8) Authorization of Expenditure Funds/R#73-91

Alan Harder presented the resolution authorizing the expenditure of funds to purchase the Jay Memorial Hospital. The Cherokee Nation will use the facility as a community service outpatient clinic and sub-offices for other programs. He informed the members of discussions with Jim Wilcoxon about an attached amendment stating the sovereign immunity of Cherokee Nation be waived only to the extent necessary to permit enforcement of the obligations created against the security pledged.

Councilman Poteete made a motion to approve the resolution with the amended sovereignty clause. Councilman Glory seconded the motion. Resolution adopted.

9) An Act Relating to Cherokee Nation Law Authorizing a Continuing Resolution for the General Fund to Operate at the FY 91 Budget Level: And Declaring an Emergency/LA#15-91

Charles Head presented an act authorizing a continuing resolution for the general fund to operate at the FY 1991 budget level and declaring an emergency. This act would stay in effect until the 1992 budget process has been completed. The current approved budget will expire at the end of September.

Councilman Bush motioned for approval. Councilman Phillips seconded the motion. Yeas and Nays as recorded.

Maudie Bazille	<u>Yea</u>	Mige Glory	<u>Yea</u>
Sam Ed Bush	<u>Yea</u>	Paula Holder	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Barbara Mitchell	<u>Yea</u>
Mary Cooksey	<u>Yea</u>	Harold Phillips	<u>Yea</u>
Don Crittenden	<u>Yea</u>	Greg Pitcher	<u>Yea</u>
Harold DeMoss	<u>Yea</u>	Troy Poteete	<u>Yea</u>
James Eagle	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
		William Smoke	<u>Yea</u>

The law was approved by a vote of fifteen (15) yeas; and none (0) opposing;

10) To Support a Basic Grant for Library Services/R#74-91

Councilman Byrd presented the resolution supporting and approving the application for a grant to the Library Services and Construction Act for the Tsa-La-Gi Library. The Tsa-La-Gi Library has provided library services and activities for Indian children, adults, public school teachers, administrators, Cherokee Nation employees, researchers and the general public since 1980. Councilman Byrd motioned for the approval. Councilman Eagle seconded the motion. Resolution adopted.

11) An Act Approving the Implementation of the Tribal Governance Compact Between the Cherokee Nation and the United States of America and for Other Purposes/LA#16-91

Pat Ragsdale highlighted the contents of the law including corrections to section enumeration. The purpose of the act is that the Tribal Council grant authority and approval of the actual implementation of the self-governance program for fiscal year 1992. The legislative history was included in the act. The budget for the self-governance compact is approximately seven million dollars based upon the estimates taken from the President's budget for Department of Interior fiscal year 1992. The Principal Chief will report to the Tribal Council the actual appropriations for the implementation of the programs under the compact for 1992. Adjustments to the program allocations shall be reported to the Tribal Council. An emergency funding provision was also included in the law.

Councilman Bush made a motion to approve the law as present. Councilman Pitcher seconded the motion. Yeas and Nays as recorded:

Maudie Bazille	<u>Yea</u>	Mige Glory	<u>Yea</u>
Sam Ed Bush	<u>Yea</u>	Paula Holder	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Barbara Mitchell	<u>Yea</u>
Mary Cooksey	<u>Yea</u>	Harold Phillips	<u>Yea</u>
Don Crittenden	<u>Yea</u>	Greg Pitcher	<u>Yea</u>
Harold DeMoss	<u>Yea</u>	Troy Poteete	<u>Yea</u>
James Eagle	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
		William Smoke	<u>Yea</u>

The law was approved by a vote of fifteen (15) yeas; and none (0) opposing;

12) A Resolution to Support a National Training Program for Tribal Court Personnel/R#75-91

Pat Ragsdale presented the resolution which states the Bureau of Indian Affairs has changed the previous method of providing training and technical assistance for tribal court systems. A critical need exists to provide tribes and tribal court systems with the resources necessary to deal effectively with such critical issues as the impact of the DURO decision and the soon to be published report by the U.S Civil Rights Commission on allegations of civil rights violations by Indian tribes. He reported this particular resolution puts the BIA on notice that the tribe is not in favor of the current proposal which appears to defund the National Indian Justice Center. The tribe has used this center for providing technical assistance for child care, and workshops on child exploitation, and tribal courts and governments. The resolution states the BIA must not make any significant changes in tribal court training and technical

assistance which would undermine the effectiveness and stability of the Indian Justice Center and it should make the necessary actions to continue the arrangement with the National Indian Justice Center to continue the national training program as previously authorized. It also states the BIA establish contracts with the four existing appellate court systems to continue their programs and establish an expedited and equitable program to provide local training and technical assistance to needy court systems. The BIA must cease plans to double the Judicial Services national staff and use the money instead to provide additional funds for tribal courts and tribal assistance.

Councilwoman Shotpouch motioned for approval. Councilman Eagle seconded the motion. Resolution adopted.

- 13) Authorizing the Submission of a Grant Proposal to the Federal Department of Health and Human Services for FY 1992 Community Services Block Grant Program Funds/R#76-91

Bryce Washington reported the tribe maintains a planning unit with a mission to provide administration with various forms of planning services. This particular resolution requests the permission to apply for \$27,600 to conduct various feasibility studies for economic development.

Councilman Byrd motioned for approval. Councilman Poteete seconded the motion. Resolution adopted.

- 14) Education Commission Task Force Report: Reva Reyes, Director

Reva Reyes, Director of the Planning Department, presented a rough draft document of the commission report. After review and acceptance of the report, it will be bound in final form. She informed the councilmembers Chief Mankiller appointed a commission in January to visit parents, students, school administrators, and community people to begin the process of gathering information in deciding what the tribe needs to do to insure that fewer children are dropping out of school and to establish the very best educational services whether in the public schools or within the Cherokee Nation education programs. Commission members in attendance were Hastings Shade, Wynona Quinton, Woody Hansen, Anthony Fourkiller, Maybelline Still, Ronnie Gonzales, Councilmembers Eagle and Phillips. Reva reported the same concerns were expressed over and over in the communities. She reported these concerns can be stated very simply as; 1) in the transition from small rural K-8 schools into town systems, students drop out because they do not feel comfortable in the schools. The research has been quoted in the document as information was gathered. The second concern is drugs, alcohol, and teen pregnancy. The national literature reveals Indian children begin to use drugs and alcohol at a much earlier age than any other group including other minority groups. She reported Oklahoma now stands as number two in the nation in teen pregnancy. The literature shows drugs, alcohol, teen pregnancy, school attendance, school failure, school drop-out are all tied together. There is also great concern for the lack of education in Cherokee history, language, and culture. The document shows charts of data compiled from the State Department of Education concerning the academic performance. The major areas identified by the Education Commission are included in the report.

President Ketcher suggested the council members be given time to review the document and continue discussions in the monthly education meeting. Chief Mankiller also recommended the Education Committee meet with the Education Commission to discuss the recommendations. Councilman Phillips expressed his appreciation to the members of the education commission and requested a meeting be scheduled. Reva encouraged the council members to contact any of the commission members if they have questions.

- 15) National Indian Monument Institute - Monetta Trepp

Ms. Trepp stated northern Tulsa has been chosen for the site of the National Indian Monument Institute. She requested a resolution in support of the project. The Institute will consist of a museum and research area. She reported tribal leaders will serve as the Board of Directors. Chief Mankiller stated they have reviewed the proposal and the project seems viable. Councilman Phillips stated with the information presented and recommendations of Chief Mankiller he made a motion to support the project. Councilwoman Bazille seconded the motion. Motion carried.

- 16) Resolution Opposing the Repeal of 1017 Standard Language/R#77-91

Councilman Byrd stated the resolution is somewhat related to the report presented by the Education Commission. It strongly implements the Cherokee language and culture HB1017 makes school administrators more accountable in certification and dollars. He stated if House Bill 1017 does not succeed, it would be a step back.

Councilman Pitcher made a motion to adopt the resolution. Motion seconded by Councilman Phillips. Resolution adopted with one abstention.

- 17) Confirmation of Inter-Tribal Council Delegates - Chief Mankiller

Chief Mankiller presented the names of those who will serve as Inter-Tribal Council Members. Council members Sam Bush, Harold DeMoss, Paula Holder, Mige Glory, Mary Cooksey, Don Crittenden, Garland Eagle, and Joe Byrd were named. President Ketcher stated the number required by Inter-Tribal Council will serve as members and the remaining will serve as alternates. Those named were approved unanimously.

Chief Mankiller also stated the delegates and alternates for the National Congress of American Indian will be named at a later date.

- Housing Authority of Cherokee Nation - Joel Thompson, Executive Director

Joel presented a packet of information to the council members concerning the operations of Housing Authority. He stated this year represents the 25th anniversary of Indian housing. The Cherokee Nation Housing Authority

has paid off more units than any other Housing Authority in the United States. He reported efforts are being made to orient the Tribal Council in districts at the area offices. He reported they have received notification from Senator Nickles office that they will receive 2.1 million under the comprehensive improvement assistance program. This program funds maintenance of the low rent units and corrects construction deficiencies in the modernization program.

