

TENNESSEE COMMISSION ON INDIAN AFFAIRS PUBLIC MEETING

December 3, 2005
Chucalissa Museum
1987 Indian Drive
Memphis, Tennessee

Present were: Secretary/Treasurer Ruth Knight Allen, serving Chair Pro tem, Niles Aseret, Jeanie Walkingstick King, Doris Tate Trevino, and Kippy Vaughn. Absent were: Chair, Jimmy Reedy and Vice Chair, Evangeline (Van) Lynch who was in the hospital.

Chair pro tem Allen called the meeting to order at 10:30 a.m.

Welcome to Chucalissa were by Dan Swan and Cubert Bell.

Opening prayer was by Commissioner Allen.
Commissioners introduced themselves with brief comments.

Public comments:

When asked for public comment, those who signed up to speak preferred to wait until later in the meeting.

Minutes of the Chattanooga, June 4, 2005 meeting were sent to Commissioners prior to the October Knoxville meeting. Since there was no quorum at that meeting, minutes were not approved. Commissioners newly appointed were given copies at this meeting.

Motion #1

Commissioner Vaughn moved to approve the Minutes. Seconded by Commissioner Aseret. Motion carried.

Treasurers' Report was distributed and explained showing a balance of \$116.30. Expenses of business cards for new Commissioners and additional cards for other Commissioners were discussed.

Motion #2

Commissioner Trevino moved to approve the Treasurers' Report. Seconded by Commissioner Vaughn. Motion Carried.

The published agenda was discussed with suggested amendments to correspond with items that were time-critical for this meeting. Due to Commissioner Lynch's hospitalization, reports of the Rules/Bylaws Committee were continued until the March 2006 meeting. By consensus agreement, discussion of the Revised Recognition Criteria and materials already submitted for recognition will fold over into the New Business involving the Recognition Criteria.

General Counsel Ed Harris requested that the Commission prepare a response to The Department of Environment and Conservation's Sunset Hearing Questionnaire. Attorney Harris explained that all the commissions are subject to these hearings, and though no meeting date is yet set, the department wants our Commission's response before a hearing is scheduled for the TCIA. He had asked Commissioner Allen, Secretary/Treasurer, to compile a preliminary response to the questionnaire. Commissioner Allen had sent copies of the questionnaire to all the Commissioners requesting input for the preliminary response. Commissioner Allen read the compiled response and reminded that it is subject to adjustments before she sends it as *The Commission Response to TDEC*. Several members of the public requested to comment: **Attorney Joe McCaleb** asked Attorney Ed Harris if he had heard of a hearing date for the Commission. Attorney Harris replied that he had not, but that since all commissions are subject to such hearings, the department wanted to be ahead by having the TCIA prior to a meeting. **David Teat** stated that, since the Commission is not costing the state anything and has not been a burden, he does not much fear that the state would sunset the Commission. He recommended that the Commission comply with the request and respond to the questions with positive comments and move on. Attorney Harris asked if passing the Recognition Criteria was included in the responses. Commissioner Allen stated that it was included as "a work in progress". **Mary Lemire** commented that it seems the Department of Environment and Conservation is the only agency that is still in the black financially and the department should be able to pay for travel expenses for the Commission. If anything were cut in the future, it would not be from an agency that's in the black.

Tom Kunesh stated that a bill, SB1423, to extend the Commission until 2009 was introduced by Senator Harper and Representative Kernell. The bill is still pending. He is 95% sure that, with Senator Harper's and Representative Kernell's support, the Commission can be extended. **James Meeks**, also, recommended that the Commission answer the questionnaire with positive statements as a work in progress. **Herstel Cross** asked that the Commission let us (groups acknowledged as Native American Indian like the Lenape) help keep the Commission active. He named the Title IV issue that, if the Commission were sunset, it would be discriminating by eliminating their voice in the government. **Commissioner Aseret** stated that these issues need to be communicated by word of mouth among the Indian communities. He said, "There is a need to get all the groups involved in support of the Commission. Tell everyone you know about our (the Commission's) situation."

