

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE CHEROKEE NATION
CONSTITUTION CONVENTION COMMISSION

OCTOBER 24, 1998

TOWN HALL

FORT GIBSON, OKLAHOMA

* * * * *

A P P E A R A N C E S

COMMISSIONERS: Dr. Charles Gourd
Ralph Keen, Jr.
Paul Thomas
Luella Coone
George Wickliffe
Jay Hannah
George Underwood

* * * * *

I N D E X

SPEAKERS

Fanny Livingston	Page 2-12
Virginia Stroud	Page 13-15
Reporter's Certificate	Page 16

COURTEMANCHE REPORTING SERVICE
P.O. BOX 1196
MUSKOGEE, OKLAHOMA 74402-1196
(918) 683-3087
FAX (918) 683-3686

1 Thereupon, the following proceedings were had:

2

3 FANNY LIVINGSTON

4 MS. LIVINGSTON: I feel very strongly
5 about that because this is one of the things in going to
6 some of the meetings, I thought, well, you know, that
7 Constitution is a good Constitution, but we do need to
8 have maybe some amendments put in there in various areas.

9 But I think that the Council should have some
10 rules of order and some standing rules. As far as I can
11 remember back, I think standing rules more or less kind
12 of set up, you know, sort of the things that you follow,
13 like in your agenda or something like that, how it's
14 controlled.

15 And also, I think that each -- it would tell
16 more in detail what the governing body is responsible
17 for. Because in this last time, too many people have
18 overstepped their boundary lines. And that would keep
19 them within their boundaries. They can go back and say,
20 "Well, you know, this is what your responsibility is, so
21 you stay within that area and leave the rest, you know,
22 for us to do." I mean, establish some guidelines as to
23 where the cut-off is.

24 And then with the Council people, in regards
25 to, you know, the things that come up that need changed,

1 well, they can go to their standing rules or whatever it
2 is that they've established, and say, "Well, in this
3 particular area we're having a problem here, and I feel
4 like that there should be some changes made and let's
5 discuss it and maybe make a new -- either make an
6 amendment or establish a new rule here."

7 That will help us to govern more properly.
8 Does that pretty much take in what I've been saying, or
9 not?

10 MR. KEEN: I think so, ma'am. Let me
11 ask you a question. Article 5, which is the Article that
12 creates Legislative branch, Section 2 --

13 MS. LIVINGSTON: I know it's listed
14 there in the Constitution, but I think sometimes that
15 those things should be expounded on, you know, maybe a
16 little bit.

17 MR. KEEN: Well, it says, "The
18 Council shall establish its rules for its dimension's
19 decorum and procedure." Are you telling us today that
20 maybe that language should be expanded upon?

21 MS. LIVINGSTON: I think so.
22 Because, I mean, I haven't read my Constitution lately,
23 but, you know, sometimes you can come out and explain it
24 a little more clearly.

25 Like some of the people were saying, well, you

1 know, they didn't understand some of these sections in
2 here and all. If they have some rules that explain it a
3 little more clearly, then the members can read it and
4 understand it better, maybe.

5 MR. KEEN: There's been some other
6 suggestions at previous hearings about different parts,
7 the different language that is in our Constitution that
8 is perhaps obsolete and should be removed. Is there any
9 part of this that you say -- you just made reference to
10 not understanding. Is there any particular area that you
11 feel should be changed?

12 MS. LIVINGSTON: Well, no, not
13 really. But some people may find it hard to understand.
14 And on top of that, I think that you should have it
15 published. Do you have it published in the Cherokee
16 language? Because there are some of our Cherokee people
17 who still read in their own language and understand it
18 better in their own language. And that's one thing that
19 I think that we should consider too.

20 MR. HANNAH: We discussed earlier
21 that we have received a copy of the Constitution of the
22 Eastern band of Cherokee, and it is presented in both
23 English and in Cherokee.

