

TN COMMISSION OF INDIAN AFFAIRS

Quarterly meeting

Saturday, 29 December 2007, 10am

Faith Cumberland Presbyterian Gym, Bartlett

present: Van Lynch, chair; Jeanie King, David Teat, Shelley Allen, James Meeks, Val Ohle, tom kunesh,
secretary
Mark James, TDEC legal counsel

10.16 Chair Van Lynch called the meeting to order.

James Meeks raised a Point of order (read memo) regarding the legality of holding this meeting in Memphis (as opposed to Nashville, to which he believes it should have rotated) and supposedly without proper legal notice. Meeks stated that the Commission is required to rotate meetings, give 10 days advance notice, and provide notice by mail & email, and that this meeting is not legal according to law.

Chair Lynch responded that "we're here today, this meeting is to take the place of the 1 December meeting" in Memphis that lacked quorum, adding that she was "not willing to reconsider not meeting today."

10.20 Meeks appealed the decision of the chair.

Val Ohle asked TDEC legal counsel Mark James for his opinion. James responded that any consideration should be fact driven, and should determine if there was/is any harm, and if enough general notice of the meeting was circulated.

Vote to uphold the decision the chair: 5 ayes, 1 no

10.35 Meeks suggested minutes be discussed at the next meeting. Shelley Allen moved to dispense with reading of the minutes, accept them as submitted, review any changes at next meeting. Adopted (unanimous).

Change of commission address needs to be sent to the Memphis postmaster.

Treasurer's report (kunesh read, submitted report)

Ending Balance as of 31 december 2007: \$404.90

(includes outstanding obligations

business cards (\$ 10.31)

Dues (annual) GIIC (\$100.00)

Motion to approve business cards for new commissioners Ohle & Meeks: adopted (unanimous).

Motion to approve treasurer's report: unanimous.

Motion to accept secretary's compilation of Commission Standing Rules and place on website: unanimous.

TNCIA website updates - chair Lynch approves.

Secretary is to request each commissioner's letters of appointment be sent to commission secretary for records.

Mark James stated that state Sunshine law requirements don not apply to Commission administrative 'housekeeping' that has no policy impact.

11.00

Communications

Chair Lynch only aware of 2 letters received by the Commission:

1. Office of Hawaiian Affairs - Christmas greetings
2. letter from Governors' Interstate Indian Council (GIIC) - report of last conference in Lake Tahoe in September.

David Teat suggests letters be scanned and circulated electronically.

Commissioners' reports - Lynch sent hers in; Teat - no additions.

Ohle asked if Commissioners' reports are included in the minutes?

Secretary said yes, he includes personal reports in minutes.

11:03

Old Business

Repeal of TCIA Rule 0785-1 State recognition criteria for tribes

Mark James - would like to recharacterize this presentation as a formal rulemaking procedure. James read into the record to show that legalities were observed in the rulemaking and began reading report on Repeal of TCIA Rule 0785-1. The repeal will become effective 75 days later. Once all reviews conducted, rule will be posted. James reviewed the summary of comments.

Allen asked for clarification - 21 comments against repeal, 3 comments for repeal, noting that the majority of the comments in the report were against repeal.

11.16 Mark James read TDEC's suggested two responses for the Commission to consider:

response 1: Rule 0785-1 should not be repealed

response 2: Rule 0785-1 should be repealed

Meeks moved that the TCIA "accept and approve the comments and responses against repeal thereby maintaining the rights and privileges of the American Indians remaining residing in Tennessee."
Seconded by Shelley Allen.

Jeanie King asked for clarification of the origin of comments. They were made and recorded at the Rulemaking public hearing on 17 november 2007 in Nashville. 21 persons spoke in favor of keeping the rule, 3 for repeal of rule.

11.23 -break- 11.39

Teat - painful & tough, a lot of groups in TN with members undeniably Indian. Many misled by what benefits they could obtain. Understand that when dealing with legislature - can give & can take away; believes state has right to recognize; powerful legislators that don't want the state to go there. Told that we have a better chance of keeping Commission if repealed. - if we keep the criteria, what chance do we have of surviving? Not enough assurance from any legislators that they're ready to help us. If we lose Commission this time, won't be back for a long, long time.