Chair pro tem Allen opened The Recognition Criteria discussions. She explained that the ACTIA Recognition Committee had worked long hard hours and days on the recommendations presented to the Commission. Commission Secretary Allen has inserted the ACTIA recommended adjustments into the original 1990 Recognition Criteria. These recommendations are to be studied by the Commissioners with the intent to condense to a completed document for Attorney Harris to take for review by the Tennessee Legal staff. Attorney Harris corrected that he did not want the document *until* the Commission had a *completed* document to be presented to Legal.

Motion #3

Commissioner Vaughn moved that the 1990 Recognition Criteria with the ACTIA Amendments be considered, incorporated, and condensed for a completed document by the March 2006 TCIA Meeting. Seconded by Commissioner Aseret. Motion carried.

Chair pro tem Allen urged each commissioner to work on the Criteria and get input to her as Secretary for compiling the final document. She asked that the new commissioners leave their business card and contact information with her by the end of the meeting.

Bruce Two Eagles Lemire introduced himself and cautioned that the Commission should get a copy of the 1994 Government-to-Government Act to review while working on the Recognition Criteria. He stated that the Tennessee Criteria borderlines the 1994 Act. **Tom Kunesh** recommended a public hearing before the March meeting to relate the proposed changes to the 1990 Recognition Criteria. He explained that there had been two public hearings without a document and the public should be allowed to review the changes before a final document is presented to Legal. Commissioner Vaughn suggested a public hearing date in February. After calendars were checked,

Motion #4

Commissioner Vaughn moved that a Public Hearing would be held in Nashville on Saturday, February 11, 2006 at 10:00 a.m. Seconded by Commissioner Aseret. Motion Carried.

Commissioner Aseret will check with TDOT for their office conference room. Chair pro tem Allen stated that the Indian people of the state, also, have a responsibility to be sure the Commissioner in their area, or someone in their area can respond for them at the February meeting.

Attorney Harris suggested that there be duties for the chairperson and when the chair is authorized to act on behalf of the Commission. Discussion of the Chair's day- to- day responsibilities is held over for the March agenda.

Fund raising options were suggested by members of those present: **Alice Henry**, President, Far Away Cherokee Association, Memphis, suggested that the groups holding 501c3 status join together to hold events to benefit the Commission—such as a state powwow. **Paul Vaughn**, Middle TN, suggested that for \$35.00 X 1000 people registering for special license plates, the Commission could design their own. **David Teat**, Nashville, stated that the previous commission attempted a special plate and could not get enough orders, but that it might be tried again. He said that a bill would have to be sponsored and submitted to legislature to issue special plates. **John Smith**, Memphis, said not to forget the suggestion to use state grant writers. **Mary Lemire** reminded that there are talented people among us to help. **Attorney McCaleb** said there are state laws regarding the contracting of grant writers. **Bruce Lemire** stated that any 501c3 can file a proposal. **Alice Henry** asked for a show of hands of groups having 501c3—there were several. She said that any of these groups, hers included, would be willing to file on behalf of the Commission.

Motion #5

Commissioner Vaughn moved that March 4, 2006 in Nashville, 10:00 a.m. – 4:00 p.m. be selected for the Spring quarter meeting of the TCIA. Seconded by Commissioner King. Motion Carried.

Election of officers was held:

Doris Tate Trevino, Chair

Evangeline "Van" Lynch, Vice Chair

Ruth Knight Allen, Secretary/Treasurer

A discussion of election date and terms of office followed the election.

Motion #6

Commissioner Vaughn moved that officers serve from January to January for two-year terms; that elections be held at a December meeting; and that the Bylaws and Standing Rules be amended to reflect the decision. Seconded by Commissioner Aseret. Motion Carried.