BIA/Cherokee Nation: Dennis Wickliffe, Self-Governance Specialist

Mr. Wickliffe briefed the new members of his position and office hours at the tribe. He can also be located in the Muskogee Area Self-Governance Office, at 687-2448. He reported a French Delegation visited the Muskogee Area Office. Deputy Chief Ketcher presented the greeting. The training for Child Protection was recently completed at Shan-gri-la. Pat Ragsdale commented the training was well attended, it was a fairly intensive training on the education and awareness of child exploitation. Dennis commented an October 1, date has been set for change over in the federal finance system. The Muskogee staff have been in training for the transition. The 1992 budget is expected to be an increase from the FY91 budget. The Total Quality Management is a bureau wide initiative from the Department of Interior. Training is being conducted throughout the month. Those involved are the supervisors, and managers within the Muskogee Area. A December 1, distribution date has been set for the Annual Report. He will be working with various departments within the Cherokee Nation for contributions of photos. They will emphasize the accomplishments through cooperation with the US Government. The BIA Reorganization is ongoing, the Task Force recently met in Bismarck. The Muskogee Agency is continuing to assist the Delaware Tribe in the implementation of programs through the use of trust funds. The Muskogee Education Office will be located in Oklahoma City. The Realty and IMS training has been completed at the area level within the last month. Cherokee Nation was represented at both training sessions.

18) Confirmation of Secretary/Treasurer - Chief Mankiller

Chief Mankiller nominated Tommy Thompson to fill the position of Secretary/Treasurer. Councilman Bush moved to confirm Tommy Thompson. Councilman Pitcher seconded the motion. Approved unanimously.

19) Business Proposal - Woodrow Proctor

Mr. Proctor presented a business proposal concerning the lease of tribal land. Councilman Byrd felt it appropriate to present the proposal before the Resource Committee. The business plan includes a tobacco, arts and crafts outlet on tribal land. Mr. Proctor commented there is presently an ongoing arts and crafts business enterprise and shows are pending. There is approximately 48 artistic individuals who are interested in the involvement of distribution of arts and crafts material. Mr. Proctor requested his business proposal be included on the next agenda. A detailed business plan will be presented to the Resource Committee on September 19.

Councilman Crittenden announced the annual meeting at Bull Hollow will be held on September 19 at 10:00 a.m. The annual fish fry will be held immediately following the meeting.

President Ketcher reported the annual Cherokee Holiday was very successful. A full-time staff person was hired to facilitate the Holiday activities. He expressed his appreciation to the staff people who contributed their time in making this a successful year.

ADJOURNMENT:

With no further business discussed, Councilman Bush motioned for adjournment. The meeting was adjourned at 12:45 p.m. The next monthly meeting will be held on October 12, 9:00 a.m.

MINUTES OF
TRIBAL COUNCIL MEETING
SATURDAY, SEPTEMBER 14, 1991 - 9:00 A.M.

CALL TO ORDER:

President Ketcher called the meeting to order at 9:20 a.m. in the W.W. Keeler Tribal Council Chambers. He extended a welcome to the new members of the Tribal Council.

INVOCATION:

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ROLL CALL:

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A quorum was declared to conduct tribal business.

APPROVAL OF MINUTES:

Councilman Phillips made a motion to approve the August minutes. Councilman Eagle seconded the motion. Minutes adopted.

STATE OF THE NATION:

Chief Mankiller welcomed the new members and expressed her excitement of the beginning of a new term. She reported the CNI Board recently met in Stilwell. The end of the year fiscal report was reviewed and found to be similar to the 1990 report. Because of the decrease in defense orders, there is no way to avoid the decline in work. Some business has been generated from a subsidiary known as Cherokee Nation Distributors, Inc. She commented the tribe will continue to receive dividends through 1992, but it is impossible to make projections beyond this point.

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Councilman Byrd motion for approval of the resolution. Councilwoman Cooksey seconded the motion. Resolution adopted unanimously.

- 2) Authorizing the Submission of a Proposal to Department of Health and Human Services, Office of Community Services for Housing Rehabilitation/R#70-91

George Bearpaw, Director of Community Development, presented the resolution to submit a proposal to the Health and Human Service requesting \$250,000 to service 17 homes with repairs or rehabilitation of the existing substandard housing units.

Councilman Bush made a motion for approval. Motion seconded by Councilwoman Mitchell. Resolution adopted unanimously.

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Councilman Poteete recommended a deletion of the statement "it is the intent of" in the third paragraph of the resolution and the next paragraph to include the statement "to intervene in situations to prevent".

Councilman Byrd made a motion to approve the resolution with amendments. Councilman Poteete seconded the motion. Resolution adopted.

- 4) An Act Relating to Cherokee Nation: Establishing Consolidated Standing Committees of the Council: Amending Certain Items to CNCA (LA 32-89): And Declaring an Emergency/LA#14-91

President Ketcher explained the restructuring of the committee system was discussed in the orientation process. The following standing committees were established: 1) Community Development/Tribal Services, 2) Rules Committee, 3) Resources Committee, 4) Employment Committee, 5) Executive & Finance Committee, 6) Education Committee, and 7) Health Committee.

Councilman Eagle expressed a concern about a previous resolution passed by the council naming the Cherokee Language and Culture Committee as a standing committee. President Ketcher stated the law presented will supercede any other act or resolution enacted prior to this enactment. Chief Mankiller commented in order to make the language and culture program a comprehensive language program, funds must be made available. She encouraged the members to consider allocating funds for a language program during the budget hearings.

After discussion, Councilman Eagle made a motion to approve the law as presented. Councilman Poteete seconded the motion. Yeas and Nays as recorded:

Maudie Bazille	<u>Yea</u>	Mige Glory	<u>Yea</u>
Sam Ed Bush	<u>Yea</u>	Paula Holder	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Barbara Mitchell	<u>Yea</u>
Mary Cooksey	<u>Yea</u>	Harold Phillips	<u>Yea</u>
Don Crittenden	<u>Yea</u>	Greg Pitcher	<u>Yea</u>
Harold DeMoss	<u>Yea</u>	Troy Poteete	<u>Yea</u>
James Eagle	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
		William Smoke	<u>Yea</u>

The law was approved by a vote of fifteen (15) yeas; and none (0) opposing;

- 5) Confirmation of Standing Committees - President Ketcher

Community Development/Tribal Services Committee:
Co Chairs, Harold Phillips and Maudie Bazille

Members: Barbara Mitchell, Mige Glory, Sam Ed Bush, Troy Poteete, William Smoke, Mary Flute Cooksey, Don Crittenden, and Garland Eagle

Councilman Phillips motioned for the adoption. Seconded by Councilman Eagle. Confirmed unanimously.

Rules Committee: (Registration, Codes, Election, Law and Order, Judicial, Constitution Revision)

Co Chairs, Melvina Shotpouch and William Smoke

Members: Greg Pitcher, Troy Poteete, Mary Flute Cooksey, Joe Byrd, Paula Holder, and Mige Glory

Councilman Eagle moved for the adoption. Motion seconded by Councilwoman Cooksey. Confirmed unanimously.

Resource Committee: (Land, Road, Economic & Development, Enterprises)

Co Chairs, Don Crittenden, and Mary Flute Cooksey

Members: Troy Poteete, William Smoke, Greg Pitcher, Melvina Shotpouch, Harold DeMoss, Paula Holder, Sam Bush, Jiggs Phillips, Garland Eagle, Barbara Mitchell, and Mige Glory

Councilman Phillips motioned for approval. Motion seconded by Councilwoman Shotpouch. Confirmed unanimously.

Employment Committee: (Tribal Personnel, Acquisition, TERO)

Co-Chairs, Mige Glory and Harold DeMoss

Members: Melvina Shotpouch, Barbara Mitchell, Paula Holder, Maudie Bazille, Joe Byrd, Sam Ed Bush, Garland Eagle, Mary Flute Cooksey, William Smoke

Councilman Eagle motioned for approval. Motion seconded by Councilman Crittenden. Confirmed unanimously.

Executive and Finance Committee:

Co-Chairs, Greg Pitcher and Sam Ed Bush

Members: Barbara Mitchell, Garland Eagle, Harold DeMoss, Don Crittenden, Mige Glory, Mary Flute Cooksey, Troy Poteete, Jiggs Phillips, Paula Holder, Joe Byrd

*William Smoke, sb
inadvertently left out
on tape 7-14-91 #2*

Councilman Poteete motioned for approval. Motion seconded by Councilman Pitcher. Confirmed unanimously.

Education Committee: (Cherokee Language & Culture, Job Corps, Sequoyah)

Co-Chairs, Joe Byrd and Paula Holder

Members: Harold DeMoss, Mary Flute Cooksey, Garland Eagle, Jiggs Phillips, Barbara Mitchell, William Smoke, Sam Ed Bush, Don Crittenden

Councilman Crittenden motioned for approval. Motion seconded by Councilman Eagle. Confirmed unanimously.

Health Committee:

Co-Chairs, Joe Byrd and Barbara Mitchell

Members: Mary Flute Cooksey, Sam Ed Bush, Garland Eagle, Maudie Bazille, Jiggs Phillips

Councilman Bush motioned for approval. Motion seconded by Councilwoman Mitchell. Confirmed unanimously.

6) Confirmation of Secretary of Tribal Council - President Ketcher

President Ketcher stated Troy Poteete was selected to serve as Secretary of the Tribal Council.

Councilman Byrd made a motion to confirm. Motion seconded by Councilman Bush. Confirmed unanimously.

Councilman Crittenden stated Johnnie Masters and Albert Snell have served as members for the Tribal Land Committee. He inquired about their involvement on the newly formed Resource Committee. Frank Farrell reported prior to the approval of the constitution and seating of the council the Tribal Land was governed by a Board of Trustees appointed by the Principal Chief. Albert Snell and Johnnie Masters were members of that Board and have carried forward into the committee process. They have served in this capacity for twenty-four years. Jim Wilcoxon, Tribal Attorney, commented it is possible they could serve as ex-officio advisors to the Resource Committee without voting power. Councilman Bush suggested they be informed of their new position and if they desire to serve as ex-officio members. Frank commented five members were approved to serve on the former Board of Trustees and Conservation Committee as life time members. The law presented would supercede that particular resolution.

