

TN COMMISSION OF INDIAN AFFAIRS
Quarterly Meeting
Saturday, 21 February 2009, 10am, Nashville
Ellington Agricultural Center

MINUTES

COMMITTEE OF THE WHOLE meeting - 9am

To review of rules of discussion and general parliamentary procedure.
(members late, meeting didn't happen.)

I. CALL TO ORDER 10am

present	Bill Wells Val Ohle	Jimmie Thigpen tom kunesh Jeanie Walkingstick	James Meeks Alice Henry
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meeting staff: Mark James, TDEC attorney
(+ 25 public attendees)

Ohle - nominated Jesse Garland, sergeant at arms, approved.

II. INTRODUCTIONS & REPORTS

1. Agenda review / approval

Motion to move all internal rules, appointments, elections to the September meeting (kunesh),
approved, unanimous <...>
Agenda as amended, approved, unanimous

2. Treasurer's report (end of 2008) (kunesh)

Received GIC 2008-09 & 2009-10 invoices, sent to TDEC for payment.
\$499.74 -\$200 GIC, -\$26.42 business cards = \$273.32 balance
Report approved, unanimous.

3. Minutes of 17 January meeting

reviewed, corrections will be made next week
Motion to delay til next meeting, approved, unanimous.

4. FY2008 annual report

Motion to delay til next meeting, approved, unanimous.

Ohle - motion to suspend rules to move organizational reports and public comments to the beginning of the meeting, and to limit comments to 2 minutes.
kunesh - friendly amendment to add 2 minutes for personal comments after the meetingg if the meeting adjourns by 3pm, for this meeting only.
3-2 approved.

Organizational reports

ACTIA - Joe McCaleb, elected chair of ACTIA
re legislation of recognition of groups

1. ACTIA asking TNCIA to start rulemaking on recognition criteria again
need criteria, need public hearings
2. ACTIA opposes HB 239 & HB 333 - lack of proof of identity
3. ACTIA opposes authorization of Confederation for recognition as conflicting with existing state agency & TNCIA authority

Alliance for Native American Indian Rights - chair read emailed report from Alliance president Mark Cantrell, concerned about potential controversy of Commission's support for legislation prohibiting sale of burial items.

Motion: if bill is sponsored, to discuss final wording with sponsor, TNCIA & Alliance in light of Alliance concerns, approved, unanimous.
If bill not sponsored, TNCIA to invite Alliance to work collaboratively with the TNCIA for introduction to the 2010 legislative session. Approved, unanimous.

TNNAC - chair read email message from Van Lynch, secretary:
An updated online application is on TNNAC website for caucus nominations.
Application period opens on 1 march.

Muscogee Citizens of Tennessee, Melba Checote Eads (informed that she is en route, postponed until her arrival.)

Public Comments *(moved to early in the morning)*

Vicky Garland TNTOTA: fundraiser on 20 june, Blythes Ferry, Birchwood

Dale Mitchell: legislative bills - 2010 - Chickasas assigned february - African-American month is february; due to scheduling conflict, move Chickasas to march; questioned text of "historic tribes of TN" resolution.

Ramona Reece: difficulty hearing Commission; thanks for moving comments to earlier in mtg; not happy about cutting comment period to 2 minutes; ref. rulemaking initiation recommendation - the secretary said recognition is a third-rail issue, why TNCIA would want to pick it back up is beyond me; compliance with 5 TNCIA positions to receive Indian preference.

Diane Christmas, Far-Away Cherokees of Memphis

Lee Embry, Tanasi Council: since recognition is said to a third-rail issue, let the legislature decide the recognition issue; this agency may be sunset, why bother the Commission.

III. OLD BUSINESS *(from 17 January meeting)*

- Tabled
1. Agenda Protocol
 2. Rules Committee Appointments
 3. Commission Protocol with ACTIA
 4. TNCIA Compliance with TCA 4.34.104.b.3
 5. TNNAC Board Neutrality
 7. Proposal to Fix Meeting Dates
6. Legislative Commendations (kunes)
- need to work on sooner for next year

Organizational reports

Muscogee Citizens of Tennessee, Melba Checote Eads (arrived late)
denounced legislation to recognize "Remnant Yuchi Nation": Yuchi were removed and placed with the Muscogee (Creek) Nation in Oklahoma, they are their own people, own language, own culture. "RYN" is stealing Yuchi name, fraudulent in their cultural theft of the Yuchi people; recognizing clubs does not make them tribes; HB333 doesn't meet any tribal criteria, no government-to-government relationship.

8. Future meeting dates and places (Ohle)

21 February - Nashville

7 March - administrative teleconference

Motion: commissioners physically closest are to set up a physical location for phone-call attendees that coincides with the location of the next meeting, at no cost to Commission. Approved, unanimous.