Off the agenda: Chair pro tem Allen (as there was no other officer to assume chair) presented an issue for consideration: the location of past Commission files. Commissioner and Secretary/Treasurer Allen expressed concern for the security and management of the Commission of Indian Affairs Records. At last contact regarding the files, Brenda Vaughn (State Records), asked if Commissioner Allen had a missing box. During the conversation, Ms Vaughn related that the files had made several trips between archives and the TDEC offices. Storage at TDEC is limited and, apparently, there is no one actually appointed to oversee the research when people request access to the Commission files. Commissioner Allen stated that she believes that the Indian people who have sent or will send their personal data to the Commission should be assured that the data would be maintained in a professional and trustworthy manner. There have been several people admit having gone through those files. Their reasons were assumed honorable and for good purpose. The actions taken by the present Commission has asked that a committee of Commissioners Allen, Vaughn, and Lynch research issues involving data within the files. Access to the files is limited, at this time, by location, TDEC office hours, and organization within the boxes. Commissioner Allen is requesting consideration for locating the Commission Files with the Secretary/Treasurer in Memphis where she can computerize the inventory, organize the files and oversee the research. Those requesting access would be expected to make appointment as they would if the files were at TDEC. Open discussion with public comments.

Motion #7

Commissioner Vaughn moved that the Files Issue be tabled until the March meeting with discussion included on the February 11 agenda. Seconded by Commissioner King. Motion Carried.

The agenda topic of The Mascot Issue, which was tabled at the June meeting, was opened for discussion. Open discussion was allowed on the *Resolution for the Discontinuation of Native American Indian Mascots in the State of Tennessee*. Public comments were heard from: **Bruce Lemire, Alice Henry, Mary Lemire, John Smith, and Ed Vinson.**

Motion #8

Commissioner Vaughn moved that the Commission of Indian Affairs adopt the *Resolution for the Discontinuation of Native American Indian Mascots in the State of Tennessee* sponsored by Don Merzlak, Greenville, TN, and approved by the Advisory Council on Tennessee Indian Affairs, 19 February 2005. Seconded by Commissioner Aseret. Motion Carried.

Commissioner Aseret commented on the need for a Native American Holiday. November is national Native American Indian month; only the Native American Indian people do not take noticeable advantage of the opportunities it offers. He encourages more Indian visibility and involvement in our community affairs.

Discussion was opened on the Pinson Mounds issue. **Tom Kunesh** read from his computer file the Resolution to Protect the Integrity of Pinson Mounds. **Mr. Kunesh** commented that tree farming on this site could extend until the year 2035 unless the resolution can be put into effect. He reminded that bills must be filed for legislative action in this year between now and February 15, 2006. **General Council Ed Harris** explained the tree farming process.

Motion #9

Commissioner Vaughn moved that the TCIA adopt the Resolution to Protect the Integrity of Pinson Mounds, and send a Commission letter requesting Senator Harper and Representative Kernell's consideration for sponsoring the resolution. Seconded by Commissioner King. Motion carried.

ACTIA Chair, **David Teat**, spoke on the ACTIA recommendation for Native American Indian representation on boards and commissions involved with cultural resources. He explained that the recommendations relate to the sacred sites issues before the Commission at this time. **Mr. Teat** presented a document approved by ACTIA requesting the TCIA to adopt their recommendations.

Motion #10

Commissioner Vaughn moved that the TCIA adopt the ACTIA Request to the State Park Commission for Native American Indian representation in state park planning. Seconded by Commissioner Aseret. Motion Carried.

The discussion on parks issues included the previously adopted resolution regarding Little Cedar Mountain. The House Joint Resolution 84 by Russell Johnson addresses this issue.

Motion #11

Commissioner Vaughn moved that the TCIA send letters of endorsement to the speakers of the House and Senate for HJR 84. Seconded by Commissioner Aseret. Motion Carried.

Chair pro tem Allen presented information regarding two groups requesting action by the Commission on their recognition by the state. The AG Opinion No. 05-066 to the Cherokee of Lawrence County was that since they had filed under the previous Commission prior to sunset, and their petition had not been acted upon by that Commission; they would have to file again under the rules which will be determined by the present Commission. The other group, the United Eastern Lanape Nation of Winfield, Tennessee, petition had been approved by the previous Commission prior to sunset as a Native American Indian Organization in Tennessee, therefore, they are allowed to continue as a Native American Indian Organization. **Herstle Cross** explained the position of the Lanape. The group was recognized as an organization by the previous Commission not as a Native American Indian Nation, even though Nation appears in the name of the organization. General Counsel Harris suggested noting the AG opinion number and date regarding this issue. Discussion was extensive including comments by those of the public. **Paul Vaughn** asked if there is a listing of Native American Indian organizations previously approved by the Commission prior to sunset.

Motion #12

Commissioner Vaughn moved that the United Eastern Lanape Nation of Winfield, Tennessee be allowed to continue as a Native American Indian Organization in Tennessee pursuant to the AG Opinion No. 05-066, May 2, 2005. Seconded by Commission Trevino. Commissioner King-Yes; Commissioner Trevino-Yes; Commissioner Aseret-Yes; Commissioner Vaughn- Yes. (Chair pro tem Allen) Motion Carried.

Discussion on the TNNAC Referendum regarding metro caucus areas and grand divisions be considered as separate and equal caucus areas and nominations shall be eligible for election only for the caucuses in which they are legal residents. **Paul Vaughn** and **Deborah Kirk Rodriguez** spoke against the referendum. **Herstle Cross** said he would rather vote in his own area.

Motion #13

Commissioner King moved that the TCIA adopt the TNNAC Referenda and forward the TNNAC Referenda to Senator Harper and Representative Kernell for legislative action. Seconded by Commissioner Aseret. Motion Carried.

The Commissioners discussed including the issue of number of nominees to be submitted for Commissioners after caucuses. Presently two names are required. When only one candidate is valid to run for nomination, it presents the issue of which rule to break: The requirement of the Bill or the requirements of the Convention. The recommendation that this be addressed by a change in the Bill was voted to be tabled until the March 2006 meeting and to receive input at the February Public Hearing.

Motion #14

Commissioner Vaughn moved that the recommendation of number of nominee names presented for Commissioners of Indian Affairs be tabled until the March 2006 meeting and be put on the agenda for public input on February 11, 2006. Seconded by Commissioner King. Motion Carried.

Public Comment:

David Teat thanked all the Commissioners for taking their positions and encouraged all to cooperate with one another to get the work done. He stated he was proud of the actions taken today.

Herstle Cross stated that Tom Kunesh has always been a supporter of the Native American Indians and intends to see that Tom is given more information on the Lenapes.

Tom Kunesh spoke on the need for the communities to be made aware of the agenda items far enough in advance of the meetings to be able to study issues. He cautioned on covering items not prior placed on the agenda and not covering all the agenda items which are listed. Mr. Kunesh does not think that the answers to the Sunset Questionnaire should be presented as one document from the Commission unless the public has had opportunity to view the answers and have input. **General Counsel Harris** stated that to his knowledge this particular situation does not come under the Sunshine Law. **Chair pro tem Allen** explained that the questionnaire was delivered to all the commissioners for their input which she, as Commission Secretary has compiled into a set of answers. All the Commissioners will have opportunity to respond at the hearing, as well as the Commissioner who will be the principle speaker.

Lee Overturf asked to be last to speak. He asked the Commissioners to acknowledge this group as the Western Cherokee of Tennessee. He is only asking that we acknowledge them unofficially, at this time.

Kenneth Householder said they (the Cherokee of Western Tennessee) had come today to find out what they are to do. He said he has come under the Good Neighbor Policy to be recognized; that they (The Western Cherokee of Tennessee) are not asking for anything but recognition. He said that it seemed that the Commissioners were talking among themselves and the Attorney General was telling the Commissioners what to do. He says the Federal Government is in trouble over Indian issues and the Eastern and Western Bands are getting money that belongs to all Cherokees. He says that, if they can prove they are Cherokee, they are to get some of that money—that they (The Western Cherokee of Tennessee) will sue to get it. They will sue everybody. **Chair pro tem Allen** replied that the Commission and Commissioners are not new to the threat of lawsuits and will carry on our duties as the state expects.

Commissioner King stated that she is sorry that Mr. Householder got the wrong impression of the Commissioners discussing issues, but she takes his statement as a threat. "The Commissioners do not have time for threats but are here to get things done and are going to do what we can."

Closing prayer by David Teat

Commissioner King moved to adjourn. Seconded by Commissioner Trevino. Motion Carried

Meeting Adjourned 5:40 p.m.

Ruth Knight Allen, Secretary/Treasurer