

Quapaw Tribe of Oklahoma  
Special General Council  
January 31, 2004

CALL TO ORDER: 10:00 AM

INVOCATION: Jesse McKibben

WELCOME: Chairman John Berrey

Chairman Berrey: "First of all, I can't tell you how excited I am personally to see so many people here. It's obvious that the decisions that are being made today are very important to everybody in this room. Everybody sitting at the table in front of you works hard every day for each of you and for the benefit of all the people that we serve. We take this very serious. We believe this will be a watershed moment in the history of the Quapaw Tribe. I believe today we have an opportunity to go into the future. In order to go forward, we have to look back, and we have to do some things about the past to make our future brighter. And some of those decisions are going to be made today. We have been working very hard with all of the loyalty to you all and with all sincerity to try to do our very best job for you. We would like to keep this meeting on a non-personal level and stick to the issues." In order to keep the minutes, you will be recognized from the floor, then line up at the podium, state your name and will be given one minute to speak. Ten minutes prior to the ending of the agenda item, we will call for a vote. When voting, all non-members, those not by Quapaw blood, and those persons under the age of 18 are asked to leave the room. Time-limits were set because people want to come to the meeting to take care of business and go

Chairman John Berrey announced that another Special General Council has been set for April 24, 2004. One of the topics to be discussed is Gaming.

AGENDA TOPIC – PROPOSED ELECTION ORDINANCE

The Quapaw Election Committee and the Business Committee has amended the current election ordinance per the direction of the July 4, 2003 General Council. The proposed election ordinance was amended to reflect quality provisions borrowed from the election ordinances of the Stockbridge-Muncie and Eastern Cherokee tribes. The document is easier to read and understand.

AGENDA TOPIC – ELECTION TO FILL THE VACANCY ON THE GRIEVANCE COMMITTEE

Chairman John Berrey explained when Harry F. Gilmore resigned from the Grievance Committee; it left a vacancy to be filled.

AGENDA TOPIC – TRIBAL TRUST LITIGATION SETTLEMENT

Chairman John Berrey explained the Department of Justice requested amendments to the resolution being presented today. (ALL CHANGES TO RESOLUTION NUMBER 013104-A WERE UNDERLINED) The Business Committee reconvened January 30, 2004 to make the requested amendments. According to Robert's Rules of Order, the Committee that makes the motion can make an amendment to a resolution before the vote, if there is a consensus, and providing that it does not alter the ultimate meaning of the resolution, which it does not. This is about coming to a resolution of the mismanagement of issues for all people. This lawsuit is about all of the people; the eight individuals named are representatives of all people. Issues being looked at are mining and chat, town lots, agricultural leases and grazing leases. If the settlement were approved we would go into a formal process with the Office of Historical Accounting, to come up with an audit and findings that they will openly mediate with every family that is a descendant of an original allottee; at no cost to any member of the Tribe. Trust case litigation cost and trust case document cost will be paid back to the Tribe. Document review costs could be paid back as early as this month. Litigation costs will be paid back in the first step of the mediation process.

#### AGENDA TOPIC – PURSUIT TO SELF-GOVERNANCE

Chairman John Berrey explained under Public Law-638, the Quapaw Tribe since 1997 has entered into “PL-638” contracts with the Department of the Interior. When the Tribe enters into a PL-638 contract, the money is sent to the Miami Agency, and is then contracted out to the Tribe. This resolution is about getting all of the funding for specific contracts to better serve the participants of the programs being contracted. The Tribe has met all requirements for compacting the federal programs that the Tribe currently manages under PL-638 contracts.

#### AGENDA TOPIC – LAWSUIT AGAINST THE MINING COMPANIES RESPONSIBLE FOR DAMAGES AT THE “TAR CREEK SUPERFUND SITE”

Chairman John Berrey explained that the Tribe has recently filed this litigation to force the companies that made huge fortunes in the mine located in the Tribe’s homeland to live up to their responsibilities to the Quapaw landowners and to all members of the Quapaw Tribe. Chairman John Berrey also explained never in the history of the United States has a landowner ever been successfully sued for environmental damages on property they owned, which were done by someone else. The lawyers that the Tribe have will render services to anyone who has been sued in this case at no cost to those people.

