

**TENNESSEE COMMISSION ON INDIAN AFFAIRS
PUBLIC MEETING**

Saturday, August 5, 2006
Knoxville City County Building
400 Main Street
Knoxville, Tennessee 37902

Present were: Doris Trevino, Chair, Secretary/Treasurer Ruth Knight Allen, Niles Aseret, Kippy Vaughn and General Council Ed Harris. A quorum of Commissioners was present.

Absent were: Vice Chair, Evangeline Lynch: Doctor's orders not to travel. Jimmy Reedy, working. Jeanie Walkingstick King, prior commitment.

Meeting Called to order by:

Chair Doris Trevino at 10:45 a.m. and reminded anyone wishing to speak to sign the register.

Opening prayer was by **David Teat**

Minutes of the June 10, 2006 meeting were reviewed. **Secretary/Treasurer Allen** asked that the Minutes be approved.

Motion #1

Commissioner Vaughn moved that the Minutes be approved. **Seconded by Commissioner Aseret.**
Motion carried.

Treasurer's Report was distributed and explained showing a balance of \$392.70. **Secretary/Treasurer Allen** asked that the Treasurer's Report be approved.

Motion #2

Commissioner Vaughn moved that the Treasurer's Report be approved. **Seconded by Commissioner Aseret.**
Motion carried.

Chair Trevino asked **David Teat** to explain the amendment to "A Resolution for the Recognition of the Historic Native American Indian Tribes of Tennessee", which the TCIA approved at the March meeting. The amendment was to state that other tribes identified by archaeological or historical research also be recognized when sufficient evidence is presented. **Mr. Teat** suggested that the TCIA solicit sponsorship for the Resolution among the state legislators.

Motion #3

Commissioner Vaughn moved that the TCIA adopt the amended "Historic Tribes Resolution". **Seconded by Commissioner Aseret.**
Motion carried. (copy attached)

General Counsel Ed Harris answered in the affirmative when asked if the sponsorship suggestion should be in the form of a motion.

Motion #4

Commissioner Vaughn moved that the TCIA solicit sponsorship among the state legislators for the Historic Tribes Resolution. **Seconded by Commissioner Aseret.**
Motion carried.

Chair Trevino reminded that those who wished to speak should sign up. **General Counsel Ed Harris** and **Mr. Gerald Ingram**, Hearing Officer, were present to answer questions and explain, again, the Rulemaking Hearing Results and Summary of Responses documents communication TDEC received on the subject of the Recognition Criteria. She opened the floor of discussion on the Recognition Rules issue. **Chair Trevino** remarked on the information, positive and negative, she had been receiving on the Commission taken. She stated that she preferred to believe that the action taken was positive rather than negative. She stated there were issues that came to light that were missed and amendments would have to be made. Chair Trevino acknowledged that ACTIA has submitted another proposal, which the Commissioners have been given to study and consider. The proposal outlines recommended options. Discussion on the proposals followed. **Commissioner Aseret** questioned if there were new rules, would the September 2, 2006 passage date be affected? **General Counsel Harris** explained the rulemaking process and that one section could not be separated out. All the rules would have to be withdrawn and resubmitted. **Commissioner Vaughn** asked if changes could be made later after all the rules were passed on September 2? **General Counsel Harris** stated that the TCIA has adopted the rules, but the date could be delayed 60 days. A Rulemaking Session could be started today for an October Hearing on the one rule and to allow voting at the next scheduled TCIA meeting.

(General Counsel Harris) Passage of the rules could possibly be February or March, but he could not promise a review date due to the scheduling of those who will have to process the documents. **Mr. Ingram** explained that the process could take from four to six weeks depending on their workload. **Commissioner Allen** asked if the September date could stand, set the amendment meeting for October and vote at the November TCIA meeting? **General Counsel Harris** said that the 60-day delay would allow the rules to go into effect November 2, 2006. **Commissioner Allen** reminded that the time to get the information out prior to the meeting would still result in the problems from last time. **Chair Trevino** stated that the 60 days is not a guarantee. **General Counsel Harris** said that if the amendment is adopted today, the hearing could be in October. The people (those processing the document) may be better satisfied to deal with one item than with the whole set of rules. **Chair Trevino** brought up the issue of possible application immediately after September 2, 2006. Would the TCIA have to accept the applications based on the Rules as they stand on September 2—prior to the amendment/s? **General Counsel Harris** asked if the TCIA had applications ready? **Commissioner Allen** stated that the applications would need to be based on the requirements of the Rules, which have not been finalized. Those who want to make application would not have the forms by which to arrange their documents. **General Counsel Harris** asked if the TCIA had set up a Review Committee? The answer was “no”. **General Counsel Harris** stated that he could not answer what will happen. He said tell the applicants that the documents will be evaluated by the rules in effect at the time of review. He said that he could not say that we will not be challenged.

