

CHEYENNE & ARAPAHO TRIBES
SPECIAL TRIBAL COUNCIL MEETING
NOVEMBER 17, 2007
HAMMON COMMUNITY HALL, HAMMON, OK

RESOLUTION NO: 111707STC 003

DATE POSTED:

DATE APPROVED: 11/17/07

SUBJECT: To Reinstate the former Constitution and By-laws of the Cheyenne and Arapaho Tribes of Oklahoma, pursuant to the Thomas-Rogers Oklahoma Indian Welfare Act of June 25, 1936, ratified April 19, 1975, and all amendments thereto

WHEREAS: The Cheyenne and Arapaho Tribes are a federally recognized Indian tribe organized under a Constitution approved by tribal membership on April 4, 2006 and approved by the secretary of the Interior; and

WHEREAS: Article VI, Section 2 (a) of the Constitution grants the Tribal Council the power to set policy for the Tribes and all other powers and duties specifically provided by this Constitution; and

WHEREAS: The current Constitution ratified April 4, 2006, has failed to promote more unified tribal economic progress, to better transact our tribal business and industrial affairs, to establish guidance and direction for our government, to establish and promote justice for all People, and to advance the general welfare for ourselves and our posterity; and

NOW, THEREFORE, The Tribal Council of the Cheyenne and Arapaho Tribes hereby request that the Superintendent of the Concho Agency, Bureau of Indian Affairs, conduct an election in accordance with the regulations set out in 25 C.F.R. Part 81 to (1) repeal the constitution adopted on April 4, 2006 and (2) reinstate the constitution ratified by the Tribes on April 14, 1975, with all amendments thereto, which shall be re-adopted as the governing document of the Tribes.

2007 Tribal Council of the
Cheyenne and Arapaho Tribes


Tribal Council Chairman

ATTEST:

Teresa Murray
Tribal Council Secretary

CERTIFICATION

I, the undersigned, as duly elected Secretary of the Tribal Council of the Cheyenne and Arapaho Tribes, do hereby certify that a quorum was present at the duly called Special Tribal Council Meeting held on the 17th day of November, 2007, and that the foregoing resolution was adopted by a quorum of the Tribal Council with an affirmative vote 91 for, 1 against, 1 abstaining, and 0 not voting.

Teresa Murray
Tribal Council Secretary

**CHEYENNE & ARAPAHO TRIBES
SPECIAL TRIBAL COUNCIL MEETING
November 17, 2007
HAMMON COMMUNITY HALL, HAMMON, OK**

**PRIMARY GERMANE AMENDMENT TO RESOLUTION NO: 111707STC 003
Amendment 1**

SUBJECT: A Germane Amendment to Resolution No. 111707STC 003 to validate the exclusive power of the Tribal Council to approve the Annual Tribal Budget, and for other purposes, by adding the following clauses to the existing Tribal Council Motion:

WHEREAS: The 2006 Cheyenne and Arapaho Constitution establishes governmental powers of the Tribe which are divided between, and vested in, the Tribal Council, the Executive Branch, the Judicial Branch, and the Legislative Branch and also indicates that “[n]o official of any branch...shall exercise any power granted in this Constitution or properly delegated by law to any other branch...except as expressly directed or permitted by this Constitution”; and

WHEREAS: Under the terms of the Cheyenne and Arapaho Tribal Constitution, the budget approval process is strictly reserved to the Legislature and the Tribal Council, with the Tribal Council having the “exclusive power to approve the annual budget”; and

WHEREAS: Governor Darrell Flyingman, in his Writ of Mandamus filed with the Cheyenne and Arapaho Supreme Court in the case entitled “IN RE: the matter of EXECUTIVE AUTHORITY to conduct essential governmental functions” (Supreme Court Case No. CNA-SC-07-02.) has claimed that his authority to sign for all monetary disbursements grants him the discretionary power to revise amounts of previously approved tribal disbursements and that he has final authority to approve or disapprove expenditures that have already been appropriated by the Legislature and approved by the Tribal Council; and

WHEREAS: The Governor’s interpretation of his power to sign off on monetary disbursements constitutes a marked departure from the very basic precepts of the separation of powers doctrine and the theory of checks and balances upon which the Cheyenne and Arapaho Constitution is based in that it infringes upon the role and function of the Office of the Tribal Council and the Tribal Legislature to approve the annual tribal budget;

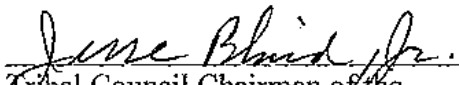
BE IT FURTHER RESOLVED, It is the position of the Tribal Council that the Cheyenne and Arapaho Executive Branch does not have the authority to modify any constitutionally enacted delegation of power vested in the office of the Tribal

Council or the Legislature to approve the annual Tribal budget and appropriate funds under the Tribal budget; and

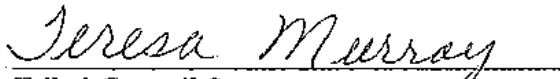
BE IT FURTHER RESOLVED, It is the position of the Tribal Council that the Governor's role and function in signing off on all tribal disbursements pursuant to the provision of the Constitution which states that no monies shall be drawn from the Treasury except by signature of the Governor's is strictly a ministerial function; and

BE IT FURTHER RESOLVED, It is the position of the Tribal Council that because the Governor's role in signing for a monetary disbursement is ministerial, the provision of the Cheyenne and Arapaho Constitution requiring his signature is merely an information process, and his power to sign off on such disbursements does not effect the validity of budgetary appropriations that have been previously appropriated by the Legislature and approved by the Tribal Council; and

BE IT FURTHER RESOLVED, That it is the position of the Tribal Council that the Cheyenne and Arapaho Constitution makes clear that it is the express power of the Legislature and the Tribal Council, not the Governor, to conduct all enactment and approval functions related to the annual tribal budget and that these functions are an express and enumerated power of the Legislature and Tribal Council which cannot be limited by the Governor or any other branch of government and only can be limited by an amendment to the Tribal Constitution itself.


Tribal Council Chairman of the
Cheyenne and Arapaho Tribes

Attest:


Tribal Council Secretary

CERTIFICATION

I, Teresa Murray, hereby certify that the foregoing is a true and correct copy of Resolution No. 111707STC 003 Amendment 1, which was passed by the Tribal Council of the Cheyenne-Arapaho Tribes, Special Tribal Council Meeting, by roll call vote on the 17th Day of November 2007, by a vote 90 for 0 against 1 abstaining.


Tribal Council Secretary

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PRIMARY GERMANE AMENDMENT TO RESOLUTION NO: 111707STC 003
Amendment 2

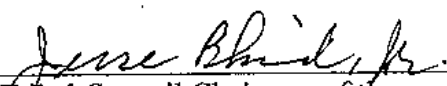
SUBJECT: This Germane Amendment to Resolution No. 111707STC 003 declares the Tribal Council's support of the Legislature's efforts in authorizing the retrocession of Multi-Year (06/07/08) Tribal Court Contract No. CTB05T80183 and authorizing the Bureau of Indian Affairs' reassumption of judicial jurisdiction, through operation of a Court of Indian Offenses, until the Tribes can reassume operation of the Tribal Court system, by adding the following clauses to the existing Tribal Council Motion:

WHEREAS: The Tribal Council has the constitutional obligation and public responsibility to the membership to oversee the Tribes' operations in order to establish and promote justice, establish guidance and direction for the government and advance the general welfare of the tribal membership and the subject matter of this amendment is germane to the proposed resolution.

NOW THEREFORE BE IT RESOLVED, that the Tribal Council of the Cheyenne and Arapaho Tribes finds it necessary and hereby supports the Legislature's Bill to Establish an Act Authorizing Voluntary Retrocession of Multi-Year (06/07/08) Contract No. CTB05T80183 and Authorization of the BIA's Reassumption of the Court of Indian Offenses, Bill No. 01-2007-11-03; and

NOW THEREFORE BE IT RESOLVED, that the Tribal Council supports the policy of granting the Court of Indian Offenses the right to adjudicate an election dispute, take jurisdiction over a suit against the Tribes, and/or adjudicate any internal tribal government dispute, including but no limited to disputes regarding interpretations of the Constitution and tribal laws; and

NOW THEREFORE BE IT RESOLVED, that the Tribal Council hereby adopts and directs its officers to execute this Resolution, and further directs its officers and Tribal Council Coordinator to take any and all actions necessary to cause the intent of this resolution to be consummated.


Tribal Council Chairman of the
Cheyenne and Arapaho Tribes

Attest:

Teresa Murray
Tribal Council Secretary

CERTIFICATION

I, Teresa Murray, hereby certify that the foregoing is a true and correct copy of Resolution No. 111707STC 003 Amendment 2, which was passed by the Tribal Council of the Cheyenne-Arapaho Tribes, Special Tribal Council Meeting, by roll call vote on the 17th Day of November 2007, by a vote 88 for, 1 against, 0 abstaining, 0 not voting..

Teresa Murray
Tribal Council Secretary

CHEYENNE & ARAPAHO TRIBES
SPECIAL TRIBAL COUNCIL MEETING
November 17, 2007
HAMMON COMMUNITY HALL, HAMMON, OK

PRIMARY GERMANE AMENDMENT TO RESOLUTION NO: 111707STC 003 Amendment 3

SUBJECT: A Germane Amendment to Resolution No. 111707STC 003 to acknowledge the validity of the Election Commission in their current positions as members of the current election commission to remain effective until reappointed or until another commission is properly elected in the 2007 election, to chastise the Supreme Court as they attempt to usurp the Constitutional powers of both the Tribal Council and the Election Commission, and for other purposes by adding the following clauses to the existing Tribal Council Motion:

WHEREAS: The Supreme Court *Interim Order* in *In Re: Executive Authority*, dated October 10, 2007, usurps the Constitution authority of the Tribal Council who "may continue to select and employ Election Board Members who shall serve until replaced in the 2007 election. The existing Election Board in office as of the date of the adoption of [the] Constitution shall remain in office until properly replaced." Pursuant to Article IX, Section 15 (d); and

WHEREAS: The Supreme Court's *Interim Order* in *In Re: Executive Authority*, dated October 10, 2007, usurps the Constitutional authority of the Election Commission and the Separation of Powers by authorizing the Governor to expend funds to notify voters and to conduct elections; and

WHEREAS: A Trial Court opinion by Judge Tripp in CNA-CIV-07-45 & CNA-CIV-07-48 (later consolidated in the Supreme Court under Case No. CNA-SC-07-15), setting forth an election schedule to be followed by the Election Commission was not given an opportunity to be carried out by the Election Commission before the Supreme Court issued the *Interim Order* in CNA-CIV-07-45 & CNA-CIV-07-48 only hours later; and

WHEREAS: The Supreme Court, in the October 10, 2007 *Interim Order* in *In Re: Executive Authority*, CNA-SC-07-02 (Consolidated with, and now filed as, Case No. CNA-SC-07-15), adopted a doctrine of State of Emergency which is not supported by the Constitution or grounded in any other tribal law; and

WHEREAS: Judge Tripp did not find the existence of a State of Emergency and denied Plaintiff Avans' request for emergency order in *Avans v. Legislatures*, Case No. CNA-CIV-07-69 nor did he find the existence of a State of Emergency in Case Nos. CNA-CIV-07-45 & CNA-CIV-07-48, which were later consolidated in the Supreme Court under Case No. CNA-SC-07-15; and

BE IT FURTHER RESOLVED, that the Tribal Council hereby acknowledges the validity of the Election Commission, who shall continue in their official capacities until reappointed or newly elected members replace them in the 2007 election; and


BE IT FURTHER RESOLVED, that the Tribal Council has determined that members of the Election Commission shall be compensated immediately for any time loss due to unconstitutional attempts at their removal; and

BE IT FURTHER RESOLVED, that the Tribal Council shall not recognize any appointments to the Election Commission that are a direct result of the usurpation of the Tribal Council's authority, and the Tribal Council shall not recognize any attempts by the Governor to participate in any way on the Election Commission including the disbursement of any funds for the specific purpose of conducting activities that are a direct usurpation of the Election Commission's powers and duties; and

BE IT FURTHER RESOLVED, that the Tribal Council does not recognize the Emergency Doctrine invented by the Supreme Court in the October 10th, 2007 *Interim Order*; and

BE IT FURTHER RESOLVED, that the Tribal Council will support the Legislature in their efforts requesting a Special Prosecutor to be appointed to investigate the Governor should the Governor attempt to unconstitutionally impose his will on the election process including the appointment of Election Commissioners with regard to the 2007 election.

BE IT FURTHER RESOLVED, that the Tribal Council hereby adopts and directs its officer to execute this Resolution, and further directs its officers and Tribal Council Coordinator to take any and all actions necessary to cause the intent of this Resolution to be consummated.


Tribal Council Chairman of the
Cheyenne and Arapaho Tribes

Attest:


Tribal Council Secretary

CERTIFICATION

I, Teresa Murray, hereby certify that the foregoing is a true and correct copy of Resolution No. 111707STC 003 Amendment 3, which was passed by the Tribal Council of the Cheyenne-Arapaho Tribes, Special Tribal Council Meeting, by roll call vote on the 17th Day of November 2007, by a vote of 87 for, 2 against, 0 abstaining, 0 not voting.


Tribal Council Secretary