#### **Topic – Election Ordinance (SEE ATTACHED)**

Russ Garber, Chairman of the Election Committee reported how well last year’s election was ran using the current election ordinance. After the election in July, the Election Committee met regularly to come up with the proposed election ordinance being presented today. If the proposed election ordinance presented today is voted down, the current election ordinance would still be in effect. If passed today, there is still time for reviewing and amending of the ordinance.

#### Comment Session

Tom Supernaw: Asked for clarification on filing for candidacy privileges for persons convicted of felonies  
Response: An attorney would have to make a determination, based on the conviction, as to whether or not the individual is eligible to file for office.

Carrie V. Wilson: Concerned about the appointment by the Business Committee, of the Grievance Committee members if there was a vacancy: this normally is handled by the General Council. Also, would like to see any revisions to the ordinance be presented at the April 24, 2004 Special General Council and the July General Council.

Response: Chairman John Berrey announced that he would make the election ordinance a part of the Agenda for the July General Council as stipulated by Carrie V. Wilson.

Sidney Griffin: Asked to “hold off” the election ordinance until the July 4, 2004 General Council meeting

Beth Blalock: Concerned about “coin toss” if there is a tie, appointment of a Grievance Committee member (if vacancy occurs) by the Business Committee, the number of signatures required to make amendments or revisions, and the number of signatures required for the recall of Business Committee members if they are not doing their job. Suggests to not vote for the proposed election ordinance.

Robert Whitebird III: Thanked the committees for their work on the ordinance. Has some of the same concerns as Beth Blalock. Disagrees with requiring voter registration cards.

Russ Garber: Voter registration helps determine eligibility to vote. The Quapaw Tribe allows enrolled members of the Tribe, as well as those by blood to vote.

Jesse McKibben: Requests that the Election Day be set as July 4<sup>th</sup>.

Linda Kay: Glad to see such a great turn out for today. Does not like the current election ordinance that the Tribe is operating under; but does like the proposed ordinance better. Thanked all those who worked on the ordinance. Concerned with the direct conflicts of the Governing Resolution. Would like to see the proposed election ordinance to be on the April 24, 2004 Special General Council Agenda.

Russ Garber: The proposed election ordinance is still a draft and can be amended; then bring the final to the General Council.

Chairman John Berrey: The question at hand is, do we accept the current proposed election ordinance, or stuck with the one we are under? With the caveat, if the one is chosen today, the next General Council, we will have a vote to amend it further.

Sonny Glass: Commended the work done on the ordinance. Concerned with appointments by the Business Committee. Does not like the current ordinance. Recommend that the proposed election ordinance be placed on the Agenda for the April 24, 2004 Special General Council meeting. Does not recommend voting for the proposed election ordinance.

Chairman John Berrey: As a reminder, if we amend the ordinance and leave it for the April 24, 2004 Special General Council it will not take effect for the July election.

Chairman John Berrey CALLS FOR THE QUESTION. Point of Order. The resolution before the General Council today, comes as a motion from the Business Committee, a sub-committee of the General Council, and it requires a second.

**RESOLUTION NUMBER 122003-A, A RESOLUTION TO APPROVE THE 2004 ELECTION AND VOTING ORDINANCE DRAFT FOR THE QUAPAW TRIBE AND TO REFER SAME TO THE GENERAL COUNCIL OF THE QUAPAW TRIBE FOR APPROVAL. Seconded by Quapaw tribal member James Newlon. Without further discussion, call for the question.**

**VOTE: 86 YES   72 NO   4 ABSTAINING   MOTION/RESOLUTION APPROVED.**

**Topic – Election of Grievance Committee Member to Fill Vacancy**

Nominations were taken from the floor.

Jesse McKibben nominated **Tommy Supernaw**; seconded by Sidney Griffin.

