



CHEROKEE NATION ELECTION COMMISSION

Ph: 918-458-5899 | TF: 800.353.2895 | F: 918.458.6101

AGENDA SPECIAL MEETING

July 22nd, 2021

7:30 PM

- I. Call to order
- II. Roll call
- III. Approval of Minutes from the July 13th Regular Meeting
- IV. Old Business-None
- V. Current Items-None
- VI. Executive Session
 - a. Confidential discussion with attorney on pending litigation, claims, investigations or protests
 - 1. Consideration and possible action on setting hearing date and notice of hearing pursuant to CNCA Title 26 Section 11. C. 18; CNCA Title 26 Section 38; CNCA Title 26 Section 45; CNCA Title 26 Section 47; and CNCA Title 26 Section 104 of the election code for District 2 Candidate Bobby Slover.
 - b. Personnel
 - c. Exit Executive Session
- VII. Action from Executive Session
- VIII. Announcements
- IX. Adjourn

POSTED
7-21-21 4:45 PM

July 21, 2021 by 5:00PM
Cherokee Nation Election Office
17763 S. Muskogee Ave
Tahlequah, OK 74464

Chairperson: Shawna Calico

Posted by: 



CHEROKEE NATION ELECTION COMMISSION

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CHEROKEE NATION ELECTION COMMISSION

Special Meeting Minutes

July 22nd, 2021

I. Call to order

- The Special Meeting of the Cherokee Nation Election Commission for July 22nd, 2021 was called to order by Chairperson Shawna Calico at 7:30pm
- Rick Doherty made a motion seconded by Pam Sellers to allow Randy Campbell to attend by phone. The motion was approved by all Commissioners.

II. Roll call

- Election Commission Secretary Rick Doherty called roll and a quorum was established with the following Commissioners present:

Shawna Calico – Chairperson

Pamela Sellers – Vice Chairperson

Rick Doherty – Secretary/Treasurer

Randy Campbell – Commissioner-by phone

Elizabeth Ballew – Commissioner

- Office staff present was: Connie Parnell & Marcus Fears
- Election Commission Attorney Harvey Chaffin was present

III. Approval of Minutes

- Chairperson Shawna Calico asked for approval and/or discussion regarding the minutes of the July 13th Regular Meeting. Pam Sellers made a motion seconded by Elizabeth Ballew to approve the July 13th Regular Meeting minutes. The motion was approved by all Commissioners.

IV. Old Business

- None

V. Current Items

- None

VI. Executive Session

- Pam Sellers made a motion seconded by Elizabeth Ballew to enter Executive Session at 7:31pm. The motion was approved by all Commissioners.
- Rick Doherty made a motion seconded by Elizabeth Ballew to Exit from Executive Session at 8:09pm. The motion was approved by all Commissioners.



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- There was no Action from Executive Session. 8:11pm, Rick Doherty made a motion seconded by Elizabeth Ballew to Recess until Friday, July 23rd at 10am. The motion was approved by all Commissioners.
- July 23rd, 2021, Pam Sellers made a motion seconded by Elizabeth Ballew to come out of Recess at 10:15am. The motion was approved by all Commissioners.
- Pam Sellers made a motion seconded by Elizabeth Ballew to Re-Enter Executive Session at 10:17am. The motion was approved by all Commissioners.
- Pam Sellers made a motion seconded by Rick Doherty to Exit Executive Session at 11:15am.

VII. Action from Executive Session

- Elizabeth Ballew made a motion seconded by Rick Doherty to set a hearing date of July 29th at 9:30am at the Election Commission Office for District 2 Candidate Bobby Slover and send Notice of Hearing to the respective parties. The motion was approved by all Commissioners.
(Attachment 1)
- Elizabeth Ballew made a motion seconded by Rick Doherty to adopt the Hearing Procedure presented to the Election Commission for the Hearing on District 2 Candidate Bobby Slover. The motion was approved by all Commissioners. **(Attachment 2)**
- Pam Sellers made a motion seconded by Elizabeth Ballew to authorize Chairperson Shawna Calico to issue subpoenas if requested by the Attorney General's Office. The motion was approved by all Commissioners.