Allen - spoke with Rep. Kernell & Sen. Harper, talked with almost all members of Joint Legislative Government Operations Committee. Specifically asked why they were so opposed to us having recognition. 4 said Indian casinos and gambling coming in. Have you read gaming law? Told them it could not in any way shape or form happen. If we got rid of recognition, would you promise to vote not to sunset us? Not a single one would promise to vote not to sunset us. Show of hands from people here on how to vote on this - 1 to repeal, 9 to not repeal. Trying to listen to people who made the effort to come here, and that's how I'll vote.

Meeks - read oath of office of General Assembly members, - not dealing with constitutional issue, but law says we're supposed to provide a standard for recognition in the state. Political suicide to abridge rights of citizens. Cannot abridge the rights of my constituents.

Ohle - doesn't feel any differently about repeal, constitutionally - state's authority & freedom of fear about lawsuits, and Art. VI? Recognition is a federal venue. - quantitative study that Letha (Marion

Orrick) did - submitted for publishing, disparities reported, general disparity in general health - health care, lowered life expectancy, higher disparity in incomes within community, lack of plumbing, telephone service, - none of them are curable with recognition. Urban health care program - only if federally enrolled or descendant of such. Ancestors went away to live together, or stayed together and died as a culture. Keep and we die together, repeal and we may live. The only way to save is to go together as one people to go to legislature every day . hates that we can't have the authority to recognize each other. Doesn't mean we shouldn't be recognized, just save it for another day.

King - sees the same people at the meetings. We have duties, responsibilities, to Indians in Tennessee, born here, born elsewhere. A lot of time spent - two years - all she's heard - recognition criteria.

Look at what they want compared to what they need. Got to look at the whole picture. Have to weigh everything out. Not retreating or running away. Have to have a strategy. Got to have unity.

Squeaky door gets the oil. We are the voice right now. In Nashville if we're gone, what do we have?

kunesh - The Joint Legislative Government Operations Committee voted on 31 July 2007 to recommend that the Commission be sunset, to terminate it, on 30 June 2008. Terminating the Commission will automatically terminate its rules. The direct order to repeal TNCIA Rule 0785-1 came from the Joint Government Operations Committee during their Rules Review hearing the following day (1 August 2007), that not to repeal the rule will place the Commission in contempt of that committee. Also, that Rule 0785-1 did not receive approval by the Rules Committee and will therefore automatically expire 30 June 2008 also. Commission and Rule are both set to expire in six months. To not repeal the rule is political suicide. The only chance the Commission has to survive politically is to repeal the rule and work in the future to educate the legislature on the need for state recognition criteria of tribes.

Lynch - sitting in front of committee she saw racism. Worked on recognition criteria for 4 years - a waste - doesn't want to see it go to waste. But the Commission needs to continue to exist. Worked on health care, education, had to stop that to go back to recognition. Didn't feel good to give those issues up. Tennessee history - what the heck is Sitting Bull doing in Tennessee schools' history textbooks? Lots of southeastern culture right here. Wants to see those issues come to the forefront.

12.06 Meeks restated his motion against repeal of Rule 0785-1.

Vote: Ohle - no, Meeks - yes, King - no, Allen - yes, kunesh - no, Teat - no. 'Yes' 2, 'no' 4: motion failed.

Ohle moved to accept TDEC's comments and responses, and to repeal the motion, and to amend the response to say that it is being done under duress. The state needs to know in our motion that we made this decision for the survival of our people. kunesh suggested the following less-confrontive language:

The TCIA complies with the Joint Legislative Government Operations Committee request to repeal the Recognition Criteria Rules in order to preserve the Commission and its other statutory duties and purposes for Native American Indian people in Tennessee. State recognition may be revived as a responsibility following a major effort to educate members of the General Assembly about the importance of State Recognition, Indian culture and its financial benefits to the State.