Councilman Crittenden made a motion to approve Albert Snell and Johnnie Masters as ex-officio members. Councilwoman Bazille seconded the motion. Motion carried.

7) Authorizing the Borrowing of Funds for Refinancing of Existing Debt and to Pay for Construction of New Tribal Governmental Office Space and Building/R#72-91

Alan Harder stated the resolution authorizes the Principal Chief to enter an agreement with the firm of Smith-Barney for the purpose of borrowing funds for the construction of an office building in this complex area and for the purpose of borrowing funds for the re-financing of three existing debts. It also waives the sovereign immunity of the tribe as it pertains to these debts only.

Councilman Byrd motioned for the approval. Motion seconded by Councilman Pitcher. Resolution adopted.

8) Authorization of Expenditure Funds/R#73-91

Alan Harder presented the resolution authorizing the expenditure of funds to purchase the Jay Memorial Hospital. The Cherokee Nation will use the facility as a community service outpatient clinic and sub-offices for other programs. He informed the members of discussions with Jim Wilcoxon about an attached amendment stating the sovereign immunity of Cherokee Nation be waived only to the extent necessary to permit enforcement of the obligations created against the security pledged.

Councilman Poteete made a motion to approve the resolution with the amended sovereignty clause. Councilman Glory seconded the motion. Resolution adopted.

9) An Act Relating to Cherokee Nation Law Authorizing a Continuing Resolution for the General Fund to Operate at the FY 91 Budget Level: And Declaring an Emergency/LA#15-91

Charles Head presented an act authorizing a continuing resolution for the general fund to operate at the FY 1991 budget level and declaring an emergency. This act would stay in effect until the 1992 budget process has been completed. The current approved budget will expire at the end of September.

Councilman Bush motioned for approval. Councilman Phillips seconded the motion. Yeas and Nays as recorded.

Maudie Bazille	<u>Yea</u>	Mige Glory	<u>Yea</u>
Sam Ed Bush	<u>Yea</u>	Paula Holder	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Barbara Mitchell	<u>Yea</u>
Mary Cooksey	<u>Yea</u>	Harold Phillips	<u>Yea</u>
Don Crittenden	<u>Yea</u>	Greg Pitcher	<u>Yea</u>
Harold DeMoss	<u>Yea</u>	Troy Poteete	<u>Yea</u>
James Eagle	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
		William Smoke	<u>Yea</u>

The law was approved by a vote of fifteen (15) yeas; and none (0) opposing;

10) To Support a Basic Grant for Library Services/R#74-91

Councilman Byrd presented the resolution supporting and approving the application for a grant to the Library Services and Construction Act for the Tsa-La-Gi Library. The Tsa-La-Gi Library has provided library services and activities for Indian children, adults, public school teachers, administrators, Cherokee Nation employees, researchers and the general public since 1980. Councilman Byrd motioned for the approval. Councilman Eagle seconded the motion. Resolution adopted.

11) An Act Approving the Implementation of the Tribal Governance Compact Between the Cherokee Nation and the United States of America and for Other Purposes/LA#16-91

Pat Ragsdale highlighted the contents of the law including corrections to section enumeration. The purpose of the act is that the Tribal Council grant authority and approval of the actual implementation of the self-governance program for fiscal year 1992. The legislative history was included in the act. The budget for the self-governance compact is approximately seven million dollars based upon the estimates taken from the President's budget for Department of Interior fiscal year 1992. The Principal Chief will report to the Tribal Council the actual appropriations for the implementation of the programs under the compact for 1992. Adjustments to the program allocations shall be reported to the Tribal Council. An emergency funding provision was also included in the law.

Councilman Bush made a motion to approve the law as present. Councilman Pitcher seconded the motion. Yeas and Nays as recorded:

Maudie Bazille	<u>Yea</u>	Mige Glory	<u>Yea</u>
Sam Ed Bush	<u>Yea</u>	Paula Holder	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Barbara Mitchell	<u>Yea</u>
Mary Cooksey	<u>Yea</u>	Harold Phillips	<u>Yea</u>
Don Crittenden	<u>Yea</u>	Greg Pitcher	<u>Yea</u>
Harold DeMoss	<u>Yea</u>	Troy Poteete	<u>Yea</u>
James Eagle	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
		William Smoke	<u>Yea</u>

The law was approved by a vote of fifteen (15) yeas; and none (0) opposing;

12) A Resolution to Support a National Training Program for Tribal Court Personnel/R#75-91

Pat Ragsdale presented the resolution which states the Bureau of Indian Affairs has changed the previous method of providing training and technical assistance for tribal court systems. A critical need exists to provide tribes and tribal court systems with the resources necessary to deal effectively with such critical issues as the impact of the DURO decision and the soon to be published report by the U.S Civil Rights Commission on allegations of civil rights violations by Indian tribes. He reported this particular resolution puts the BIA on notice that the tribe is not in favor of the current proposal which appears to defund the National Indian Justice Center. The tribe has used this center for providing technical assistance for child care, and workshops on child exploitation, and tribal courts and governments. The resolution states the BIA must not make any significant changes in tribal court training and technical

assistance which would undermine the effectiveness and stability of the Indian Justice Center and it should make the necessary actions to continue the arrangement with the National Indian Justice Center to continue the national training program as previously authorized. It also states the BIA establish contracts with the four existing appellate court systems to continue their programs and establish an expedited and equitable program to provide local training and technical assistance to needy court systems. The BIA must cease plans to double the Judicial Services national staff and use the money instead to provide additional funds for tribal courts and tribal assistance.

Councilwoman Shotpouch motioned for approval. Councilman Eagle seconded the motion. Resolution adopted.

- 13) Authorizing the Submission of a Grant Proposal to the Federal Department of Health and Human Services for FY 1992 Community Services Block Grant Program Funds/R#76-91

Bryce Washington reported the tribe maintains a planning unit with a mission to provide administration with various forms of planning services. This particular resolution requests the permission to apply for \$27,600 to conduct various feasibility studies for economic development.

Councilman Byrd motioned for approval. Councilman Poteete seconded the motion. Resolution adopted.

- 14) Education Commission Task Force Report: Reva Reyes, Director

Reva Reyes, Director of the Planning Department, presented a rough draft document of the commission report. After review and acceptance of the report, it will be bound in final form. She informed the councilmembers Chief Mankiller appointed a commission in January to visit parents, students, school administrators, and community people to begin the process of gathering information in deciding what the tribe needs to do to insure that fewer children are dropping out of school and to establish the very best educational services whether in the public schools or within the Cherokee Nation education programs. Commission members in attendance were Hastings Shade, Wynona Quinton, Woody Hansen, Anthony Fourkiller, Maybelline Still, Ronnie Gonzales, Councilmembers Eagle and Phillips. Reva reported the same concerns were expressed over and over in the communities. She reported these concerns can be stated very simply as; 1) in the transition from small rural K-8 schools into town systems, students drop out because they do not feel comfortable in the schools. The research has been quoted in the document as information was gathered. The second concern is drugs, alcohol, and teen pregnancy. The national literature reveals Indian children begin to use drugs and alcohol at a much earlier age than any other group including other minority groups. She reported Oklahoma now stands as number two in the nation in teen pregnancy. The literature shows drugs, alcohol, teen pregnancy, school attendance, school failure, school drop-out are all tied together. There is also great concern for the lack of education in Cherokee history, language, and culture. The document shows charts of data compiled from the State Department of Education concerning the academic performance. The major areas identified by the Education Commission are included in the report.

President Ketcher suggested the council members be given time to review the document and continue discussions in the monthly education meeting. Chief Mankiller also recommended the Education Committee meet with the Education Commission to discuss the recommendations. Councilman Phillips expressed his appreciation to the members of the education commission and requested a meeting be scheduled. Reva encouraged the council members to contact any of the commission members if they have questions.

- 15) National Indian Monument Institute - Monetta Trepp

Ms. Trepp stated northern Tulsa has been chosen for the site of the National Indian Monument Institute. She requested a resolution in support of the project. The Institute will consist of a museum and research area. She reported tribal leaders will serve as the Board of Directors. Chief Mankiller stated they have reviewed the proposal and the project seems viable. Councilman Phillips stated with the information presented and recommendations of Chief Mankiller he made a motion to support the project. Councilwoman Bazille seconded the motion. Motion carried.

- 16) Resolution Opposing the Repeal of 1017 Standard Language/R#77-91

Councilman Byrd stated the resolution is somewhat related to the report presented by the Education Commission. It strongly implements the Cherokee language and culture HB1017 makes school administrators more accountable in certification and dollars. He stated if House Bill 1017 does not succeed, it would be a step back.

Councilman Pitcher made a motion to adopt the resolution. Motion seconded by Councilman Phillips. Resolution adopted with one abstention.

- 17) Confirmation of Inter-Tribal Council Delegates - Chief Mankiller

Chief Mankiller presented the names of those who will serve as Inter-Tribal Council Members. Council members Sam Bush, Harold DeMoss, Paula Holder, Mige Glory, Mary Cooksey, Don Crittenden, Garland Eagle, and Joe Byrd were named. President Ketcher stated the number required by Inter-Tribal Council will serve as members and the remaining will serve as alternates. Those named were approved unanimously.

Chief Mankiller also stated the delegates and alternates for the National Congress of American Indian will be named at a later date.

Housing Authority of Cherokee Nation - Joel Thompson, Executive Director

Joel presented a packet of information to the council members concerning the operations of Housing Authority. He stated this year represents the 25th anniversary of Indian housing. The Cherokee Nation Housing Authority

has paid off more units than any other Housing Authority in the United States. He reported efforts are being made to orient the Tribal Council in districts at the area offices. He reported they have received notification from Senator Nickles office that they will receive 2.1 million under the comprehensive improvement assistance program. This program funds maintenance of the low rent units and corrects construction deficiencies in the modernization program.

BIA/Cherokee Nation: Dennis Wickliffe, Self-Governance Specialist

Mr. Wickliffe briefed the new members of his position and office hours at the tribe. He can also be located in the Muskogee Area Self-Governance Office, at 687-2448. He reported a French Delegation visited the Muskogee Area Office. Deputy Chief Ketcher presented the greeting. The training for Child Protection was recently completed at Shan-gri-la. Pat Ragsdale commented the training was well attended, it was a fairly intensive training on the education and awareness of child exploitation. Dennis commented an October 1, date has been set for change over in the federal finance system. The Muskogee staff have been in training for the transition. The 1992 budget is expected to be an increase from the FY91 budget. The Total Quality Management is a bureau wide initiative from the Department of Interior. Training is being conducted throughout the month. Those involved are the supervisors, and managers within the Muskogee Area. A December 1, distribution date has been set for the Annual Report. He will be working with various departments within the Cherokee Nation for contributions of photos. They will emphasize the accomplishments through cooperation with the US Government. The BIA Reorganization is ongoing, the Task Force recently met in Bismarck. The Muskogee Agency is continuing to assist the Delaware Tribe in the implementation of programs through the use of trust funds. The Muskogee Education Office will be located in Oklahoma City. The Realty and IMS training has been completed at the area level within the last month. Cherokee Nation was represented at both training sessions.

18) Confirmation of Secretary/Treasurer - Chief Mankiller

Chief Mankiller nominated Tommy Thompson to fill the position of Secretary/Treasurer. Councilman Bush moved to confirm Tommy Thompson. Councilman Pitcher seconded the motion. Approved unanimously.

19) Business Proposal - Woodrow Proctor

Mr. Proctor presented a business proposal concerning the lease of tribal land. Councilman Byrd felt it appropriate to present the proposal before the Resource Committee. The business plan includes a tobacco, arts and crafts outlet on tribal land. Mr. Proctor commented there is presently an ongoing arts and crafts business enterprise and shows are pending. There is approximately 48 artistic individuals who are interested in the involvement of distribution of arts and crafts material. Mr. Proctor requested his business proposal be included on the next agenda. A detailed business plan will be presented to the Resource Committee on September 19.

Councilman Crittenden announced the annual meeting at Bull Hollow will be held on September 19 at 10:00 a.m. The annual fish fry will be held immediately following the meeting.

President Ketcher reported the annual Cherokee Holiday was very successful. A full-time staff person was hired to facilitate the Holiday activities. He expressed his appreciation to the staff people who contributed their time in making this a successful year.

ADJOURNMENT:

With no further business discussed, Councilman Bush motioned for adjournment. The meeting was adjourned at 12:45 p.m. The next monthly meeting will be held on October 12, 9:00 a.m.

CHEROKEE NATION OF OKLAHOMA
REGULAR COUNCIL MEETING
SEPTEMBER 8, 1984

CALL TO ORDER: Wilma P. Mankiller, President Tribal Council

Deputy Chief Wilma Mankiller, President of the Tribal called to order the Regular Council Meeting of the Cherokee Nation of Oklahoma Tribal Council on September 8, 1984 at 9:15 a.m. in the Tribal Council Chambers.

INVOCATION: Mrs. Wynon Quinton, from the Bell Community, presented the invocation in the absence of Rev. John Gonzales.

ROLL CALL: Roll was called by Marj White, the following Council members were present:

Baker, Amon	Ketcher, John
Bush, Sam Ed	Qualls, Ron
Chapman, Gary	Scott, Barbara
Crittenden, Don	Sunday, Clarence
Hummingbird, Stann	Young, Wathene

A quorum was established to conduct business. Leo Fishinghawk; Robert McSpadden; Patsy Morton; Goodlow Proctor and Dave Whitekiller arrived after the meeting commenced.

APPROVAL OF MINUTES:

President Mankiller presented the minutes of the last Council Meeting. With no corrections called, Councilman Crittenden made a motion to approve the minutes as submitted, motion seconded by Councilman Baker. Minutes approved unanimously.

STATE OF THE NATION:

Chief Swimmer commended all the volunteers for their assistance during the Cherokee National Holiday and stated that it was a very successful event.

Chief Swimmer stated that all programs were doing well and closing out their fiscal year. Mr. Thompson, Accounting Department, would be presenting the FY 84 modifications and the FY 85 Budget for Council approval.

COMMITTEE REPORTS:

Councilwoman Young announced that the Health Committee would be meeting on September 19th at 6:00 p.m. and the Employment & Training Committee will be meeting on September 20th at 7:00 p.m.

Councilwoman Scott stated that the Registration Committee met on August 21st and discussed the issue of adoption of non-Indian children who get enrolled as Indians. Councilman Scott stated that sometimes their birth certificates have been amended and it is difficult for the Registration Department to determine their ancestry. The Registration Department are faced with complaints about these children being allowed to enroll. The Registration Committee adopted a form that has been submitted to the Bureau of Indian Affairs to review. This form is an affidavit to be completed by the person making the complaint. That person would be stating how they have knowledge that this individual is not an Indian.

Councilman Chapman stated the Executive & Finance Committee met and discussed a request from the Help in Crisis Center. The Center needs financial assistance to purchase a building for their shelter. Councilman Chapman requested Ms. Pam Teague, Shelter Executive Director, to present her request to the Council.

Ms. Teague gave a brief history and purpose of this program. Their request was for \$15,000.00 to assist with the purchase of a larger shelter facility.

Councilman Chapman stated that the Executive & Finance committee recommends approval by the Council. A motion to grant the \$15,000.00 was made by Councilwoman Young, motion seconded by Councilwoman Scott. Request granted unanimously.

Councilman Chapman reported the Executive & Finance Committee authorized a \$1,000.00 request from Mr. Reaves Nahwoosky, Bacone College. This monetary assistance will be utilized for grants to Indian students.

Councilman McSpadden, Executive & Finance Committee, reported that they approved a request for financial assistance to purchase materials to fence the Chewey Community Cemetery. This request was referred to the Purchasing Department. The Purchasing Department will attempt to bring the cost down from the \$1,473.00 requested for this project.

Councilman McSpadden reported the Executive & Finance Committee denied a request submitted by an individual from Grove, Oklahoma. The request was for a donation to be made to the Mrs. America pageant.

Councilman Ketcher reported the Business Committee on August 23rd. The main topic of the discussion was the issue of the Tribe going into Bingo operations. A resolution will be presented during the course of this meeting. Councilman Ketcher reported the Business Committee was presented with a request from Mr. Charles Peak. Councilman Ketcher reminded the Council

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of the adoption of the Flag Song given to the Cherokee Nation by Mr. Peak at a previous Council meeting. Mr. Peak requested \$2,000.00 to record and promote the Flag Song as a commercial item. Councilman Ketcher stated the Business Committee felt that this was not commercially feasible and wanted to further explore this venture.

Councilman Crittenden, Education Committee Chairman, reported the Education Committee and reviewed a report on the enrollment, funding and graduates at the Flaming Rainbow University and will be presenting a resolution after a report is presented by Dr. Morris, Education Department Chairman and Mr. Turner Bear, Higher Education Program Director. Councilman Crittenden requested Dr. Morris and Mr. Bear to make their presentation.

Dr. Morris distributed reports and correspondence related to the Flaming Rainbow University. Dr. Morris gave a brief history on the Flaming Rainbow University. Mr. Bear explained the funding formula associated with the Flaming Rainbow University. Dr. Morris explained that the BIA Higher Education rules and regulation stipulate that the student must be 1/4 degree Indian and establish financial need and attend an accredited higher education institution. The Education Committee has full authority to approve or reject the rules and regulations. The Education Committee recommends changes, then the changes were presented to the Council for approval. Dr. Morris stated that the Flaming Rainbow University is one of the Higher Education Institutions being studied for the 84/85 school year. The other institutions that are being studied is Bacone College; Rogers State College and Northeastern Oklahoma State University.

Dr. Morris noted the Council to their copy of the report headlined FRU Tracking Program. Dr. Morris stated that FRU has had ten years to develop their programs and the figures on the report speak for themselves. Dr. Morris stated that the central point to all this is that the Tribe, under contracting, has the responsibility to monitor students progress and to make decisions about the funding of students to attend any institution, especially since when the completion rates are so very low compared to the money spent. This is very important since we have three hundred eligible Indian students that did not receive funds because the Higher Education Program had run out of funds.

After further discussion, Councilman Fishinghawk requested an Executive Session since tribal personnel will be effected in further discussion. President Mankiller stated that she would like to recommend that the Council not go into Executive Session. After a discussion, Councilman Fishinghawk made a motion to go into Executive Session, motion seconded by Councilwoman Scott Roll Call vote as follows:

Baker, Amon	(yea)	McSpadden, Robert	(yea)
Bush, Sam Ed	(yea)	Morton, Patsy	(yea)
Chapman, Gary	(yea)	Qualls, Ron	(yea)
Crittenden, Don	(yea)	Proctor, Goodlow	(nay)
Fishinghawk, Leo	(yea)	Scott, Barbara	(yea)
Hummingbird, Stann	(yea)	Sunday, Clarence	(yea)
Ketcher, John	(yea)	Whitekiller, Dave	(yea)
		Young, Wathene	(yea)

The Council in Executive Session by Majority Vote.

President Mankiller called to order the Regular Council Meeting. President Mankiller requested those opposed to discontinuing funding students attending the Flaming Rainbow to make their presentations.

Mr. Charles Locust was designated as the spokesman for the opposing group. Mr. Locust stated that he felt the report submitted by Dr. Morris and Mr. Bear was not correct and stated their are approximately twenty students that now are employed in positions gained through their education at the FRU. Mr. Locust read a letter as a plea being presented to the Council to continue funding to FRU students.

After a lengthy discussion, Councilman Whitekiller made a motion to table the resolution, motion seconded by Councilman Ketcher. Roll call vote as follows:

Baker, Amon	(nay)	McSpadden, Robert	(nay)
Bush, Sam Ed	(nay)	Morton, Patsy	(nay)
Chapman, Gary	(nay)	Qualls, Ron	(nay)
Crittenden, Don	(nay)	Proctor, Goodlow	(nay)
Fishinghawk, Leo	(yea)	Scott, Barbara	(nay)
Hummingbird, Stann	(nay)	Sunday, Clarence	(nay)
Ketcher, John	(yea)	Whitekiller, Dave	(yea)
		Young, Wathene	(nay)

Councilman Crittenden presented a resolution to discontinue Cherokee Nation Higher Education grants to students attending the Flaming Rainbow University. Councilman Crittenden made a motion to adopt the following resolution:

WHEREAS, the people of the Cherokee Nation did ordain and establish the Constitution of the Cherokee Nation of Oklahoma, and

WHEREAS, the Constitution of the Cherokee Nation of Oklahoma provides that the Council shall have the power to establish laws and endorse resolutions as referred in Article V, Section 7, of the Constitution and Legislative Act (1-76) "providing for the use of both Law and Resolution and Distinguishing between them" and

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WHEREAS, the Cherokee Nation of Oklahoma is concerned about the education of all Cherokee students and must allocate limited scholarship funds to eligible Cherokee students; and

WHEREAS, the Cherokee Nation Tribal Council Education Committee recently requested the Higher Education Department staff to conduct a progress and product study of students attending Flaming Rainbow during the five year period, 1979-80 through 1983-84, and based on that student voted to discontinue funding to students attending Flaming Rainbow University; and

NOW, THEREFORE, BE IT RESOLVED, that the Cherokee Nation Tribal Council hereby ratifies the decision of the Education Committee to discontinue funding to students attending Flaming Rainbow University effective immediately.

Motion seconded by Councilman Hummingbird, roll call vote as follows:

Baker, Amon	(yea)	McSpadden, Robert	(yea)
Bush, Sam Ed	(yea)	Morton, Patsy	(yea)
Chapman, Gary	(yea)	Qualls, Ron	(yea)
Crittenden, Don	(yea)	Proctor, Goodlow	(yea)
Irishinghawk, Leo	(nay)	Scott, Barbara	(yea)
Hummingbird, Stann	(yea)	Sunday, Clarence	(yea)
Ketcher, John	(nay)	Whitekiller, Dave	(nay)
		Young, Wathene	(yea)

Councilwoman Young made a motion to request an audit on FRU from the appropriate federal agencies, to be presented to the Council. Motion seconded by Councilman Hummingbird. Motion passed unanimously.

Councilman Bush, HLP Committee Chairman, presented a resolution recognizing Mr. Bill Reid, Tribal Environmental Engineer employed in the Community Development Program for outstanding services during his employment with the Tribe.

Councilman Bush made a motion to adopt the following resolution:

NOW, THEREFORE, BE IT RESOLVED, that the Cherokee Nation Tribal Council recognizes the dedication and valuable services demonstrated by Mr. Bill Reid during his employment with the Cherokee Nation of Oklahoma.

BE IT FURTHER RESOLVED, that the Cherokee Nation Tribal Council wishes to extend their appreciation for a job well done.

"you have done your work well and have assisted our people to your utmost, therefore, may the great spirit look upon you and your family throughout your work and life."

Motion seconded by Councilman Sunday. Resolution adopted unanimously.

Councilwoman Morton announced the Personnel Committee will meet on September 24th at 6:00 p.m. instead of September 11th.

President Mankiller announced that during the Executive & Finance Committee meeting the request submitted by the Delaware Tribe was discussed and the report was studied at length. The Committee recommended Delawares themselves decide what is in the best interest of their people.

REGISTRATION DEPARTMENT RESOLUTION: Councilwoman Scott

Councilwoman Scott, Registration Committee Chairwoman, presented a resolution to renew the contract for Certificate of Degree of Indian Blood services currently under contract from the Bureau of Indian Affairs, Tahlequah Agency and currently performed by the Cherokee Nation Registration Department.

After a brief discussion, a motion was made by Councilman Chapman to adopt the following resolution:

WHEREAS, the people of the Cherokee Nation did ordain and establish the Constitution of the Cherokee Nation of Oklahoma; and

WHEREAS, the Constitution of the Cherokee Nation of Oklahoma provides that the Council shall have the power to establish laws and endorse Resolutions as referenced in Article V, Section 7, of the Constitution and Legislative Act (1-76) "Providing for the use of both Law and Resolution and Distinguishing between them"; and

WHEREAS, the Constitution establishes a government recognized by the Federal Government and the Cherokee citizenry which enables its administration to provide services for its citizens in whatever capacity in order to sustain improve, and promote the lifestyle and welfare of its people; and

WHEREAS, the Cherokee Nation of Oklahoma is authorized under the provisions of Public Law 93-638, the Indian Self-Determination and Education Assistance Act, to request the Bureau of Indian Affairs to enter into a contract to operate programs and provide services for the benefit of both the Cherokee Nation of Oklahoma and individual Indians.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Cherokee Nation of Oklahoma hereby requests the Bureau of Indian Affairs to renew the current Certificate of Degree of Indian Blood Services contract.

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2. The Cherokee Nation of Oklahoma agrees to use and abide by all existing eligibility criteria as stated in CFR 25,271, Indians, pertaining to such programs, and Policy Memorandum currently governing the administration of the program.

3. The Principal Chief or his designee(s) will be recognized by the tribal governing body (Cherokee Nation Council) as the authorized tribal official(s) to negotiate and/or execute contracts, concurring resolutions, if any (and any amendments or modifications thereof, including lawfully approved budgets).

4. These authorities shall become effective immediately upon executing of this resolution and shall remain in effect until at such time as the governing body chooses to withdraw such authority or, the contract terminates in accordance with its own provision.

5. The term of the proposed contract shall be for one (1) fiscal year beginning October 1, 1984 and ending September 30, 1985.

BE IT FURTHER RESOLVED, that the Principal Chief or his designee is authorized to sign necessary papers to complete and execute this contract.

Motion was seconded by Councilwoman Young, roll call vote as follows:

Baker, Amon	(yea)	McSpadden, Robert	(yea)
Bush, Sam Ed	(yea)	Morton, Patsy	(yea)
Chapman, Gary	(yea)	Qualls, Ron	(yea)
Crittenden, Don	(yea)	Proctor, Goodlow	(yea)
Fishinghawk, Leo	(yea)	Scott, Barbara	(yea)
Hummingbird, Stann	(yea)	Sunday, Clarence	(yea)
Ketcher, John	(yea)	Whitekiller, Dave	(yea)
		Young, Wathene	(yea)

BUDGET REPORT: Tommy Thompson, Accounting Department

Mr. Thompson was not present, President Mankiller announced the meeting would go into Open Session and when Mr. Thompson arrives he could make his presentation at that time.

OPEN SESSION:

Councilwoman Scott stated that at the last Council Meeting they had discussed appointing council members to the Cherokee Nation Industries (CNI) Board. Councilwoman Scott stated she was not clear as to whether or not Councilwoman Morton was appointed to the CNI Board, since the Council did not vote on this.

Chief Swimmer stated that Councilwoman Morton was elected to the Board by the CNI Board of Directors. Councilwoman Scott stated that she had intended to nominate Councilman Baker and Councilman Fishinghawk, since they had expressed an interest in serving on the Board. Councilwoman Scott stated that she was under the impression, according the CNI By-laws that the Council Members made that decision. Chief Swimmer explained that he has, in the past, voted the stock of the Tribe, however, if the Council wishes to change that then they are welcome to do so. Chief Swimmer stated there is a certain liability in appointing Council members to a tribally owned business.

Councilwoman Scott requested a copy of the full audit report when it is completed. Also, requested the Chairman of CNI Board to report to the Council concerning Board decisions.

BUDGET REPORT: Tommy Thompson, Accounting Department

Mr. Thompson reported that there are no major changes in the actual numbers. After an explanation of the FY84 Budget Modification, Councilman Chapman stated that this was presented and reviewed by the Executive & Finance committee. Councilman Chapman made a motion to adopt the FY 84 Budget Modification, motion seconded by Councilman Proctor. FY 84 Budget Modification adopted unanimously.

Mr. Thompson presented the FY 85 Budget and presented Legislative Act No. 1-84 of the Cherokee Nation. A law requiring that all BIA funded contracts or grants, related budgets, general fund budgets and that portion of the land budget relevant to the Cherokee Nation be hereby approved. That all BIA programs subject to recontracting and all BIA programs proposed to be contracts of grants, be hereby approved. Mr. Thompson explained that most of the budgets are primarily the same as the FY 84 budget with no major differences. Mr. Thompson noted a correction in the Council's budget. The Postage line item will be changed from \$12,000.00 to \$1,200.00

Councilman Whitekiller stated that he would like to amend some of the wording in the Legislative Act being proposed. Councilman Whitekiller stated he did not like the wording relating to recontracting of any and all of BIA programs. Chief Swimmer explained that it is standard language, which provides for the tribe to write a proposal for any programs they may want to administer. Every new contract would have to come before the Council for their approval.

After further discussion, a motion was made by Councilman Proctor to adopt the following Legislative Act:

WHEREAS, the citizens of the Cherokee Nation did establish the constitution of the Cherokee Nation of Oklahoma; and

WHEREAS, Article X (Fiscal), Section 2, of the Constitution states ... "That Council shall provide by law for an annual expenditure of funds and the source from which funds are to be derived, to defray estimated expenses of the Executive Cabinets and Departments of Government of the Cherokee Nation for each fiscal year, the budget shall not exceed estimated revenues", and

WHEREAS, Article V (Legislative), Section 8 of the Constitution states ... "No laws passed by the Council shall have retroactive effect or operation",
WHEREAS, the Council now chooses to provide for the monetary requirements of the Cherokee Nation for the fiscal year 1985.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CHEROKEE NATION, that all BIA funded contracts and grants, related budgets, general fund budget and the portion of the land budget relevant to the Cherokee Nation be hereby approved. That all BIA programs subject to the recontracting and all BIA programs proposed to be contracts or grants, be hereby approved.

BE IT FURTHER ENACTED, as provided in Legislative Act, 4-76 that the Council declares that an emergency exists, and that this law shall take effect immediately upon its approval and signature by the Principal Chief.

BE IT FURTHER ENACTED, that the Principal Chief or his designee is hereby authorized to modify and/or amend the budget and any provision of the approved contract or grants at this discretion and that a report of his action be made to the Council by mail within ten (10) business days.

Motion seconded by Councilman Qualls, roll call vote as follows:

Baker, Amon	(yea)	McSpadden, Robert	(yea)
Bush, Sam Ed	(yea)	Morton, Patsy	(yea)
Chapman, Gary	(yea)	Qualls, Ron	(yea)
Crittenden, Don	(yea)	Proctor, Goodlow	(yea)
Fishinghawk, Leo	(nay)	Scott, Barbara	(yea)
Hummingbird, Stann	(yea)	Sunday, Clarence	(yea)
Ketcher, John	(yea)	Whitekiller, Dave	(nay)
		Young, Wathene	(yea)

Legislative Act adopted.

Councilwoman Young presented a resolution calling for continued support to operate the Cherokee Nation Talking Leaves Job Corp Center and the Job Corps Recruitment Program. After a brief discussion, Councilman Proctor made a motion to adopt the following resolution:

WHEREAS, the people of the Cherokee Nation did ordain and establish a Constitution of the Cherokee Nation of Oklahoma, and

WHEREAS, the constitution of the Cherokee Nation of Oklahoma provides that the council shall have the power to establish laws and endorse resolutions as referenced in Article V, Section 7, of the Constitution and Legislative Act (1-76) "Providing for the use of both law and Resolution and distinguishing between them", and

WHEREAS, the Constitution establishes a government recognized by the Federal Government and the Cherokee citizenry, which enables its administration to provide and promote the lifestyle and welfare of its people.

NOW, THEREFORE BE IT RESOLVED, that the Council of the Cherokee Nation supports the continued operation and management of the Talking Leaves Job Corps and Recruitment Program under the Department of Labor's National Job Corp Program for FY 1985.

Motion was seconded by Councilman Baker, resolution adopted unanimously.

Chief Swimmer presented a resolution for the establishment of a gambling enterprise for the promotion of high stakes bingo and asked Councilman Ketcher, Business committee Chairman to present the issue.

Councilman Ketcher stated the Business Committee has had several meetings to discuss the bingo operations. The bingo operations would generate monies to be used in the development of programs. Councilman Ketcher requested Mr. Larry Wise, Tribal Business Manager, to report on Bingo operations in other tribes. Mr. Wise announced the BIA from Washington has ruled that they will not accept land in trust for purposes of Bingo operations. The tribe cannot purchase land strictly for the purpose of Bingo operations.

Councilman Whitekiller stated the Business Committee is neither recommending nor talking against Bingo Operations for the tribe, the Committee just wanted to bring this issue before the Council since there has been so much discussion about it.

After further discussion, Councilman Whitekiller made a motion to adopt the following resolution:

WHEREAS, the Cherokee Nation of Oklahoma is a sovereign Indian Nation subject only to the laws of Congress and the Constitution of the United States; and

WHEREAS, the Cherokee nation of Oklahoma is desirous of developing new sources of income to aid with the development of the Cherokee people; and

Regular Council Meeting
September 8, 1984 - Minutes:
Page six

WHEREAS, various forms of gambling, including Bingo, have been determined by various courts throughout the United States to be legal in Indian country,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Cherokee Nation of Oklahoma directs the Principal Chief or his designee to develop a Bingo gambling enterprise for the promotion of high stakes Bingo.

BE IT FURTHER RESOLVED that any and all profits derived from such ventures shall be paid to the general fund of the Cherokee Nation of Oklahoma to be appropriated by the Council in accordance with the Laws and Constitution of the Cherokee Nation of Oklahoma.

Motion seconded by Councilwoman Scott, roll call vote as follows:

Baker, Amon	(yea)	McSpadden, Robert	(nay)
Bush, Sam Ed	(nay)	Morton, Patsy	(nay)
Chapman, Gary	(nay)	Qualls, Ron	(nay)
Crittenden, Don	(nay)	Proctor, Goodlow	(yea)
Fishinghawk, Leo	(yea)	Scott, Barbara	(yea)
Hummingbird, Stann	(yea)	Sunday, Clarence	(nay)
Ketcher, John	(yea)	Whitekiller, Dave	(yea)
		Young, Wathene	(yea)

This resolution vote was eight (8) yeas; Seven (7) nays. Chief Swimmer pointed out that a 2/3 majority vote was needed to pass the resolution. Chief Swimmer announced that he would veto this resolution.

A recess for lunch was called at 12:45, meeting will reconvene at 1:45.

President Mankiller called the meeting to order and announced the Council is still in Open Session.

Chief Swimmer presented a resolution authorizing the submission of the Cherokee Gardens Grant Application to the Administration for Native Americans. After a brief discussion, Councilman Bush made a motion to adopt the following resolution:

WHEREAS, the Cherokee Nation of Oklahoma is a federally recognized Indian Tribe and is organized with a Constitution approved by the Commissioner of Indian Affairs on September 5, 1975 and ratified June 26, 1976; and

WHEREAS, the Cherokee Nation of Oklahoma has prepared an application under the Administration for Native Americans for the purpose of business development of Cherokee Gardens; and

WHEREAS, said application, if approved, will receive a direct grant from the Administration for Native Americans.

NOW, THEREFORE, BE IT RESOLVED, the Council of the Cherokee Nation of Oklahoma fully endorses the said application for the continued development of Cherokee Gardens, authorizes said application to be submitted for funding; and

BE IT FURTHER RESOLVED, that those persons authorized to sign required documents in regards to said application be Ross O. Swimmer, Principal Chief of the Cherokee Nation of Oklahoma or his authorized designee.

Motion seconded by councilman Baker, resolution adopted unanimously.

Chief Swimmer presented a resolution for further evaluation of the proposed hydroelectric power plant by CERT, after a brief discussion, Councilman Baker made a motion to adopt the following resolution:

WHEREAS, the Cherokee Nation of Oklahoma is a federally recognized Indian tribe, organized in accordance with a Constitution approved by the Commissioners of Indian Affairs on September 5, 1975 and ratified June 26, 1976; and

WHEREAS, the Cherokee Nation is interested in further evaluation of proposed hydroelectric power plant at the Mayo Lock and Dam 14 on the Arkansas River.

BE IT THEREFORE RESOLVED, that the Principal Chief of the Cherokee Nation is authorized to ask the Council of Energy Resources Tribes to proceed with full evaluation of the project.

Motion seconded by Councilman Crittenden, resolution adopted unanimously.

Councilwoman Young presented a resolution for the endorsement of tribal delegates to the National Congress of American Indians. Councilwoman Young also suggested that Councilmembers Scott and Ketcher be appointed delegates. Tribal delegates would be Diane Kelley and Alternate would be Nathan Young. A motion was made by Councilman Proctor to ratify these appointments and adopt the following resolution:

WHEREAS, the Cherokee Nation of Oklahoma is a member tribe and in good standing with the National Congress of American Indians; and

WHEREAS, the Cherokee Nation meets all requirements for Tribal Membership pursuant to Article II, Section IB of the Constitution of the National Congress of American Indians;

Regular Council Meeting
September 8, 1984 - Minutes:
Page seven

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Cherokee Nation of Oklahoma, which is the official governing body of the above mentioned tribe, hereby renounces any previous endorsements of tribal delegates.

BE IT FINALLY RESOLVED, that pursuant to Article V, Section 2 of the National Congress of American Indians constitution, the Council of the above named tribe designates the following named persons, Nathan Young as Delegate and Diane Kelley as Alternate Delegate, and instructs them to fulfill their responsibilities as Official Tribal Delegates to the National Congress of American Indians.

Motion seconded by Councilman Baker, resolution adopted unanimously.

Mr. Curtis Zunigha, representing the Delaware Tribe from the Bartlesville area presented a matter concerning the Cherokee Nation Tribal Council passing a resolution concerning per capita payment of the 72-298 Judgment Docket.

Mr. Zunigha read a resolution adopted by the Delaware Business Committee protesting this action, and requesting the Cherokee Nation Tribal council to rescind that resolution. After a discussion concerning a petition that was circulated by Delaware Tribe, Mr. Zunigha stated that the Cherokee Nation Council is now put on notice that the Delaware Tribal Business Committee intends to continue this direction and effort and will move to have the per capita payment stopped.

President Mankiller announced that several Council Members will be attending activities at the Haskell Indian Junior college, Lawrence, Kansas on October 13th. For this reason it is proposed to change the next regular Council Meeting date to October 8th, Monday night at 7:00 p.m. with no objections voiced, the next regular Council meeting will be held on October 8, 1984 at 7:00 p.m.

With no further business presented, a motion to adjourn was made by Councilman Proctor, motion seconded. Meeting adjourned at 2:30 p.m.

IN THE SUPREME COURT OF THE CHEROKEE NATION

In Re: Effect of *Cherokee Nation v. Nash*
and *Vann v. Zinke*, District Court for the
District of Columbia, Case No. 13-01313
(TFH) and Petition for Writ of Mandamus
Requiring the Cherokee Nation Registrar to
Begin Processing Citizenship Applications

CASE NO.: SC-2017-07

2018 MAY 16 PM 2:29

FILED

OPINION

Petitioners:

Todd Hembree for the Cherokee Nation
Chrissi Nimmo
Courtney Jordan
Office of the Attorney General
Cherokee Nation
P.O. Box 948
Tahlequah, OK 74465
todd-hembree@cherokee.org

Interveners:

John E. Parris for Randy White, Marcus Thompson, Norman Crowe, Vicki Bratton,
Kathy Robinson, Councilman Harley Buzzard, and Councilman David Walkingstick
220 A. East 2nd St
Sand Springs, Ok 74063-7902
jeparris@gmail.com

Stephen P. Gray
Stephen P. Gray & Associates
3103 North Hemlock Circle, Suite 112
Broken Arrow, Ok 74012
steve@lawspg.com

Before:

John C. Garrett, Chief Justice
James G. Wilcoxon, Justice
Angela Jones, Justice
Lynn Burris, Justice
Mark L. Dobbins, Justice

On September 1, 2017, Cherokee Nation Attorney General, Todd Hembree petitioned this Court to enter a preliminary Order declaring that the memorandum opinion issued by the District Court for the District of Columbia in combined case no 13-01313 on August 30, 2017, to be valid and binding against the Cherokee Nation, its Governmental branches, and its offices, including the Cherokee Nation Registrar, until further order of the Court.

Prior to entering into the federal case, on March 16, 2009, the Cherokee Tribal Council, passed Resolution 22-09, Ratifying the litigation in Cherokee Nation v. Nash, et al., Case No. 09 CV-052 and acknowledged that it was desired that the federal court determine rights of the freedmen and that the Cherokee Nation would be bound by the decision of the federal court.¹ Cherokee Nation voluntarily entered this litigation and agreed to be bound by the decision, therefore, this Court granted the request of the Attorney General and entered a Preliminary Order Granting Declaratory Action and Petition for Writ of Mandamus.

¹ Resolution No. 22-09 COUNCIL OF THE CHEROKEE NATION A RESOLUTION RATIFYING LITIGATION IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA WHEREAS, the Cherokee Nation since time immemorial has exercised the sovereign rights of self-government in relationship with the United States of America; WHEREAS, the Cherokee Nation is a federally recognized Indian nation with a historic and continual government to government relationship with the United States of America; WHEREAS, Legislative Act 07-01 provides that litigation brought on behalf of Cherokee Nation and involving substantial assets or sovereignty of the Nation be authorized by the Principal Chief and ratified by the Council; WHEREAS, in Vann v. Kempthorne, 534 F.3d 741, (D.C.Cir. 2008) the Court of Appeals for the Federal Circuit ruled that the Cherokee nation must be dismissed in the Vann case filed in the United States District Court for the District of Columbia (Case No. 1:03CV01711); WHEREAS, it is desirable for a federal court to determine the narrow issue of construction of the 1866 Treaty language and any federal law affecting that treaty regarding federal rights, if any, of freedmen and their descendants; WHEREAS, such a federal ruling would be binding upon both parties to the Treaty of 1866; WHEREAS, it is determined that it is in the best interest of the Nation to affirmatively file a federal action in the Northern District of Oklahoma on these matters. BE IT RESOLVED BY THE CHEROKEE NATION, that litigation is hereby ratified in Cherokee Nation. Nash, et al., Case No. 09 CV-052 (TCK) in the U.S. District Court for the Northern District of Oklahoma, and that the Attorney General is authorized to take such action as necessary to pursue such litigation and ensure that the Nation's interest are fully represented. CERTIFICATION the foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the 16th day of March, 2009, having 17 members present, constitution a quorum, by the vote of 17 yeas; 0 nays; 0 abstaining.

Over three months after this Court entered its Order, A Motion to Intervene, for Writ of Mandamus, and to set Aside Preliminary Order was filed on December 11, 2017, by eight Cherokee Nation Citizens. The Motion requested that the Court withdraw its Preliminary Order and issue a Writ of Mandamus to Attorney General, Todd Hembree directing him to file an appeal of the federal court's ruling.

On December 29, 2017, Cherokee Nation and Attorney General Todd Hembree entered a Special Limited Entry of Appearance and Objection wherein they opposed the Motion to Intervene, moved to dismiss the Petition for Writ of Mandamus and opposed the Motion to set a side this Court's Preliminary Order.

On April 19, 2018, this Court heard oral arguments of the parties.

The Court, after examining the file and records herein, and hearing Oral Argument, enters the following findings and Orders:

The Court denies the requested relief by the Movants and dismisses their Motion to Intervene, For Writ of Mandamus, and To Set Aside Preliminary Order. The Movants are individual Cherokee Citizens who disagree with the outcome of the federal case and disagree with the way the Nation and the Attorney General's office handled the case. The ruling of the Federal Court has no effect on the citizenship status of the Movants. The Movants lack standing, they have no legally protected interest sufficient to establish standing. They have failed to demonstrate any concrete injury in fact sufficient to establish standing to bring this suit. To have standing, Movants must have suffered an injury in fact—an invasion of a legally protected interest which is concrete and particularized, and actual or imminent, not conjecture or hypothetical. See *Mayes v.*


Thompson, et al., JAT-95-15-(1995)² Because the Court is dismissing the Movants Motions based on Lack of Standing there is no need to discuss any other issues.

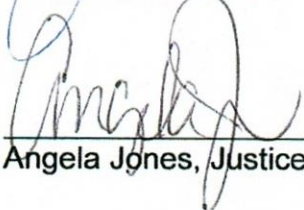
The Preliminary Order of this Court is to remain in effect as written and Movant's Motions are hereby dismissed.


IT IS THEREFORD ORDERED.

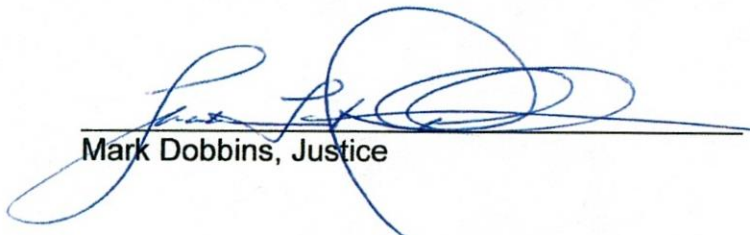
Dated this 11 day of May, 2018.


John C. Garrett, Chief Justice


James G. Wilcoxon,


Angela Jones, Justice


Lynn Burris, Justice


Mark Dobbins, Justice

² A party only has standing if they can demonstrate a stake in the outcome" and "[t]he injury in fact must be an actual or imminent, and cannot be too remote or speculative." *Mayes v. Thompson, et al.*, JAT-95-15, 10 (19950

Certificate of Mailing

I, Kendall Bird, certify that on the 11 day of May, 2018, I mailed, emailed and/or faxed a true copy of the above and foregoing to the following:

Todd Hembree, todd-hembree@cherokee.org
Chrissi Nimmo chrissi-nimmo@cherokee.org
Courtney Jordan, courtney-jordan@cherokee.org
John E. Parris, jeparris@gmail.com
Stephen P. Gray, steve@lawspg.com

KBnd

Kendall Bird, Court Clerk

FILED

IN THE SUPREME COURT OF THE CHEROKEE NATION

2017 SEP -1 PM 1:34

In re: Effect of *Cherokee Nation v. Nash* and)
Vann v. Zinke, District Court for the District of)
Columbia, Case No. 13-01313 (TFH) and Petition)
For Writ of Mandamus requiring the Cherokee Nation)
Registrar to Begin Processing)
Citizenship Applications,)

CHEROKEE NATION
SUPREME COURT
KENDALL BIRD, COURT CLERK

Case No. SC-17-07

PRELIMINARY ORDER GRANTING DECLARATORY ACTION
AND PETITION FOR WRIT OF MANDAMUS

This matter comes before the Court on a Petition for Declaratory Action, Petition for Writ of Mandamus and request for preliminary order filed by the Cherokee Nation Attorney General, requesting that this Court issue a preliminary order and writ of mandamus based upon the memorandum opinion issued by the District Court for the District of Columbia in combined case no. 13-01313 on August 30, 2017 so that the legal determinations made by the D.C. Court will be binding against the Cherokee Nation, its Governmental branches, and its offices, including the Cherokee Nation Registrar.