VIII. Announcements

IX. Adjourn

- Pam Sellers made a motion to adjourn at 11:20am. The meeting was adjourned.

Minutes submitted by Rick Doherty, Secretary/Treasurer

BEFORE THE CHEROKEE NATION ELECTION COMMISSION
OF THE CHEROKEE NATION

Cherokee Nation

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Hearing No: 2021-5

v.

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Bobby Slover, District 2 Tribal
Council Candidate

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NOTICE OF HEARING

Notice is hereby given, pursuant to CNCA Title 26 Section 11. C. 18; CNCA Title 26 Section 38; CNCA Title 26 Section 45; CNCA Title 26 Section 47; and CNCA Title 26 Section 104 of the election code, that accusations have been made that may subject you to disqualification from candidacy and/or civil penalties.

A HEARING will be held at the Cherokee Nation Election Commission, located at 17763 S. Muskogee Ave, Tahlequah, OK 74464 on the 29th day of July, 2021 at 9:30am.

Pursuant to Section 11. C. 18. and Section 43. A. of Title 26 an accusation concerning your candidacy was referred to the Office of the Attorney General. The Office of the Attorney General submitted a Report "Memo To The Election Commission" and Attachments on July 21, 2021, which is attached as Exhibit 1.

Section 11. C. 18. of Title 26 (under Duties of the Commission) provides that: "Audit all financial reports and disclosures required by this Title, and to report any Criminal Violations of this Title to the Cherokee Nation Attorney General for prosecution as applicable. Further the Election Commission has the authority to assess any penalties or other sanctions authorized by this Title. Any accusations of Criminal Violations of this Title shall be reported to the Cherokee Nation Marshal for investigation and/or the Cherokee Nation Attorney General for prosecution as applicable. Should the Cherokee Nation Attorney General prosecute any Criminal Violation(s), a report to the Cherokee Nation Election Commission will be made for possible assessment of penalties and/or disqualification under procedures found at § 38 of this Title."

You are alleged to have violated Section 43.A. of Title 26: "Contributors Limited to Individual Natural Persons. Contributions may only be made by individual natural persons. No corporation, partnership, and/or any other legal entity shall contribute to any Cherokee Nation campaign or Candidate."

Section 38(A) of Title 26 states: "After a hearing held in conformance with the regulations adopted by the Election Commission, any candidate . . . shall be disqualified by the Election Commission from running for elected office of the Cherokee Nation for the duration of the upcoming election period. Subsection B further states that "said regulations shall provide the candidate . . . with reasonable notice of the charges and the opportunity to respond at a hearing before the Election Commission, and shall specify the manner in which the charges shall be presented and by whom. Any candidate disqualified from holding office . . . pursuant to this Section may appeal the Election Commission's disqualification decision . . . by filing a written appeal with the Cherokee Nation Supreme Court in conformance with the requirements of Section 37(B) of this Title."

Article 6, Section 104 of Title 26 states:

- A. Election Fraud. Any Candidate or other person who commits Election Fraud shall be deemed to have committed a crime, subject to the criminal and/or civil sanctions provided herein, and shall be referred to the Attorney General of the Cherokee Nation for prosecution as applicable.
- B. Criminal Sanctions. Any Candidate or other person who is a Citizen of the Cherokee Nation or a member of any other federally recognized Indian tribe who has violated any provision of this Title deemed to be a crime shall be subject to: (i) prosecution under the Penal Code of the Cherokee Nation and the penalties therein; and/or (ii) disqualification by the Election Commission as provided under § 38 of this Title.
- C. Civil Damages. Any Candidate, other person, corporation or other legal entity who or which has violated any provision of this Title deemed a crime shall be subject to a civil penalty of: (i) not less than one hundred dollars (\$100.00) or more than two hundred fifty thousand dollars (\$250,000.00); and/or (ii) an amount of double the value of the unlawful contribution, expenditure, damage as determined by the Cherokee Nation District Court an amount of double the value of the unlawful contribution, expenditure, damage as determined by the Cherokee Nation District Court. Such civil penalty for a violation shall be determined solely by the Election Commission and subject to the appeal process of §102 of this Title. Said civil penalty shall be payable to the Election Commission within six (6) months of the Election Commission's finding of a violation(s). The Election Commission shall be entitled to recover all reasonable attorney's fees and legal costs incurred in any related lawsuit and/or collection of the civil penalty. Any person, corporation or other legal entity who or which has violated any provision of this Title is deemed to have consented to the jurisdiction of the Cherokee Nation and the Cherokee Nation District Court.