24 Personal observation is that that is an
25 outstanding point of respect for the language of the

1 culture. We're also reminded legally that we must be
2 about presentation of our Constitution in a form that can
3 be interpreted in legal courts in the future. But
4 certainly the cultural aspect would be an interesting
5 addition for us.

6 MS. LIVINGSTON: I think it's been
7 very unfair to them that you haven't done this for them.

8 MR. WICKLIFFE: I think we can make a
9 comment here. We have the ability to, with our
10 interpreter that we have, to do that. To write, you
11 know, address it in Cherokee language much similar to
12 what they've done in North Carolina. And that's a good
13 point.

14 And I think, too, probably what you're saying
15 is, we need to adopt rules for the conduct of our
16 meetings, beyond saying that the Robert's Rules of Order
17 is the parliamentary procedure we're going to use. I
18 think that setting down rules by the Council, I really
19 truly don't believe it's been done.

20 I think that might be what we need to address
21 in the amendment as an amendment, that it needs to be
22 amended to say they will adopt their own procedures or,
23 you know, standing rules like you said.

24 MS. LIVINGSTON: Well, some of the
25 things I've heard too, you know, like the putting things

1 on the agenda. And some of them saying, "Well, I was not
2 notified before time that this was going to be on the
3 agenda."

4 And there should be something, you know,
5 spelled out clearly about that. Because you don't want
6 to just walk into Council and be faced with a problem
7 that you haven't been told about or have not talked about
8 or something like this.

9 And so, you know, these matters should be kind
10 of spelled out as to notification. Also, you know, how
11 far in advance it should be set up. And those Council
12 people should be prepared and ready at the time this
13 Council meeting is taking place, to go in there and sit
14 down and do business.

15 MR. KEEN: Ma'am, let me ask you
16 another question. I can't put my finger on the
17 Constitutional language right now, but I know there's
18 been some concern in the past with what you just stated
19 and having proper notice of agenda items and proper times
20 for Councilors to consider whatever is being proposed.

21 Do you feel that the Executive of the
22 government should be compelled to comply with those same
23 notice requirements if the Executive wish to present
24 something to the Council?

25 MS. LIVINGSTON: Well, everyone that

1 is involved in this should have.

2 Another thing too. I don't think we would
3 have been in the situation that we are now if there was
4 something that was compelled for these people when they
5 make the reports, make the reports on time because the
6 Council cannot operate when they don't have that
7 information.

8 And just because they don't want to vote on
9 it, they don't want to be at meetings, they don't want to
10 put that money out unless they know for sure that money
11 is in there. And if they don't have proper reports on
12 time, they can't do their job. And something should be
13 done about this.

14 It should be entered into the Constitution or
15 into the standing rules that your report will be at the
16 meetings or at the Council meeting. Because you can't
17 expect our Council people to do their job if the other
18 people are falling down on their job and not bringing the
19 reports in on time. Because they're the ones that vote
20 on how that money is spent, and they have to know where
21 it's being spent.

22 And if they don't have those reports, they
23 can't act on it. They can't be expected to. I think
24 that should enter in there somewhere in your finance
25 thing in the standing rules or something. Because people

1 should be made to be responsible and accountable. And
2 this is what this Constitution and the standing rules is
3 supposed to do, is to make them responsible and
4 accountable for their jobs.

5 MR. WICKLIFFE: You're possibly
6 referring to presenting a financial statement, showing
7 the condition of each account.

8 MS. LIVINGSTON: Yes. Uh-huh. And I
9 don't know where that is in the Constitution, but that
10 should be --

11 AUDIENCE MEMBER: Article 10.

12 MS. LIVINGSTON: But we truly need
13 something that would hold them --

14 MR. WICKLIFFE: We don't know how
15 that would come in or why. The financial statement, it's
16 complete.

17 MS. LIVINGSTON: I think in the
18 Constitution, it doesn't really state that, does it?

19 MR. HANNAH: Well, in Article 10
20 under "Fiscal Responsibilities --"

21 MS. LIVINGSTON: That's just for the
22 Treasurer, isn't it?

23 MR. HANNAH: It actually makes the
24 statement in Section 3, "At least thirty days prior to
25 the convening of each regular session of the Council the

1 Secretary/Treasurer, shall make and present to the
2 Council an itemized estimate of the revenue to be
3 received by the Cherokee Nation together with a statement
4 of sources from which revenues are to be received under
5 the laws, the grants, judgments, interests, and any of
6 the sources as effected at the time of such estimate is
7 made for the next ensuing fiscal year."