Christa Owens nominated **Jesse McKibben**; seconded by Shirley Baker

Ardina Moore nominated **Judy Griffin**; seconded by Julia Pebeahsy.

Tammy Springer nominated **James Gilmore**; seconded by Charlie Bill Hirsch

Edwina Busby nominated **Beth Blalock**; seconded by Don Kropp.

Debbie Wray nominated **Myron Quapaw**; seconded by Tamara Summerfield.

Motion by Sid Griffin that nominations cease. Seconded by Steven Moore.

**ELECTION TO FILL THE VACANCY ON THE GRIEVANCE COMMITTEE**

VOTE:	Tommy Supernaw	<u>18</u>
	Jesse McKibben	<u>25</u>
	Judy Pebeahsy	<u>25</u>
	James Gilmore	<u>28</u>
	<b><u>Beth Blalock</u></b>	<b><u>37</u></b>
	Myron Quapaw	<u>28</u>

Break at 10:50 am – Return to Agenda 11:00 am

VOTE RESULTS: Beth Blalock was elected to the Grievance Committee to fill the vacancy.

**Topic – Settlement Agreement (SEE ATTACHED)**

Chairman John Berrey gave a brief review of the settlement agreement. The Arthur Anderson report for the Department of the Interior. (Arthur Anderson Audit of Tribal Trust Funds) was conducted in 1996. The Quapaw Tribe received the report in February; discussion from the United States Congress that the statute of limitations would come into effect February 14, 2001. Since 1957 the Quapaw Tribal Business Committee has contracted, built buildings, have successfully sued the State of Oklahoma; have drawn down Trust Funds, and numerous other things that have spelled out the authority of the Business Committee to file this litigation. Chairman John Berrey asks for tribal members to consider approving the resolution for the settlement agreement. The Department of Justice allowed the Tribe to have access to 4 books that spell out the proposal of the agreement, but they will not allow them to be taken, they are only here for review. Confidentially and protective orders have been issued regarding this litigation.

**General Council Resolution no. 013104-A, (as amended) A RESOLUTION TO APPROVE PROPOSED SETTLEMENT OF THE QUAPAW TRIBE OF OKLAHOMA V. THE DEPARTMENT OF THE INTERIOR, ET AL., CASE NO. 02-CV-129 B (M) PENDING IN THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA. Seconded by Quapaw tribal member Ardina Moore. Discussion.**

Comment Session

Sid Griffin: Would like to point out this suit was filed without the authorization of the General Council And does not feel like enough time was given to the tribal members to review. he is for this, but has doubts. Doesn't like the "gag orders" placed on the lawsuit.

Jesse McKibben made a motion to lift the "one minute" time limit established for tribal member comments

Chairman John Berrey announced that there is already a motion on the floor with a second; therefore no other motions can be accepted at this time.

Johnnie McKibben Clemons: Discussed Inhofe's requests and plans and is concerned why the Tribe would be getting less than others.

Chairman John Berrey: The \$1.1 million is an origination, with a \$3.25 million cap just to do the analysis That doesn't affect any money that will come after the analysis in mediation.

Comment Session – Topic – Settlement Agreement

Sidney Griffin: Concerned about the “gag orders”, no one will know what’s going on except the litigants, the Business Committee; Concerned about the costs. Feels like there are only very few that are going to benefit from the outcome. More in depth discussion is needed.

Beth Blalock: Concerned about the legal fees. Concerned about the Business Committee member(s) becoming involved with any tribal members business; feels like this lawsuit violates the original minutes of first meeting; and to her knowledge the motion has not been rescinded.

Brenda McDunner Murray: Does not feel like Tribe should get any of the funds; all funds should go to direct descendants of each particular family.

Chairman John Berrey: The only funds the Tribe will receive will be for the Tribal Trust Accounts; all individual monies will go straight to the descendant of that specific individual. This just provides for members to go to mediation voluntary or not.

Jo Kay Dowell: Doesn’t feel like the members have enough information and encourages members not to pass this resolution until discussed more at length.