Motion to adopt amended language: Ohle - yes, King - yes, Teat - yes, kunesh - yes, Lynch - yes, Meeks - no, Allen - no.

'Yes' 5, 'no' 2 'no': motion passed.

Ohle moved to repeal Rule 0785-1 (Teat 2nd): Ohle - yes, kunesh - yes, Teat - yes, Van - yes, King - yes, Meeks - no, Allen - no.

'Yes' 5, 'no' 2 'no': motion passed.

12.25

New Business, Election of Officers.

Meeks nominated tom kunesh for secretary, Allen 2nd. No other nominees, chair suggested election by acclimation, approved (unanimous).

Allen and Ohle nominated for vice chair: Allen 3, Val Ohle 2. Allen elected.

Teat: stated he was going against what others expect, wants to protect Van, nominated Ohle for chair-person. Allen nominated Teat, Teat declined saying he had no time.

Allen nominated King, with more Commission experience King declined nomination stating she has 3 kids, works 16-hour shifts, has no time, cannot accept. Meeks moved previous question.

kunesh opposed; nominated Lynch, stating that the Commission needs her. Teat accepted discussion, rescinds 2nd of previous question.

Lynch accepted nomination. Teat said sharing of office burden can be addressed in standing rules.

Ohle moved previous question.

Lynch elected unanimously, to which she responded, "Thank you for vote of confidence."

12.46 Lynch needed to leave, turned chair over to Allen. (Lynch absent.)

Joe Manycoats said he had to leave and requested permission to speak.

Allen entertained a motion to break for public comment. Ohle moved to suspend the rules, to allow Manycoats 3 minutes to speak. 'Yes' 5, 'no' 1.

12.49 Manycoats - "I am this board's biggest adversary, but am going to run this Commission to the ground." Emails - live & let live, but have been investigated by FBI & USPS, IRS, called everywhere we go, has the recording to USPS, will shoot you for that, if it doesn't stop, going to get worse, has every email to back this all up, this man (tpk), Huntingdon - lost case - can't let you survive when you threaten me & my family. If I get a public apology will let you live, lobbied & lobbied hard to get this board put out of business, want a public apology and that it won't happen again. If it's not directly related to tom, then he put people up to it. Said he had outstanding warrants, wants to be a part of this community.

Time expired, called.

"Unless you guys do what I say, -"

12.52 - break for lunch - 2.04 back to order (Van Lynch, Mark James - absent)

Old Business 2

Motion to direct and empower the officers to effect and coordinate with the other commissioners and community the extension of the Commission's sunset date. Ohle, King. Discussion:

Allen stated that anything set in writing needs to be shared.

Teat said that effectively, we trust you 3 officer to do what needs to be done, but wants no surprises, and to disseminate information to constituents. "Our backs are against the wall, gotta trust our reps to do what needs to be done."

Meeks state that if the Commission's officers meet, there has to be public notice.

Joe McCaleb (attorney) stated that 3 Commissioners does make a quorum, and therefore cannot make policy.

Meeks replied that right now, after Knox County Commission incident [January 2007], the Sunshine law says it's 2 people getting together.

Teat - How can 3 officers decide what to do if they can't meet?

kunesh - Commission makes the policy decision at its public meeting, empowering the officers to act.

The policy decision is made at an open public meeting. The action is legal.

Allen wants every word of final draft to legislature submitted to the Commission.

Ohle concerned about it being 3 officers only.

Motion adopted: unanimous.

Motion to table education, map, cd, resources - Old Business c 1 2 3. Approved.

Annual Report planning - kunesh: need items & draft for next meeting.

McCaleb: recommends looking at other agencies' annual reports.

Direct secretary to compose draft of annual report by 15 January, to be reviewed for approval by the Commission at its next meeting. Approved (unanimous).