Public Comment on Rules and Responses:

Joe McCaleb stated that he was not speaking as Vice President of ACTIA, but as himself. He remarked on each of the ACTIA proposed options. He stated that he believed the Rule regarding the Organizations was so flawed as to allow any organization to apply without any Indian people in it. He admonished the TCIA Commissioners to decide for the Indian People. He recommended that the TCIA withdraw the Rules.

James Meeks stated that he had wrestled with the issues, also. He said that the TCIA should have rules in place before applications are available or requested. He stated that he sees major flaws and does not see how we can proceed with organization rules as they are.

Ed Vinson stated that he couldn't see why it cannot be delayed 60 days. General Counsel Harris explained, again, the rulemaking process.

Ed Vinson said there must be a rule in place to schedule a process. He said the TCIA should toss the present rules and work on individual recognition.

Winona Yellowhammer used the example of what might happen if present rules go into effect September 2: If she is caught speeding, she will be charged by the rules today—not by the rules changed between today and the time she would go to court. She recommended withdrawing the rules.

General Counsel Harris suggested that the TCIA announce that the intent of the TCIA is to wait to design applications until a complete set of rules is in place. **Commissioner Allen** asked how would applicants know how to submit the documents without the amended application or know what documents are necessary? She stated that the TCIA should not accept documents until there are official applications. **Chair Trevino** stated that people know that we (the TCIA) have been working on the rules since March and there is no guarantee that the TCIA will be sent any applications for recognition immediately after September 2.

David Teat restated the recommendation of ACTIA to save the TCIA some time. He said the TCIA Statute does not require that the TCIA do complete criteria at the same time. He believes we (the TCIA) will be challenged to accept applications by the current set of rules if they are passed on September 2. He suggested withdrawing the adopted rules and submitting the one rule on organizations proposed by ACTIA. He does not believe there is the threat that the TCIA will be sunset. **Mr. Teat** stated that the legislators do not want to deal personally with the people who want the legislators to recognize these organizations and individuals as “Indian”. (copy attached)

Tom Kunesh stated that his biggest concern is that the proposal was written by a state agency (TDEC), the TCIA voted on it, and passed it without Indian input. He commented on the speed with which TDEC was able to get the September 2, 2006 date approved; yet there may be a great delay in making changes. He is concerned that TDEC has a vested interest in not allowing Indian input. He said that, “We, the Indian People, have a vested interest.” Delaying the designing and availability of application forms until the rules are amended is not acceptable.

Soco Cody asked that the TCIA withdraw the rules. He said that (the TCIA) should protect yourselves against lawsuits.

Billy Nuckles asked why remove individuals from the recognition? He said he is actually one of the previously recognized individuals. He suggested taking some time to work these things out.

Commissioner Aseret stated he is Navajo from Arizona and state recognition does not give him anything.

Lunch Break

Melba Checote-Eads commented on work that went into the ACTIA proposals. (Most of her comments were spoken too softly to pick up on tape.) **Mrs. Checote-Eads** questioned delay of application availability. **Commissioner Allen** restated some of the discussion of the morning regarding applications. She reminded Ms Checote-Eads that the Commissioners were capable of doing the work expected of them and unkind remarks were not warranted.

Paul Vaughn commented that the TCIA passed a set of rules. He said, "What will the legislature think if we withdraw them? That we can't make up our minds?"

David Teat said that we (the TCIA) should use the present applications and amend them.

Chair Trevino passed the gavel to Commissioner Allen to make her personal comments.

Commissioner Trevino stated that she agreed with Commissioner Allen that the Commissioners were capable and conscientious. She reminded that the TCIA is a state commission; the recognition of Native American Indians in Tennessee is a State's Rights Issue and due some respect. She said that she is aware that there are different opinions on every issue, but we (the Commissioners) expect the people behind us to support us. We (the Commissioners) may not go along with what is popular. If what is popular is wrong, we cannot support it. We (the Commissioners) will not be influenced by threats. Decisions will be on what is right, not by threats.

