

MINUTES
SPECIAL MEETING
NOVEMBER 19, 2018
CHEROKEE NATION ELECTION COMMISSION

Call to order/Roll call of Commissioners:

The meeting of the Cherokee Nation Election Commission was called to order by Chairperson Shawna Calico at 2:03 p.m.

Commissioner Carolyn Allen called roll and a quorum was established with the following commissioners present:

Shawna Calico- Chairperson
Pam Sellers- Vice-Chairman
Carolyn Allen- Secretary/Treasurer
Randy Campbell- Commissioner
Rick Doherty- Commissioner

Office staff present were Marcus Fears and Connie Parnell.

Attorney Harvey Chaffin was present.

Guests present were:

Todd Hembree
Chrissi Nimmo
Tahlina Nofire Blakestad
Teddy Snell

Chairperson Shawna Calico asked for discussion and/or approval of the minutes of the November 13, 2018 Regular Meeting. There being no discussion, Rick Doherty made a motion and Pam Sellers seconded the motion for approval of the minutes. The minutes were approved by all commissioners.

Shawna Calico----- Yes
Pam Sellers----- Yes
Carolyn Allen-----Yes
Randy Campbell---Yes
Rick Doherty----- Yes

Chairperson Shawna Calico asked for any items on **old business** to which there were none.

Current Items of Business were presented for discussion.

a.) Consideration and possible action on **Facility Agreement for the 2019 General Election.**

Discussion was held. Marcus Fears commented the only changes to the document were the dates to reflect the 2019 General Election. A motion was made by Pam Sellers to approve

the facility agreement for 2019 and seconded by Randy Campbell. The motion was approved by all commissioners. ([Attachment #1](#))

Shawna Calico----Yes
Pam Sellers-----Yes
Carolyn Allen-----Yes
Randy Campbell---Yes
Rick Doherty----- Yes

b.) Consideration and possible action on requests received pertaining to the 2018-2019 Election Cycle:

Discussion was held. Commissioner Allen commented she would ask for consideration that any requests pertaining to the 2018-2019 Election Cycle be submitted in writing and submitted to the Election Commission for action. Further discussion was that the word "requests" was too vague, that it should be more specific and clarified. After discussion by Commissioners and Attorney Harvey Chaffin, Commissioner Allen made the following motion: Any requests for interpretation of the Election Law or requests for voter information other than voter lists, except for individual voters requesting of their own information, should be provided to be considered by the Election Commission for action. The motion was seconded by Pam Sellers and approved by all commissioners.

Shawna Calico----Yes
Pam Sellers-----Yes
Carolyn Allen-----Yes
Randy Campbell---Yes
Rick Doherty----- Yes

c.) [Consideration and possible action on comments](#) made by Tribal Council Attorney:

Discussion was held. Commissioner Carolyn Allen presented information on this agenda item. In a rules meeting of the Tribal Council held on November 14, 2018, Tribal Council Attorney Tahlina Nofire Blakestad was asked by Councilor Mary Baker Shaw to give her advice to the Tribal Council regarding a proposed timeline in regard to legalities. The information regarding this agenda item is included as [Attachment #2](#) as Commissioner Allen wanted to give follow up regarding the comments made by Tribal Council Attorney Tahlina Nofire Blakestad. Commissioner Allen made a motion to request Attorney Harvey Chaffin to take this issue under consideration/advise to see if there are options for the Election Commission to pursue further action on this issue. The motion was seconded by Pam Sellers and approved by all commissioners.

Shawna Calico---- Yes
Pam Sellers----- Yes
Carolyn Allen-----Yes
Randy Campbell—Yes
Rick Doherty----- Yes

d.) Consideration and possible action on the **Timeline for the anticipated 2018-2019 District 7 Special Election**:

Discussion was held. Attorney Harvey Chaffin commented the Election Commission had received a request from Speaker Byrd for the Election Commission to provide the Tribal Council with a timeline for a January 5, 2019 Special Election for District 7. Attorney Harvey Chaffin stated he had worked with the Election Commission Administrator and the Election Director to create a timeline to meet this request. The proposed timeline for the Special Election District 7 timeline was provided to the Election Commission with opportunity for Commissioners to provide input. This proposed timeline was discussed in detail in the meeting. After discussion, a motion was made by Rick Doherty and seconded by Randy Campbell to approve and submit to Speaker Byrd the proposed timeline to fulfill this request. The motion was approved by all commissioners.

(Attachment #3)

Shawna Calico-----Yes

Pam Sellers-----Yes

Carolyn Allen-----Yes

Randy Campbell---Yes

Rick Doherty-----Yes

e.) Consideration and possible action on **Absentee Ballot Request Form**:

Discussion was held. Discussion was to decide on which Absentee Ballot Request Form to approve, a form that included both the Special Election for District 7 and the General Election or one that would be specific to each election and what contents should be on the form. A motion was made by Rick Doherty and seconded by Pam Sellers, with the approval of all commissioners to approve the following noted contents on the form:

Approval of an Absentee Ballot Request Form that would be specific to the District 7 Special Council Election and Special Council Run-Off, including adding the following comment on the form: Absentee Ballot Request Forms for the District 7 Special Council Election will be accepted through December 11, 2018, midnight CST. (Attachment #4)

Shawna Calico-----Yes

Carolyn Allen-----Yes

Pam Sellers-----Yes

Randy Campbell---Yes

Rick Doherty----- Yes

Executive Session:

Pam Sellers made a motion and seconded by Rick Doherty to enter executive session at 3:13 p.m. The motion was approved by all commissioners.

Shawna Calico----Yes
Pam Sellers-----Yes
Carolyn Allen-----Yes
Randy Campbell---Yes
Rick Doherty-----Yes

Exit Executive Session:

A motion was made by Rick Doherty and seconded by Pam Sellers to return to regular session at 5:39 p.m. The motion was approved by all commissioners.

Shawna Calico----Yes
Pam Sellers-----Yes
Carolyn Allen-----Yes
Randy Campbell---Yes
Rick Doherty-----Yes

Action taken from executive session:

Commissioner Allen commented personnel matters were discussed in executive session. A motion was made by Carolyn Allen and seconded by Randy Campbell to place a reprimand in a personnel file. The motion was approved by commissioners:

Shawna Calico----Yes
Pam Sellers-----Yes
Carolyn Allen-----Yes
Randy Campbell---Yes
Rick Doherty-----__

Announcements:

Chairperson Shawna Calico asked if there were any announcements. Connie Parnell announced the Christmas Open House date of December 7, 2018. Chairperson Shawna Calico announced an invitation had been given by Lisa Trice for the Commission to have someone represented to speak to the Tribal Youth Council on December 1, 2018. Chairperson Shawna Calico announced the Election Commission will be represented at both these events.

Adjourn:

Pam Sellers made a motion to adjourn at 6:11 p.m.

CHEROKEE NATION
FACILITY AGREEMENT

This Agreement is made and entered into this _____ day of _____, 20____, by and between the Cherokee Nation Election Commission, P.O. Box 1188, Tahlequah, Oklahoma 74465 (hereinafter referred to as the "Election Commission"), and _____, Tax Identification Number: _____ (hereinafter referred to as "FACILITY").

WHEREAS, the Election Commission wishes to enter into an Agreement with the FACILITY to have access and use of the building commonly known as _____ (hereinafter referred to as the "Premises"), to serve as a polling location to conduct elections for the Cherokee Nation, and

WHEREAS, the FACILITY hereby affirms it is an independent organization in accordance with the laws of the State of Oklahoma and the Internal Revenue Service, and

NOW THEREFORE, and in consideration of the mutual covenants, promises, agreements, understandings, and conditions herein contained, the parties hereto mutually promise to the other, agree, and understand as follows, to wit:

TERM: The term of this Agreement shall be for June 1, 2019, for the General Election, and if necessary, July 27, 2019, for the Run-Off Election, unless canceled or extended in writing by the parties hereto.

PERFORMANCE REQUIREMENTS OF THE ELECTION COMMISSION:

1. The Election Commission shall conduct a General Election, on June 1, 2019, and if necessary, a Run-Off Election on July 27, 2019, for the Cherokee Nation at the Premises.
2. The Election Commission shall be responsible for sweeping and/or cleaning the Premises after each use to ensure the Premises is left in a clean orderly condition.

PERFORMANCE REQUIREMENTS OF THE FACILITY:

The FACILITY shall provide access to the Premises between the hours of _____ a.m. and _____ p.m. in order for the Election Commission to conduct the General Election, and if necessary, the Run-Off Election. Keys issued for access to the Premises will not be duplicated and shall be issued only to authorized personnel of the Election Commission.

ASSURANCES:

1. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the United States and where applicable, the laws of the Cherokee Nation. If it should appear that any of the Agreement terms are in conflict with any rule of law or statutory provision of the United States, or where applicable, with any rule of law or statutory provision of the Cherokee Nation, such conflicting term(s) shall be deemed inoperative and null and void insofar as it may be in conflict with such rule of law or statutory provision, and shall be deemed modified to conform to such rule of law or statutory provision. However, such conflict shall not operate to nullify or void the entire agreement.
2. This Agreement contains the complete expression of the parties' agreement with respect to the subject matter hereof, and shall bind the parties, their successors and assigns. There are no previous or contemporary understandings, representations, or warranties not set forth herein. No subsequent amendment or modification of this Agreement shall be of any force or effect unless in writing and signed by the parties to be bound thereby. No provision of this Agreement shall be considered waived by the Election Commission unless such waiver is in writing and signed by the Election Commission. No such waiver shall be a waiver of any past or future default, breach, or modification of any of the provisions of the Agreement unless expressly stipulated in such waiver. The parties further state to the best of their knowledge, no employee of the Election Commission who exercises any functions or responsibilities in connection with the performance hereunder has any personal interest, direct or indirect, in this Agreement. This Agreement shall supersede any and all written or oral statements, agreements, and/or representations of the parties made prior to or contemporaneously with the execution hereof. The parties agree their respective performances hereunder shall be governed by an obligation of good faith.

3. The Agreement may be terminated or canceled by either party upon thirty (30) days written notice of intention to the authorized representatives of each party signed below.
4. The parties hereby agree the services specified in this Agreement may not be delegated or assigned without the prior written approval of the Election Commission.
5. This Agreement shall not be construed to constitute a joint venture, partnership, nor other form of agreement creating a joint liability between the parties. Each party shall be responsible and liable for the acts and omissions of its respective agents and employees.
6. The FACILITY shall not be liable for any injury or loss arising out of the acts or omissions of the Election Commission, or its employees, agents, or representatives, unless such injury or loss should result, directly or indirectly, from the negligent or deliberate acts or omissions of the FACILITY, its employees, agents, or representatives.
7. The Cherokee Nation is a sovereign nation and enjoys the full privileges of a sovereign's immunity from suit, as recognized by Congress and the United States Supreme Court Execution of this Agreement shall not be construed to be a waiver of sovereign immunity, and neither shall any clause herein be construed to effectuate the consent to suit, as the Cherokee Nation expressly declines to waive sovereign immunity.

CONSIDERATION AND COMPENSATION:

The Parties hereby agree there will be a charge of \$ _____ for the use of the Premises for each Election. This Agreement shall not exceed \$ _____ without prior written consent of the Election Commission.

CHEROKEE NATION:

Authorized Signature,
Election Commissioner

Date

Type or Print Name

FACILITY:

Authorized Signature

Phone Number

Type or Print Name

Date

*IMPORTANT NOTE: The Cherokee Nation Election Commission needs the name and telephone number of the person who has the key to the building where the Election will be held. Name: _____ and Phone Number: _____.

November 19, 2018

Presented by Carolyn Allen, Commissioner in regard to agenda item on meeting for 11/19/18:

In a rules meeting on November 14, 2018, when Tribal Council was asking questions of Election Commission Attorney Harvey Chaffin, the Tribal Council Attorney Tahlina Nofire Blakestad was asked by Councilor Mary Baker Shaw to give her advice to Tribal Council regarding a proposed timeline. She sat beside our Election Commission attorney and made the following comment:

"I have some concerns with it because it potentially could be a violation of the Open Meetings Act which requires the Election Commission to conduct business in an open forum just like Council does because this was approved on the 6th, approving a past date, I'm wondering if maybe there was a meeting prior to the 2nd?"

I want to set the record straight for Ms. Tahlina Nofire Blakestad, Tribal Council and the public.

The Election Commission holds meetings every second Tuesday of the Month and they are posted as required by law. Special meetings are held as warranted and they are posted as required by law. These meetings are held in open forum and anyone is welcome to attend. The proposed timeline that was being discussed by Council was approved in a duly called special meeting of the Election Commission on November 6, 2018.

Ms. Tahlina Nofire Blakestad was even in attendance at the meeting on November 6, 2018 and her attendance at this special meeting is recorded on our sign in sheet which is placed in the minutes book.

The fact that Ms. Tahlina Nofire Blakestad would have the audacity to make such a comment is alarming to me. I personally, as a person of integrity and an Election Commissioner, am offended by such comment made by this Tribal Council attorney who has only been in this position a little over a year.

Ms. Blakestad comments may possibly be slanderous in nature and I would like to ask our attorney to take this issue under consideration/advise and see if there are options for the Election Commission to pursue this further.

I also am submitting this as part of the minutes of this meeting of the Election Commission.

Proposed January 5 Special Election Timeline

Requested by Speaker Joe Byrd

Nov 2.....Absentee Ballot Requests Accepted*

Nov 26.....Council Meeting if Approve Election day of Jan 5

Nov 27, 28 & 29.....Candidate Filing Period

Dec 4.....Contest of Candidacy to Commission Deadline

Dec 4.....Certification of Eligibility of Candidates if no Contest

Dec 6 & 7.....Contest of Candidacy Hearings by Commission (if needed)

Dec 7.....Certification of Eligibility of Candidates if Contest

Dec 11.....Voter Registration and Absentee Ballot Request Closes

Dec 14.....Appeal of Decision to Supreme Court Deadline

Dec 17, 18 & 19.....Supreme Court Appeal Contest Hearing if Needed

Dec 21.....Absentee Ballots Mailed

Jan 2.....Absentee Ballots Accepted at Commission

Jan 3 & 4.....In Person Absentee (Early Walk-In) Voting

Jan 5.....Special General Election

Jan 9.....Request for Recount Deadline

Jan 10 & 11.....Recount

Jan 11.....Certification of Election Results

Jan 14.....Supreme Court Appeal Deadline

Jan 15.....If no Run-off or Appeal, Certify Election Outcome.**

Jan 16.....Swearing in Dist. 7 Council Member if Election Certified

Jan 15, 16 & 17.....Supreme Court Election Appeal Hearings, if Needed

Jan 21.....Absentee Ballots for Run-Off Mailed

Jan 28.....Absentee Ballots for Run-Off Accepted at Commission

Jan 31 & Feb 1.....In-Person Absentee (Early Walk-In) Voting

Feb 2.....Special Run-Off Election

Feb 6.....Request for Recount

Feb 7 & 8.....Recount (if needed)

Feb 11.....Supreme Court Appeal Deadline

Feb 12.....If no Appeal, Certify Election Outcome**

Feb 13.....Swearing in Dist. 7 Council Member if Election Certified

Feb 12, 13 & 14.....Supreme Court Appeal Hearings, if needed
Feb 14.....Certify Election Outcome after appeal if needed.
Feb 15.....Swearing In of District 7 Council Member

*Since a question was raised by the Council regarding the Absentee Ballot Request Acceptance date, the following explanation is provided:

The Election Commission felt it was important to encourage maximum participation by Cherokee Citizens and to give every Cherokee Citizens the right to request an absentee ballot at the earliest opportunity and selected November 2, as that date since that was the date the Rules Agenda was posted on the Cherokee Nation Web Site and became public knowledge to Cherokee Citizens (Copy of Web Site posting attached). It is the opinion of the Election Commission that said date is allowed under the Election Law for the following reasons:

1. Section 73 A. of the Election Law provides that Cherokee Citizens may request an absentee ballot the first Monday in January of a General Election year, which is 28 days prior to the start of the filing period for the 2019 general election which is the first Monday in February (Section 36 A. of the Election Law). The date (November 2, 2018) selected by the Election Commission for the absentee ballot request date for the special election is 24 days before the proposed filing date under the timeline for the Special Election. The time was shortened from 29 days to 24 days because the Election Commission wanted all Cherokee Citizens to be on equal footing based on the time it was publicly announced and posted.

2. Section 51 C. of the Election Code of the Cherokee Nation addresses Special Elections and provides (1) that the Council shall determine the dates of the primary and runoff election for a Special Election in accordance with the Constitution; (2) that the deadlines established by the Election Code may be changed and specifically set by the Election Commission and confirmed by the Council to meet the particular needs related to a Special Election; (3) and, among other deadlines, specifically authorizes changing and specifically setting (a) "... the cutoff date for eligibility to vote"; (b) "... the deadline for providing vote lists"; (c) "... the candidacy filing date"; (d) "... the swearing-in date"; and, (e) "... the absentee ballot request deadline and the absentee ballot issuance dates established in Section 73 of this Title, and any other date which requires special setting. "

**If the Election Outcome is certified the Timeline following such Certification will become moot and such following timeline will cease.

Cherokee Nation Election Commission

P.O. Box 1188, Tahlequah, OK 74465-1188

Email: election-commission@cherokee.org

Website: www.cherokee.org/elections.aspx

Attachment #4



Phone: 918-458-5899
Toll Free: 1-800-353-2895
Fax: 918-458-6101

REQUEST FOR ABSENTEE BALLOT

I am requesting an Absentee Ballot for the District 7 Special Council Election & Special Council Run-Off. Only one application is needed for the Special Election and Run-Off Election.

BLUE TRIBAL CITIZENSHIP CARD/ REGISTRY NUMBER: _____

NAME (TYPE OR PRINT): _____

HOME ADDRESS: _____

CITY, STATE, ZIP: _____

MAILING ADDRESS (If different from home address): _____

CITY, STATE, ZIP: _____

DATE OF BIRTH: _____ PHONE NUMBER: _____

HANDWRITTEN SIGNATURE: _____ DATE: _____

Witnesses, if mark used 1. _____ 2. _____

I REQUEST MY BALLOT BE MAILED TO:

ADDRESS: _____

CITY, STATE, ZIP: _____

**FOR RECEIPT CONFIRMATION AND ABSENTEE INFORMATION CONTACT
THE CHEROKEE NATION ELECTION COMMISSION**

Phone: 1-800-353-2895 OR 918-458-5899

Email: election-commission@cherokee.org

Fax: 918-458-6101

Mailing Address: P.O. Box 1188 Tahlequah, OK 74465-1188

**Absentee Ballot Request Forms for the District 7 Special Council Election will be accepted through
December 11, 2018, midnight CST.**

**FORMS CAN BE RETURNED BY: MAIL, FAX, E-MAIL, OR HAND DELIVERED TO THE
ELECTION COMMISSION OFFICE.**

OFFICE USE ONLY: DIST: _____ PRECINCT: _____ ACCEPT: _____ REJECT: _____

REJECTION REASON: _____