Table resolution supporting TNNAC process - unanimous.

kunesh moved that the Commission go on record of supporting repatriation of the NAGPRA-reported 11,151 culturally-unidentified Native American Indian individual human remains currently warehoused in Tennessee educational and government institutions. Approved (unanimous). kunesh will report to state Historical Commission and state Archaeological Advisory Council.

Standing rules - secretary made a motion to automatically approve all future initial business card orders for 500 cards. Approved (unanimous).

Motion to require immediate notice - within 24 hours of discovery - to all commissioners of any meeting involving or concerning the Commission of Indian Affairs. Approved (unanimous).

Meeks moved that all emails between two or more commissioners be placed into the Commission's record - tabled.

kunesh: such a requirement is not enforceable, and asked what the purpose is of the proposal.

Suggested a friendly amendment: all directives from the Commission chair be put into writing and communicated to other commissioners, which was tabled.

Officers' election, transition & duties - tabled.

Organizations' reports: TNNAC - next meeting. Far-Away Cherokee meeting on 12 January.

Next meeting is on 8 March in Nashville at the TDOT bldg - Teat and Meeks to coordinate food for lunch.

List of groups to be notified? There is no existing list since no groups have requested notification and information is now so easily accessible via the internet. Groups that want to be notified of an upcoming Commission meeting need to contact the secretary.

3.05 - break - 3.16

One person signed up to make a public comment - Joe McCaleb

3.16 McCaleb - I want to commend you - this is only the second time that there have been 7 commissioners present - you got things done, that's commendable, want to see lots more in the future.

3.17

Allen - next Commission meeting - 8 March. Other mtgs announced.

3.20 kunesh - The Commission needs to take the earlier threats of violence against the Commission seriously, and should consider getting a protection order.

King - In this day and age, we need to take threats seriously.

Ohle - direct kunesh to find out from Mark James re threats made by Joseph Manycoats and how to handle them - what options we have in this particular case, approved (unanimous).

Meeks - former Commission chair Doris Tate Trevino requested the presence of a state trooper at Commission meetings.

McCaleb - didn't understand why state trooper wasn't present, Commission is a state agency, maybe

individual protection order, let state counsel address, maybe a letter addressing, may want to personally consider an order.

Patty Beecham said "He scared me."

Commission directs kunesh to find out from Mark James re threats made by Joseph Mancoats and how to handle them - what options we have in this particular case, unanimous

Teat - motion to adjourn. 3.40

Ramona Reece - The unrecognized are no less Indian, except in one major area, legally they aren't (Indian). I keep hearing there are no benefits to recognition. If any of the 7 of you think that, I'd like to hear your point of view because I strongly disagree. It shouldn't matter whether your federal, state or unrecognized but fact is, it does. It's not about programs. Legal status in and of itself would be enough. I'm tired of hearing some of you (commission) say there is no benefit because that isn't accurate information. Health issue - IHS forget it, but Urban Indian Health clinics are a real possibility. Education - monies would go not only to Indian children, but to the entire school district everyone would benefit no matter their color. You (commission) are the ones that present information to us. The information should be accurate, clear, no blanket statements include exceptions. For commission and community to have a better relationship - a lot depends on how we communicate with each other. The community/commission needs to grow up. When we talk to each other whether we agree or not we should treat each other respectfully and talk civilly. I would like to see a change. When I was involved many years ago people were asking for a PA system. Decades ago - still no PA. By nothing being done it sends the message you (the commission) don't give a flip whether we can hear (meetings) or not. It's going to take both sides working together. Indians keep fighting each other so much, if we'd come together as a whole we might be surprised what we're entitled to.

Ohle - health care issues; education money - Title IV ?

Teat - why there's so little progress - because we're constantly fighting the accusations and personal attacks. State recognition - no benefits - doesn't get what people think they'll get. Membership in state-recognized tribe has not benefitted him one single bit. In business personally, could maybe benefit from some small SBA. - we're picking up where others have left off. Don't mind people saying

kunesh - stands by comments made on lack of benefits to state organizational or individual recognition. Yes that there are benefits to state tribal recognition.

3.54

Adjourned 3.55