The aforementioned regulations, Cherokee Nation Election Commission Rules and Regulations are attached as Exhibit 2. The applicable Section is 2.10.

A Copy of the Hearing Procedures adopted by the Cherokee Nation Election Commission is attached as Exhibit 3.

Cherokee Nation Election Commission Regulation Section 2.10 E. provides: "The decision shall clearly and succinctly state the findings and conclusions of the Commission." You may prepare proposed findings and conclusions supported by the evidence and law presented to the Commission in support of defense of the Charges.

The charges and evidence in support thereof shall be presented to the Election Commission by the Office of the Attorney General of the Cherokee Nation; you have the right to be represented by an attorney of your choice or may appear pro se; you will have the opportunity to present evidence and legal authority in defense of the Charges; and, the Election Commission will hear the evidence and legal arguments and render a decision as provided by the Election Code of the Cherokee Nation.

Dated this 23th day of July, 2021.

Cherokee Nation Election Commission

By: Shawna Calico
Shawna Calico, Chairperson

BEFORE THE CHEROKEE NATION ELECTION COMMISSION
OF THE CHEROKEE NATION

Cherokee Nation)	
)	
)	Hearing No: 2021-5
v.)	
)	
Bobby Slover, District 2)	
Tribal Council Candidate)	

Hearing Procedure

This hearing is being conducted pursuant to Section 38 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 Report "Memo To The Election Commission" and Attachments submitted by the Attorney General of the Cherokee Nation, Rules and Regulations of the Election Commission and the Hearing Procedure attached. Proof of service on the Candidate 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 Charges and evidence in support thereof shall be presented to the Election Commission by the Office of the Attorney General of the Cherokee Nation;
3. The parties, counsel for the parties and the audience should conduct themselves in a respectful and courteous manner and anyone creating a disturbance will be asked to leave.
4. The formal rules of evidence shall not apply unless

the Commission in its discretion rules otherwise.

5. The Commission Members and Commission Attorney may ask questions at any time. Commission Members or Commission Attorney may not be called as a witness.

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

7. First, the Commission shall make a part of the Record the Report "Memo To The Election Commission" and Attachments submitted by the Attorney General of the Cherokee Nation.

8. Second, the Attorney General of the Cherokee Nation shall present evidence in support of the Report "Memo To The Election Commission" and Attachments submitted to the Cherokee Nation Election Commission on July 21, 2021; 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.

9. Third, the Candidate shall be given the opportunity to present any evidence in opposition to the Charges; and, the Attorney General shall be allowed to cross exam any witness called and redirect and re-cross will be allowed. All Exhibits shall be marked and made a part of the record.

10. At the end of the evidence, the Candidate and Attorney General 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.

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

Cherokee Nation Election Commission

BY:

Shawna Calico

Shawna Calico, Chairperson

CHEROKEE NATION ELECTION COMMISSION

 REGULAR MEETING

 X SPECIAL MEETING

COMMISSION PRESIDED BY: Shawna Calico

MEETING DATE: 7-22-21 at 7:30 AM/PM at the CNEC Office

Commission Member: Present/Absent

Shawna Calico

Present/Absent

Pamela Sellers

Present/Absent

Randy Campbell

Present/Absent *by phone*

Rick Doherty

Present/Absent

Elizabeth Ballew

Present/Absent

Quorum Established:

YES / NO

CNEC Attorney: Harvey Chaffin ☒

Staff Present: ☒ Marcus Fears ☒ Connie Parnell ☐ Kendal Bishop ☐ Charlene Keys

Visitors:

