

**Delaware Tribe of Indians
Delaware Tribal Council
Monday, June 6, 2011
Delaware Community Center
Minutes
Respectfully submitted by Verna Crawford, Council Secretary**

Chief Paula Pechonick called the Delaware Tribal Council meeting to order at 6:05 p.m. on June 6, 2011.

Former Chief Joe Brooks gave the invocation.

Secretary Verna Crawford called the roll. Those present were Chief Paula Pechonick, Vice Chief Chet Brooks, Treasurer Janifer Brown, Secretary Verna Crawford, and members Bill Hatch, Wayne Stull and Jenifer Pechonick.

Chief Pechonick welcomed guests. Guests present were Teri Jo Aaroe; Deborah Borjas, Lanny B. Creech, Cris Klinger, T. Wayne Harris (all Delaware of Idaho); Mr. and Mrs. Charles Randall; Greg Brown; Priscilla Mason; and Don Mason.

Don Mason reported that Chief Pechonick was in the *Oklahoma* magazine. He also commented that he had talked with the Superintendent of Tri-County Vocational Technology Center regarding a possible intern partnership. The Superintendent was receptive and would like to meet with the council. Wayne Stull suggested that the Superintendent be invited to the Tribal Council meeting on June 27, 2011.

Don Mason offered to hold a divorce clinic for any Delaware who want an uncontested divorce. He stated he would handle the case pro bono as long as it is uncontested and would have to be in Tulsa, Nowata or Washington County. Mr. Mason's information will be posted on the website and in the *DIN*.

Verna Crawford announced that the deadline for the July *DIN* is June 15.

Wayne Stull moved to approve the agenda as presented.

Jan Brown seconded the motion.

Motion carried with seven yes.

Jan Brown moved to approve the May 2, 2011 minutes with corrections.

Jenifer Pechonick seconded the motion.

Jan Brown noted there was not a person listed as who seconded the motion to approve the agenda. TJ Aaroe volunteered that Jan Brown seconded that motion.

Motion carried with six yes and one abstention (Bill Hatch).

Verna Crawford moved to approve the treasurer's report pending audit.

Discussion: Printed report in packet.

Jenifer Pechonick seconded the motion.

Motion carried with seven yes.

Unfinished Business:

LIHEAP (Low Income Home Energy Assistance Program)

This program is funded by the federal government to assist low-income tribal members with their utilities. Assistance may be received twice per year, one for heat and one for air conditioning. Applicants must be low income, tribal members, and live in the five county tribal jurisdictional area to qualify.

Last year the grant included \$5,000 to purchase portable heat and air conditioning units to loan to tribal members. The units were ordered and paid for, but not delivered. When this was discovered the Chief requested the money be returned to the Tribe. The plan was to purchase different units. Before this purchase was made the grantor asked for the money to be returned. Wayne Stull commented that if you don't use it you lose it.

The LIHEAP grant requires an annual application. The Tribe does have money available for Tribal members' applications.

LIHEAP information will be placed on the web site.

Idaho Delaware

Chief Pechonick stated that at the May Council meeting Jenifer Pechonick moved to appoint a committee to research the feasibility of and the best vehicle to allow the Idaho Delaware to become members of the Delaware Tribe. Tom Moore was appointed chairman. Members included Chet Brooks, Jenifer Pechonick, Charles Randall, Don Mason, Cris Klinger and others.

The committee had two conference call meetings. The duties, as understood by the committee, were to try to verify the information received at the May Council meeting and to research the best way to bring the Idaho Delaware into the Tribe, if that was what the Tribal Council chose to do.

Idaho Delaware Committee Report to Council

After reviewing the available materials, performing research in applicable areas, and several discussions with the committee members, we have found two distinguishing issues that we feel must guide the Tribal Council's next steps with the Idaho Delaware's membership request. We have also come to a consensus on what we feel are the next appropriate steps to take if it is the Tribal Council's wish to assist the qualified Idaho Delaware to gain membership into the tribe.