8 And continues on with the additional
9 activities, as well as consolidated balance sheet,
10 conforming with general accepted accounting principles
11 within sixty days of the ending fiscal year. So there
12 are standing requirements.

13 MS. LIVINGSTON: And if they don't
14 follow them, I think we should put something in there to
15 make sure that they do. Maybe just not consider their
16 wishes. Because they come in there asking for money and
17 they say, "Well, give us a sheet telling us what you did
18 with the money we've already given you." And they said,
19 "Well, we'll get it in there to you." By the next time,
20 the next meeting, they're still asking for it.

21 So there should be some stipulation in the
22 standing rules or somewhere where these people, if they
23 don't bring those in, well, then they shouldn't be able
24 to get any money.

25 Because that's been a problem, is the money

1 being spent out and then nobody bringing in the
2 statements at the time that they're needed. And then
3 they come back asking for more. And they haven't even
4 presented their statement from the last time.

5 MR. KEEN: Ma'am, Section 8 of
6 Article 10 also states --

7 MS. LIVINGSTON: Well, this paper
8 here, Section 8 -- the way it's put together here --

9 MR. HANNAH: This is Article 10,
10 which is the fiscal section and Section 8. Mr. Keen.

11 MR. KEEN: I was just going to point
12 out that Section 8 states that: "All laws authorizing
13 the expenditure of the money by and behalf of the
14 Cherokee Nation shall specify the purpose for which the
15 money is to be used and be so designated shall be used
16 for no other purpose. And any expenditure shall not
17 exceed the available funds."

18 So is the concern you're telling us today,
19 that it's tied in with this, with the Council's ability
20 to make proper expenditures?

21 MS. LIVINGSTON: Well, the thing of
22 it is, some of those finance meetings that I've been to,
23 they have taken funds out of other accounts and given to
24 them, and then they come back wanting more money and they
25 haven't brought in their receipts saying what they spent

1 the previous money for.

2 And the Council don't want to be dipping into
3 those funds and taking them out whenever it's illegal.
4 And one person even said, "Well, they can throw me in
5 jail for doing this."

6 Because those funds are allocated for certain
7 things. When they vote for that money to go to someone
8 else, they're just loaning it to them. And then they
9 come back wanting more. Something should be done about
10 that.

11 I mean, something should be put into the
12 Constitution or into standing rules that if they come
13 back wanting more money, they've got to have their papers
14 in order at that time for their expenditures. And the
15 Council had asked for that. And they said, "Well, we
16 just don't have it right now, but we'll get it for you."
17 And they said, "Well, no, we're not going to give you any
18 money until you show us."

19 And then they tried to run it through the
20 Council meeting after it not being taken up in the
21 Committee. So, see, you know, this isn't right. It
22 shouldn't have even been put on the agenda for the
23 Council meeting. It should have been ironed out in that
24 Committee.

25 MR. HANNAH: Would there be any other

1 questions from Commissioners for clarification for the
2 point that Ms. Livingston has raised for us today?

3 MS. LIVINGSTON: And something should
4 go in there to rectify this, you know. And that's what
5 I'm saying, it's not that the Council don't want to help
6 them, but they're limited and they're hands are tied on
7 what they can do.