4 April - Cte of the Whole (strategic planning)

16 May - Knoxville

6 June - administrative teleconference

11 July - Cte of the Whole teleconference

August

19 September - Chattanooga

October - administrative teleconference

7 November - Memphis

Motion to approve dates and calendar. Approved, unanimous.

IV. NEW BUSINESS

Tabled 1. Appointments to the Rules Commission/Committee (Ohle)

2. Election of Vice-Chair

3. Legislative Status Report & Commission Review (HB186/SB136, HB239, HB333)

Legislative Review - Vicky Garland

HB 1078 - extend Commission to 2010, pro forma, ref. to Gov't Ops

HB 239 - state recognition for "Confederated Tribes", sets them up to administer recognition

HB 333 - state recognition of "Remnant Yuchi Nation"

HB 1692 - difference w/239 name = changed to "Chikamaka Band"

HJR 82 - Am Ind Heritage Month - september 2009

SJR 82 - est 2010 as TN NA History Year

HB 186 - caption bill, change NA day from 2nd to 4th monday

HB 1305 - ICWA - housekeeping bill

SB 280 / HB 365 - DEC - prohibits ATVs from state parks,

(lunch)

Commission review of proposed legislation

1. HB 1305 by DeBerry J SB1804 by Herron - Child Custody and Support - As introduced, requires juvenile courts to conduct custody proceedings in compliance with the Indian Child Welfare Act (ICWA).

brought over by Administrative Services of the court system

Motion to support: adopted, unanimous.

2. HB 186 by Casada / SB0136 by Ketron - Holidays and Days of Special Observance - As introduced, redesignates the second Monday in September each year as American Indian Day instead of the fourth Monday in September each year.

kunesh - no reason given for proposal, lack of cause, no known purpose

Motion to disapprove: adopted, unanimous.

3. HJR 82 by Lynn - Naming and Designating - "American Indian Heritage Month," September 2009

No reason given for proposal, lack of cause, no known purpose or community sponsor. There is an existing Tennessee state Native American Heritage Month - october - moving it arbitrarily this year opens the probability for other groups to request moving it in the future.

Motion to disapprove: adopted, unanimous.

4. SJR 81 by Stewart - Naming and Designating - Designates 2010 as "Tanasi/Tennessee Native American History Year."

Commission's proposal - change february 2010 (African American History Month) to march 2010 as Chickasaw Education Month if possible.

[later pointed out that "Muscogee" is missing from the bill.]

5. SJR 82 by Stewart - Memorials, Recognition - Tennessee's Native American Tribes and Nations
Commission's proposal.

6. HB 239 by Mumpower / SB1733 by Ramsey - State Government - As introduced, grants state recognition to certain Indian tribes, bands, and groups; provides means for other Indian tribes, bands, and groups to receive state recognition.
aka "Confederation recognition bill"

Meeks - informed Commission that his group, the Chikamaka, is involved.

Henry - informed Commission that her group, the Faraway Cherokee, is involved.

Thigpen - informed Commission that his group, the Native American Intertribal Association of Millington, is involved.

James - there is a conflict of interest only if there is a direct, substantial financial interest in the issue.

Meeks - information about his group's involvement in the bill is not to reference a conflict of interest, just interest, and not recusing self.

Wells - poorly written bill, no definition of tribe, unqualified to decide who's going to make who indian.

Motion to disapprove: adopted, 4-3.

7. HB 333 by Mumpower / SB1735 by Ramsey - Naming and Designating - As introduced, extends state Native American Indian recognition with full legal rights and protections to the Remnant Yuchi Nation in the counties of Sullivan, Carter, Greene, Hawkins, Unicoi, Johnson, and Washington.
kunes - no proof of Yuchi heritage, no public information about group, no connection with historic Yuchi tribe, no connection with existing Yuchi tribe, leader's disavowal of Yuchi heritage.
Motion to disapprove: adopted, 3-2.

8. HB 1692 by Mumpower - Minority Affairs - As introduced, grants state recognition to certain Indian tribes, bands, and groups; provides means for other Indian tribes, bands, and groups to receive state recognition.

Same as HB 239 except changes "Chikamaka-Cherokee Band of the South Cumberland Plateau" to just "Chikamaka Band"

Meeks - motion to disapprove.

Henry - doesn't like the term "culture club"; uncomfortable with public disclosure of private genealogical information.

Ohle - as written, no documentation is required prior to recognition.

Motion to disapprove: adopted, 4-1.

9. HB 1078 by Lynn / SB1015 by Johnson

Sunset Laws - As introduced, extends commission on Indian affairs, June 30, 2010.