The Court finds that original jurisdiction is proper in this Court under Article VIII, Sections 1 and 4, and Title 20 C.N.C.A. §51(A) pursuant to Supreme Court Rule 4.

The Court further finds that the D.C. case was entered into voluntarily by the Nation, that the Nation had a full and proper presentation of its case, and that the Nation is therefore now subject to the opinion of the D.C. District Court. Further, this Court recognizes that the Treaty of 1866 has been and remains fully binding upon both the Cherokee Nation and the United States, and to recognize the rights of those individuals who can trace an ancestor to the Dawes Freedmen rolls to obtain citizenship within the Nation.

Therefore, the Court hereby Orders, Adjudges, and Decrees that the memorandum opinion issued August 30, 2017 by the District Court of the District of Columbia in case no. 13-01313 is enforceable within and against the Cherokee Nation, and that therefore the Cherokee Nation Registrar, and the Cherokee Nation government and its offices, are directed to begin processing the registration applications of eligible Freedmen descendants, and that such Freedmen descendants, upon registration as Cherokee Nation citizens shall have all the rights and duties of any other native Cherokee, including the right to run for office. Because it violates

the Treaty of 1866 between the Cherokee Nation and the United States, the 2007 amendment to the Constitution that purported to limit citizenship within the Cherokee Nation to Cherokees by blood, Delaware Cherokees and Shawnee Cherokees is held to be void and without effect.

This order shall remain in effect until further order of the Court.

It is so ordered this 1st day of September, 2017.



Chief Justice of the Supreme Court

IN THE SUPREME COURT OF THE CHEROKEE NATION

IN RE: CHALLENGE TO THE ELIGIBILITY OF
BUEL ANGLIN, CANDIDATE FOR COUNCIL
DISTRICT 13 FOR THE 2019 GENERAL
ELECTION.

Case No. SC-2019-03

OPINION

Appellant:

Deborah A. Reed for Buel Anglen
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3101 N. Hemlock Circle, Suite 112
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Chad Smith for Buel Anglen
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Appellee:

Carly Griffith Hotvedt for Joe Deere
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Cherokee Nation Election Commission:

Harvey L. Chaffin
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Tahlequah, Ok 74465
Ph (918) 453-2800
hlchaffin@greencountryabstract.com

Before:

James G. Wilcoxen, Chief Justice
Lynn Burris, Justice
Lee W. Paden, Justice
Mark L. Dobbins, Justice
John C. Garrett

Opinion by:

Lee W. Paden

I. PROCEDURAL HISTORY

Buel Anglen appeals a February 21, 2019 ruling of the Cherokee Nation Election Commission ("Commission") that determined he was ineligible to seek office for Tribal Council District 13 in the 2019 General Election. Appellee Joe Deere argued to the Commission that Anglen was not eligible to hold office as the District 13 Tribal Council representative, by application of *Article VI, Section 3, of the 1999 Cherokee Nation Constitution* ("*Constitution*"), which limits tribal council members to two consecutive terms of office.

II. JURISDICTION

This Court has jurisdiction to review the decisions of the Cherokee Nation Election Commission pursuant to the Constitution and Title 26, CNCA § 37, as amended. On Appeal, the statute gives the candidate who is the subject of the challenge, the third party challenging the finding of eligibility, and the Commission the right to present testimony and make legal arguments. The Court reviews this matter de novo. (See *Mayes JAT-03-06 (2003)*; see also *DeMoss JAT-03-05 (2003)*.)

III. FACTUAL BACKGROUND

The facts in this case are undisputed. Anglen, who at all relevant times resided in the same location, was appointed to represent District 8 in 2002. He was subsequently elected to the District 8 Tribal Council seat in 2003. In 2006, this Court determined that the 1999 Constitution, and the term limits therein, had become effective. (See *In Re: 1999 Constitution, JAT-05-04*.) The 1999 Constitution added new term limit language which

required the Tribal Council to adopt legislation to stagger the terms of the sitting Tribal Council members, including Anglen, who saw his term extended by an additional two years. During the redistricting and apportionment that followed in 2010 and 2012, the district map changed so completely that when Anglen's term ended in 2013 there was no election scheduled in his district until 2015. When the Tribal Council seat in his district became open in 2015, Anglen was elected to serve again. Anglen has been elected to the Tribal Council in every single election held in his district since 2003, although the shape and number of that district have changed, at times drastically, during the previous fifteen years.

IV. LEGAL ANALYSIS

Clearly, the issue before this Court is complicated by the enactment of the Constitutional term limit provision and the staggering, redistricting and apportionment legislative measures undertaken by the Tribal Council. It has created a unique fact scenario that would be difficult to repeat. It is evident that this continues to be a subject that deserves review by the Tribal Council to clarify the Constitution's term limit requirement but the Supreme Court should only review the Council's actions if changes are made. There is guidance to the Court in the debate undertaken by the framers of the 1999 Constitution. The question was raised whether the Constitution should preclude an individual from serving more than two consecutive terms in the same district, or whether the Constitution should preclude an individual from serving more than two consecutive terms regardless of whether he or she might move to a new district. The author of the term limits language clarified that she intended the term limit to apply to the individual

council member, so that regardless of where he or she moved it would never be possible to serve more than two consecutive terms. (See *Convention Vol. III 1999 Cherokee Nation Constitutional*, pp. 197-8.) In this case, it was not the tribal member that moved, but the district that moved around him while he stayed in the same location. However, the language adopted by the convention limiting consecutive terms in office demands the same result.

There is further a legitimate issue regarding how to define “term” in these unique circumstances. The Court views this case as a true question of constitutional interpretation. In particular, the Constitution provides:

[E]ach Council member shall be elected in the general election for a term of four (4) years until his successor is duly elected and installed. All Council members having served two consecutive terms must sit out one (1) term before seeking any seat on the Council. (*Article VI, Sect. 3*).


This provision of the Constitution prohibits a Tribal Council member from serving more than two consecutive terms of office and further defines a “term” to mean a period of four years. It is also true that Anglen nonetheless served a six-year term on the Tribal Council, which created two years from 2013 to 2015 when he was neither in office nor in a position to run for any office. It is undisputed, however, that he ran in two consecutive elections although the terms of office he served differed in length. As we stated in *Corn silk v. Hembree*, “the Cherokee Constitution should be read as it is plainly written to carry out the will of the Cherokee people.” SC-2018-04.


It is clear that the framers of the Constitution intended to require that one term of office be allowed to pass before an individual could return for a third term. To give meaning and effect to the requirements of the Constitution, Anglen cannot be elected to


a third straight term on the Tribal Council without sitting out for one full, four-year term. The two year wait between the end of his first term under the 1999 Constitution and the initiation of his second term of office notwithstanding, under no circumstances could this period of time be considered a 'term' as that word is defined under the Constitution.


IT IS THEREFORE THE RULING OF THIS COURT that, after considering all evidence in the record and testimony provided to the Court, the arguments made by Counsel, including those contained in the briefs, that the decision of the Cherokee Nation Election Commission, entered on February 21, 2019, finding that Buel Anglen is ineligible to run as a candidate in the 2019 General Election is AFFIRMED.


Concurring:


Lee W. Paden, Justice


James G. Wilcoxen, Chief Justice


Lynn Burris, Justice


Mark L. Dobbins, Justice


John C. Garrett, Justice

Certificate of Mailing

I, Kendall Bird, certify that on the 14th day of March, 2019, I mailed, emailed and/or faxed a true copy of the above and foregoing to the following:

Deborah A. Reed, deborah@reedlegalok.com

Chad Smit, chad@chadsmith.com

Harvey L. Chaffin for Cherokee Nation Election Commission,
hlchaffin@greencountryabstract.com

Carly Griffith Hotvedt, griffth.hotvedt@gmail.com



Kendall Bird, Court Clerk

BEFORE THE CHEROKEE NATION ELECTION COMMISSION
OF THE CHEROKEE NATION

In Re: Challenge to the Eligibility of)	
Victoria Vazquez, Candidate)	Eligibility Hearing No. 2021 - 2
for Council, District 11 for)	
the 2021 General Election)	

DECISION

Now on this 22nd day of February, 2021, this matter came on for hearing before the Cherokee Nation Election Commission and the Contestant, Mason Hudson, appears by and through his attorney Deborah Reed: and the Candidate Victoria Vazquez, appears in person and by and through her attorney Ralph F. Keen II.

The Commission, after hearing the evidence of witnesses, sworn and examined, examining exhibits introduced, the written challenge, written statements submitted and legal briefs and memos submitted, hearing arguments of counsel and after full deliberation, finds that the Challenge was timely filed by Mason Hudson, an opposing Candidate for District 11 as provided by law; finds that Notice of this Hearing was given and served as provided by law; finds that, pursuant to Attorney General Opinion 2016-CNAG-04 and Judgement in District Court Case No. CV-2018-122, the Candidate, Victoria Vazquez, is eligible to be a candidate for Council District 11.

IT IS THEREFORE THE DECISION OF THE CHEROKEE NATION ELECTION COMMISSION that Victoria Vazquez, is eligible to be a candidate for Council District 11 for the Cherokee Nation 2021 General Election.

Dated this 22nd day of February, 2021.

Cherokee Nation Election Commission

BY: Shawna Calico
Shawna Calico, Chairperson and Member

BY: Pamela Sellers
Pamela Sellers, Vice-Chairperson and Member

BY: Rick Doherty
Rick Doherty, Secretary/Treasurer and Member

BY: Randy Campbell
Randy Campbell, Member

BY: Elizabeth Ballew
Elizabeth Ballew, Member