8 MR. HANNAH: Ma'am, we're very
9 appreciative for your comments before the Commission.
10 Thank you for appearing here today for that to be entered
11 into the official record.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 VIRGINIA STROUD

2 MS. STROUD: My name is Virginia
3 Stroud. S-T-R-O-U-D.

4 And I wish to ask that an Attorney General
5 position be established to carry out and to oversee the
6 laws and enforce the laws separate from the Judicial and
7 the Legislative branch.

8 MR. KEEN: Ma'am, before you step
9 down, let me ask, if the Constitution creates this
10 office, do you feel that it should be by appointment or
11 by popular vote of the people?

12 MS. STROUD: I think it would be
13 popular vote, don't you think? And then I want to know
14 if we have in our provisions here in the Constitution
15 conflicts of interest within the Tribal Council. Do you
16 understand what I'm talking about?

17 That we have people on Council that have
18 leases, that have been leased to the Tribe and no use for
19 their land. Do you understand what I'm trying to get to?
20 We all know what is happening.

21 But how can -- and then, I'd like to see a
22 provision in the Constitution or in the statements; if
23 the Council members are not at meetings, they do not get
24 paid for not attending the meetings. Do you know that
25 they're getting paid now?

1 AUDIENCE MEMBER: Or maybe that you
2 miss five meetings in a year, you're off. There's rules.
3 And it's so open right now. And I'm not that familiar,
4 but that's the question I pose.

5 MR. THOMAS: You mean if they don't
6 go to the Council meetings that they should be impeached
7 or not get paid?

8 MS. STROUD: I don't see how they can
9 be impeached. According to this, they can't be
10 impeached, but they can get paid for not going.

11 MR. THOMAS: The people that elected
12 them for their individual accountings should call them in
13 and have a meeting. And I don't know if they can even do
14 it like you say. But those are the people that should
15 impeach or get rid of them. They're the ones that
16 elected that person. The general public did not elect my
17 Councilman, William Smoke.

18 MS. STROUD: Right. Just your
19 district.

20 MR. THOMAS: Right. Just Mayes
21 County. And if we want to get rid of them, then it's up
22 to us to get rid of them. It's like the State
23 Legislature. If you have a person that's serving in
24 Oklahoma City and you're happy with them, and the
25 Governor is not, and the Governor could come in and wipe

1 him out, that wouldn't be right.

2 The people who put you up there are the ones,
3 I feel, that should get rid of you if you aren't
4 performing up to their expectations.

5 MS. STROUD: Well, we know why
6 they're not attending. But they're still getting paid.

7 MR. THOMAS: Yes.

8 AUDIENCE MEMBER: Well, the State
9 Legislature, don't they get paid too?

10 MR. HANNAH: Please, the gentlewoman
11 deserves to be heard. I bring that up, not as a point of
12 quashing our discussion, but simply pointing out that our
13 court reporter, since it's not a part of our official
14 record, it is very difficult for her to take down all of
15 these conversations.

16 Ma'am, I do not wish you to withdraw, but
17 simply --

18 MS. STROUD: Well, those were the
19 questions that I would like to have the answer to, I
20 guess. Or looked into the answer as to how the Council
21 could continue to conduct business at the general Council
22 meetings in an orderly way.

23 I think that's all I have.

24

25 (PROCEEDINGS CONCLUDED)

1

2 STATE OF OKLAHOMA)
) ss
3 COUNTY OF MUSKOGEE)

4

5 I, Marla J. Cullison, a Certified
6 Shorthand Reporter, in and for the State of Oklahoma, DO
7 HEREBY CERTIFY that the said Transcript of Proceedings
8 was taken by me in stenograph on the 24th day of October,
9 1998, and that the foregoing Proceedings was later
10 reduced to computer-aided transcription form under my
11 supervision, and that the same is a full, true, correct,
12 and complete transcript of said Proceedings.

13 I FURTHER CERTIFY, that I am not an
14 attorney for, nor relative of any of the parties involved
15 in this action.

16 WITNESS MY HAND AND SEAL this day
17 of November, 1998.

18

19

20

21

22

23

24

25