Commission's proposal, shortened by one year.

Motion to direct the chair to communicate decisions to legislature: approved, unanimous.

Ohle - point of information: last meeting the Commission approved the lobbying disclosure resolution, reminded commissioners they were free to lobby against Commission decision, but needed to inform the other commissioners first to avoid confusion later.

4. Initiate Rulemaking process for state recognition criteria (ACTIA)
 - Meeks - bills presented are most likely going to die.
 - kunesh - state and Indian community need objective criteria.
 - Henry - weren't we told that recognition criteria will kill us? isn't this suicide?
 - Thigpen - could we use the same criteria that we had?
 - James - public rulemaking hearing - public hearing with text of a proposal, probably in the fall,
 - Thigpen - does form for interested parties exist?
 - kunesh: Motion to initiate rulemaking procedures for establishing state recognition criteria: approved, 5-1.
 - Motion to propose Rule 0785-1 of June 2007 for consideration/nomination for establishing state recognition criteria: approved, unanimous.

5. Research Initiative Status Report
 - Ohle spoke to Orrick re. continued problem moving raw data from statistical software to report, and keeps finding more data (presently at 7gb); hoping to make data available for queries; report at may meeting.

6. Consumer Product Safety Act of 2008 (CPSIA; request for legal assistance to interpret relevant to handmade toys) (Ohle)
 - requires tests for lead = financial impact on makers of handcrafted toys in Indian community;
 - request legal assistance on how to comply with law, ie, how is it going to impact individuals who make toys?
 - Motion to request a legal determination from TDEC, and from the TN State Attorney General if necessary, on the effect of CPSIA on Native American individual makers of crafts in Tennessee; and ask GIIC & neighboring states' Commissions of Indian Affairs re. issue: approved, unanimous.

7. Request legal opinion of Commission's authority to hold/hear tribunals, evidentiary hearings, etc., on individuals (this motion was made, seconded and a vote called and then interrupted at the last meeting) (Ohle)
 - The request for legal opinion on tribunals and the subsequent Standing Rule adoption was based on the wrongful attempt of a group/individual to use a commission meeting as a venue for announcing unrelated personal grievances against an individual.
 - Motion to request a legal determination from TDEC, and from the TN State Attorney General if necessary, on the Commission's authority to hold evidentiary or contested case hearings: failed, unanimous.
 - kunesh: Motion for a Commission Standing Rule: The Commission has no authority to hold evidentiary or contested case hearings: approved, 4-1.

8. Commission comments to NPS re. Moccasin Bend Archaeological District development (kunesh)
 - Museum and NPS interpretation of area will affect the entire state Indian community, community needs to become informed, and provide input on development proposals. kunesh directed to send out information and contact data.

9. Sunset review: no notice received, no sunset review scheduled, last year's deadline was 1 august 2008; sunset review committee can schedule at any time at their discretion. Per Commission's understanding, if no review is held, then there is an automatic extension for one year.

End of Commission agenda/business.

Public comments

Brenda Oliver - voter, freedom of speech, get involved, vote.

Glen Reece - passes time on to wife Ramona; chair ruled: not allowed.

Joe McCaleb - appreciates and advocates public comments at the beginning of the meeting, before the meeting, to allow for potential affect on commissioners. Pleased for Commission to reconsider reestablishing recognition criteria; legislature has no business setting recognition criteria, there is no American Indian person in the legislature, the recognition issue needs to be placed with indian people on the Commission.

Diane Christmas - faith isn't with Commission to turn confidential genealogical information over to the Commission. Regarding "evidentiary / contested cases" hearing - what happened at the last Commission in Memphis [that she initiated] wasn't a request for an evidentiary hearing, just public notice.

Ramona Reece - TNNAC, ACTIA, any organization, is to be considered as a member of the public ... people giving organizational reports were given more than 2 minutes. Very difficult to hear the business that was being conducted today (due to lack of p.a. system). Thanks for the comment period before the meeting. The Commission is making a mistake getting back into the recognition criteria business. The Commission chose in december to repeal it - it had only been on the books for two months.

Nathaniel Brooks, FarAway Cherokees (asked James to turn off camera, but not Reece): one hundred years of Commission doing the right thing, doing wrong thing can help or hurt groups. Shouldn't let rules be so stringent for Indians in TN wanting to be recognized.

Lee Embry, Tanasi Council - leave the recognition issue for the legislature, get out of the criteria business. Since the Commission is now getting out of evidentiary hearings, let's leave it to the legislature to determine the laws.

Chair recognized Rep. Shipley: his purpose is to advocate for the best interests of everybody here in TN.

Motion to adjourn: unanimous.

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