Issue #1 – There are several groups across the country claiming to be “Delaware Indians,” but the Idaho Delaware group is distinct from all other groups that we are currently aware of and, as such, are due additional consideration. As many of you may know, the case of the Idaho Delaware is unique because their lineal ancestors trace back to our Oklahoma group and were part of the group who left Kansas for Oklahoma during the late 1800's. Available information traces the Idaho Delaware's ancestor (Rebecca Lucas) to the 1867 Pratt Removal Rolls and was due an allotment in Oklahoma like so many of our own ancestors, however, she died sometime prior to 1898 and was therefore not listed on the 1906 rolls. Her heirs/children were misidentified on subsequent rolls and eventually left Oklahoma and ended up in Wyoming and then Idaho. The committee feels that given this similar identity and history (as Delaware Indians removed from Kansas to Oklahoma), there is no other group befitting the rightful heirs to Rebecca Lucas than our own.

Issue #2 – The Delaware Tribe of Indians Constitution stipulates in Article 2, Section 1 that our tribal members be those included on the 1906 per capita roll and their descendents. The second paragraph of that Section gives the Tribal Council “the power to enact ordinances, to

establish rules and regulations governing membership, adoption, procedures for enrollment, and preparation and approval of an official membership roll.” As we all know, this Constitution was re-adopted by our people and submitted to the BIA as part of the approval process to regain our federal recognition. The main issue here lies in the reading of that second paragraph. Since the terms, membership, adoption, and enrollment are not defined within the document, they are subject to interpretation. We feel that if someone in a position of judgment were to interpret them strictly, the second paragraph of that Section may read as giving the Tribal Council the authority to oversee the policies and procedures in place to ensure that the requirements of the first paragraph are met, i.e. adopting genealogy forms, enrollment cards, membership cards, etc. to prove lineage from the 1906 rolls. However, if someone in a position of judgment were to interpret the terms more broadly then the second paragraph may actually vest the Tribal Council with the ability to perform adoptions of new members into the tribe after establishing rules and regulations to do so. The problem here is that nothing in the document appears to support that broader reading, performing adoptions is not listed in the enumerated powers of the Tribal Council in Article 5 of the Constitution, and aside from one instance (occurring long before our recognition issues) has adoption been a common tribal practice. Our conclusion is that the waters are far too muddy in this area and we are provided with no clean way to add membership to our tribe that would pass outside scrutiny from either tribal members or the BIA, and an amendment to the Delaware Constitution is needed to clarify the intentions of the language.

Rather than attempt to create some vague new regime within our constitution or rectify the above-described issue in regards to adoption and enrollment, our basic concept is to do the bare minimum change that will provide the desired result without any undesired side effects. We agree that if our Constitution included an earlier roll of those removed from Kansas to Oklahoma, whom many of us already consider to be our kinsman, were used along with our 1906 per capita roll, then the Idaho Delaware could become eligible for membership and the integrity of our tribe would not be breached. One major concern is that we would need to fully vet any list to ensure that it only includes those who share this common bond, and it is also important that the list was prepared by the federal government during roughly the same time period. This should alleviate any concerns about objectivity or impropriety in our process or reasoning.

To be clearer, the committee feels that the next best steps are as follows:

1. Determine whether or not the Tribal Council supports the membership of the Idaho Delaware in our tribe. (Funds will be required to perform the following task and support will be needed to keep this process moving forward.)

2. Contract with Dr. Obermeyer to evaluate and compare the 1906 rolls currently used with the final roll compiled of Delaware living in Kansas who opted to remove themselves to Oklahoma with the rest of the tribe— likely the 1867 Pratt Removal Roll, though research may provide a better candidate roll. (At the conclusion of this evaluation a decision will need to be made about the best way to proceed, whether that roll can actually be used without unknown complications, if a different roll should be evaluated, or any other issues that may arise through such evaluation.)

3. Seek a pre-conditioned BIA approval of a minor Constitutional change to include an additional roll as a source for membership to identify any issues. (If the BIA is adamant about denying any such requests or is unsupportive of the concept, it would be better to know early on to properly maneuver through any obstacles prior to getting the full tribal body involved.

4. Package the information for tribal membership and either pull together 100 signatures to get an amendment including such roll in the membership provisions of the constitution or seek a

2/3 majority passed resolution from the Tribal Council to get on the ballot. (To avoid backlash over cost, this would probably need to go on a regularly scheduled election ballot.)

5. Receive 2/3-majority vote in the Tribal Election.

6. Return to the BIA for final approval of the constitutional amendment.

In closing I would like to note that we are all very appreciative of the opportunity to serve the tribe and will await further direction from the Tribal Council. During our last conference call we requested that Dr. Obermeyer prepare a cost estimate to evaluate and compare the past rolls and that will be provided once it is complete, though it is important to note, that his work is not an exact science and will be an estimate only.

Thank you, Tom Moore

It was noted that, of the 1500-plus Delaware were removed to Indian Country, 70% died before 1906. The Idaho Delaware trace their lineage from Rebecca Lucas. She was on the 1867 Pratt Removal Roll and on a later roll taken in 1893. She died before the 1906 Dawes Roll. Had she lived she and her descendants would have been on the Dawes Roll.

The 1996 Delaware Tribe re-recognition document stated that there are five known Delaware groups: Delaware Nation in Anadarko, OK; Stockbridge-Munsee, Kansas Delaware, Idaho Delaware, and the main body in Oklahoma. Federal and Court documents identify the Idaho Delaware as part of the main body of the tribe removed from Kansas in the late 1800.

The Committee presented one possible avenue, there may be others, and the Tribal Council must decide the best path to follow.

Discussion of whether the Constitution gives the Tribal Council the right to adopt people into the tribe by ordinance or means was lengthy. The portions discussed were Article II--Membership and Article V--Powers of the Tribal Council. The second paragraph of Article II could be interpreted to mean the Council could adopt people into the Tribe or to adopt rules and regulations.

Article II Membership

Section 1. The membership of the Delaware Tribe shall consist of all those persons whose names are included on the Delaware Indian per capita roll approved by the Secretary of the Interior on April 20, 1906, and their descendants.

The Delaware Tribal Council shall have the power to enact ordinances, to establish rules and regulations governing membership, adoption, procedures for enrollment, and preparation and approval of an official membership roll. Provided: Nothing contained herein shall be construed to invalidate the presently existing membership roll or the membership of those persons enrolled prior to the effective date of this Constitution and Bylaws.

Jan Brown asked what is the difference of an ordinance verses a Constitutional Amendment?

An ordinance is a law passed by the Tribal Council and as such could be repealed or amended by future Councils. If either of these actions were to be taken in the future all the Idaho Delaware could lose the tribal membership the proposed Ordinance would grant.

A Constitutional Amendment would be approved by the voting membership of the Tribe. Changing or revoking an amendment would also have to be voted on by the voting membership of the Tribe.

Verna Crawford stated that she is in favor of bringing the Idaho Delaware into the Tribe. When we do it should be the right way, so that the action will stand.

The Council decided to place articles in the July DIN addressing all aspects of including the Idaho Delaware in the Tribe. This would include their history, benefits their membership would bring the Tribe as a whole and what we can offer them. The Council will ask for Tribal members to respond, giving their opinion on including the Idaho Delaware as tribal members.

Chet Brooks moved to adopt An Ordinance of the Delaware Tribe of Indians and Delaware Tribal Council Granting Membership to the Members on the Existing Rolls Dated 16 May 2011 of the Delaware of Idaho.

Jenifer Pechonick moved to table this issue till the August meeting. Seconded by Wayne Stull.

Discussion: A motion to table to a set time overrides a motion on the floor

Question: Will this action stand and not be able to be undone?

Answer: No, the only way to prevent the possibility of having the action repealed is for the people to vote. The consensus of the council is that they support the inclusion of the Idaho Delaware as tribal members. When action is taken it will be with the knowledge of the general Tribal membership.

Approved with four yes (Chief Pechonick, Verna Crawford, Jenifer Pechonick, Wayne Stull) and three no (Chet Brooks, Bill Hatch, Jan Brown).

The council will consider and act on the issue at the August meeting.

Chief Pechonick called for a ten-minute recess at 9 p.m.

Meeting returned to session at 9:14 p.m.

Verna Crawford reported that she had attended the SPIHA (Southern Plains Indian Housing Association). One of the sessions was on NASHDA Basic regulations. That presentation showed the complexities of the regulations. Crawford spoke with Wayne Simms, head of the Oklahoma HUD office, regarding the Tribe becoming the Tribal Designated Housing Entity.

Simms cautioned to be sure to have a new sub-recipient agreement with the Cherokee Nation before revoking the one in existence. If we do not have an agreement the Cherokee could take over the Housing Authority. He indicated that the Housing Authority of the Delaware Tribe was doing a very good job and questioned the feasibility of changing something that was working. His comments were just suggestions, and not meant to be anything else. A new agreement needs to be negotiated to try to get the needs portion of the Housing money which would allow the Housing authority to do more for tribal members such as minor rehab work on low income homes and more.

Personnel committee will meet on June 27, 2011 to review and update the personnel policy.

Office Report:

Jenifer Pechonick pointed out that Chris Miller was an intern from Tri-County Tech, he is a tribal member, and did a great job. When his internship ended, he was hired as a temporary employee to do filing and other office duties, such as receptionist.

The enrollment department has recently attended training and returned with information on a new program.

Wayne Stull moved to purchase the PROGENYES program for enrollment and genealogy to come out of space costs.

Jan Brown seconded the motion.

Motion approved with seven yes.

Chet Brooks read the poll vote on a consultant's contract with Tom Jullian. Chief Pechonick, Bill Hatch, Chet Brooks, Jan Brown, Wayne Stull voted yes. Verna Crawford abstained.

Wayne Stull questioned the content of the contract not being what was discussed. Secretary Verna Crawford read the poll vote into the record the addendum to the River Trails agreement on May 24, 2011. Four yes (Chief Pechonick, Wayne Stull, Jan Brown, and Jenifer Pechonick), two no (Chet Brooks, Verna Crawford) and one abstention (Bill Hatch).

Verna Crawford moved to approve the two poll votes as presented.

Bill Hatch seconded the motion.

Motion carried with six yes and one no (Wayne Stull).

Verna Crawford noted that the Delaware Tribe Historic Preservation Office Report by Brice Obermeyer and the Environmental General Assistance Program Grant and USEPA Air 103 Report by Frank Hensley, director were in the packet for review.

Jenifer Pechonick moved to approve resolution 2011-11 appointing Verna Crawford as delegate and TJ Aaroe as alternate to the National Congress of American Indian Mid-year Conference.

Seconded by Jan Brown.

Motion carried with seven yes.

Verna Crawford moved to approve resolution 2011-12 Confirming the establishment of the Delaware Historic Preservation Office.

Seconded by Bill Hatch.

Motion carried with seven yes.

Jenifer Pechonick moved to approve resolution 2011-13 Approving 18 applications for Tribal membership.

Seconded by Wayne Stull.

Motion carried with seven yes.

Jenifer Pechonick moved to approve resolution 2011-15. A resolution of the Tribal Council of the Delaware Tribe of Indians Authorizing the commitment of Three (30) Acres of land for the Infrastructure including the expansion of the retention pond and elder nutrition kitchen and construction of parking lots and roads for an Indian Community Block Grant FY 2011.

Seconded by Verna Crawford.

Motion carried with seven yes.

Jenifer Pechonick moved to approve resolution 2011-16. A resolution of the Tribal Council of the Delaware Tribe of Indians Authorizing the Operation and Maintenance Plan and Funds for an Indian Community Block Grant FY 2011.

Seconded by Bill Hatch.

Motion carried with seven yes.

Jenifer Pechonick moved to approve resolution 2011-17. A resolution of the Tribal Council of the Delaware Tribe of Indians Authorizing the Submission of Application for an Indian Community Block Grant FY 2011.

Seconded by Bill Hatch.

Motion carried with seven yes.

Judicial Appointment:

Wayne Stull moved to appoint Don Mason to fill the seat vacated by the death of Judy Harman.

Seconded by Jenifer Pechonick

Motion carried with seven yes.

Wayne Stull moved to appoint Charles Randall to fill the seat vacated by the resignation of Seth Pickett.

Seconded by Jan Brown

Motion carried with seven yes.

Other Business:

Jenifer Pechonick moved to accept the recommendation of the personnel committee of May 2 (hired Elder Nutrient Activities Director and Cook) and June 6, 2011 (employee evaluations and raises).

Seconded by Jan Brown

Motion carried with seven yes.

Chet Brooks moved to pay the expenses for a representative to attend the Annual Idaho Delaware meeting on June 25, 2011.

Seconded by Bill Hatch

Motion carried with six yes and one no (Wayne Stull).

Chief Pechonick adjourned the meeting at 9:15 p.m.