Motion #5

Commissioner Vaughn moved withdrawal of the Rules passed on June 10, 2006. **Seconded by Commissioner Aseret.**

Commissioner Vaughn Yes

Commissioner Aseret Yes

Commissioner Allen No

Commission Chair Doris Tate Trevino

No tiebreaker vote needed

Commissioner Jimmy Reedy

not present—working

Commissioner Jeanie Walkingstick King

not present—prior commitment

Motion Carried

Mr. Gerald Ingram, Hearing Officer, stated that a letter requesting a public rulemaking hearing would need to be sent to TDEC and there may be a delay in notifying the TCIA of the results. He will try for a 14-day notice. After discussion, he agreed to try for five working days notice prior to the next TCIA meeting.

Motion #6

Commissioner Allen moved that the TCIA request and authorize **Mr. Gerald Ingram** and **General Counsel Ed Harris** to file for a Rulemaking Hearing on the revised rule adopted on June 10, 2006.

Seconded by Commissioner Aseret. Motion carried.

Motion #7

Commissioner Vaughn moved that the TCIA adopt the Tribes, Nations and Communities Criteria submitted by ACTIA on August 5, 2006 and go forward as proposed as new Rules. **Seconded by Commissioner Aseret.**

Commissioner Vaughn Yes

Commissioner Aseret Yes

Commissioner Allen Yes

Commission Chair Doris Tate Trevino

No tiebreaker vote needed

Commissioner Jimmy Reedy

not present—working

Commissioner Jeanie Walkingstick King

not present—prior commitment

Motion Carried

Chair Trevino asked for a motion to request an official AG opinion on the status of previously recognized individuals and organizations by the prior TCIA.

Motion #8

Commissioner Vaughn moved that the TCIA request an official AG Opinion on the status of previously recognized individuals and organizations by the prior TCIA. **Seconded by Commissioner Aseret. Motion carried**

Chair Trevino reported that she had received correspondence from the Governors' Interstate Indian Council, Inc. inviting the TCIA to join. She stated that she is not familiar with the organization and asked if any one could provide information. **Commissioner Allen** explained the circumstances of the previous TCIA being involved with GIIC. She outlined some of the advantages of the present TCIA joining. **Commissioner Allen** provided the initial contact with the GIIC and became Secretary for two years. The TCIA hosted the National GIIC 1988 National Conference in Nashville during the 1988 Year of the Indian in Tennessee Celebration.

Motion #9

Commissioner Allen moved that the TCIA pay the \$100.00 membership dues for the Governors' Interstate Indian Council, Inc. **Seconded by Commissioner Aseret. Motion carried.**

Chair Trevino had a resolution read commending the Tennessee Ancient Sites Conservancy and asked for a motion. (copy attached)

Motion #10

Commissioner Vaughn moved that the TCIA adopt the Resolution Commending the Tennessee Ancient Sites Conservancy. **Seconded by Commissioner Aseret. Motion carried.**

The date for the Winter TCIA meeting was discussed.

Motion #11

Commissioner Allen moved that the Winter TCIA meeting be held December 2, 2006 in Memphis, Tennessee. **Seconded by Commissioner Vaughn. Motion carried.**

Public Comments:

Paul Vaughn related events involved around Bushy Mountain Prison regarding environment disturbances. **Joe McCaleb** explained his involvement through his work as an attorney in the environment issues. He stated that TDOT has no regulations in place to include the TCIA in notices regarding issues that involve Native American Indian sites. He recommended that the TCIA take an active stand is requesting that the TCIA be notified along with out of state tribes on these issues.

Chair Trevino asked for a motion to draft a letter to TDOT on these issues.

Motion #12

Commissioner Vaughn moved that a letter be drafted to TDOT requesting that the TCIA be notified of any discovery of Native American Indian sites during construction projects. **Seconded by Commissioner Allen. Motion carried.**

It was mentioned that Commissioner Reedy is on the Repatriation Committee and Commissioner Aseret agreed to be added to that Committee.

Closing prayer was by **Helen Vinson**

Meeting adjourned 4:10 p.m.

Ruth Knight Allen, Secretary Treasurer