Chairman John Berrey: Information packets have been mailed out, public meeting have been held, and the Business Committee has tried to be as open as possible with the restrictions that have been placed on the Tribe by the Department of Justice. Once the Agreement is made, it becomes more public and more information comes available at that time.

Kayte Pratt: Supports the resolution. The Quapaws' are the first to get to the point of settling with the government. It’s time to put trust in the attorneys, individual plaintiffs and the Business Committee.

Sidney Griffin: Recommends forming a committee, separate from the Business Committee, one that will report more often and unbiased to the tribal members.

JR Mathews: Commented that this suit was filed in February of 2001 and Beth Blalock was a part of the Business Committee that voted to file the lawsuit. The actions of this Business Committee has gone back many years dealing with these types of issues; that is why we elect the people wish to serve. The Business Committee is here to serve and help each tribal member. This information has been presented at the last two General Council meetings. This is a class action suit; it’s a representative suit for all the people.

Barbara Kyser-Collier: A personal representative for her mother Reberta Kyser, in this lawsuit. Every tribal member will benefit from this lawsuit. Discussed how mining companies, etc have raped the land and went off and left it and all of it was allowed by the Department of the Interior. We should get money from them any way we can. This is the right thing to do. The Tribe needs to get out from under the federal government.

Sue Dowell. Concerned that she has never received any mailing, notices etc.

Sid Griffin: Again, consider forming a committee to adequately inform the tribal members of what is going on. Not against this resolution; tribe should have been awarded this many years ago. We need to look more in-depth; the Business Committee has over-stepped their authority with out the approval of the General Council. More information needs to be given to tribal members; no more “gag orders”

Comment Session – Topic- Settlement Agreement

Edwina Busby: A representative for the Goodeagle family in the lawsuit; family has trusted her to be their representative. The government needs to pay restitution for what they have done. Representatives have not been able to talk; paperwork cannot be copied; this would hinder the process to go forward. Asking tribal members to pass this resolution for their own benefit.

Ardina Moore: Here to support the Business Committee; we elected these officials to conduct tribal business. It's not feasible to have monthly General Council meetings to conduct business; these people are doing a thankless job. The Business Committee members receive no big paychecks; they each get \$100 a month. A representative named in the lawsuit, representing the entire tribe. She explained how some of this came about (1997) with contractors sub-leasing property. Spoke of the history of the tribe.

Colleen Wilson-Austin: With regards to the subject being discussed, time is running out; we have to start somewhere. This litigation is essential to get the situation resolved. Supports voting yes on this action. It is to the Tribe's advantage.

Ed Rodgers: A plaintiff in the lawsuit; only representing those who want him to; is not trying to interfere with anyone's business. The government needs to be held accountable. Supports this action. No matter what the outcome of this meeting, or how you feel about these issues, please leave here today as brothers and sisters.

Perry Mathews: Supports the Business Committee; they were elected by the General Council. Recommends that all members support the passing of the resolution presented. It's time to move forward and have settlement for our ancestors and for our families of the future.

Lucian "Cricket" Rice: Make time; and take the time to find out what is going on with the Tribe. Can't have a future without knowing the past. Supports the Business Committee and the lawsuit. The Tribe has come a long way for our future.

A tribal member recommends that the minutes of the meetings be posted on the Tribe's web site.

**General Council Resolution no. 013104-A, (as amended) A RESOLUTION TO APPROVE PROPOSED SETTLEMENT OF THE QUAPAW TRIBE OF OKLAHOMA V. THE DEPARTMENT OF THE INTERIOR, ET AL., CASE NO. 02-CV-129 B (M) PENDING IN THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA. Seconded by Quapaw tribal member Ardina Moore. Without further discussion, Call for the Question:**

Chairman John Berrey announced that tribal members have made a request to those voting against, to reconsider to show the United States that we stand together as a Tribe, and if that is not the case we will go ahead and make the count. Other tribal members request to make the count.

**VOTE: 135 YES 18 NO 13 ABSTAINING MOTION/RESOLUTION APPROVED**

**Topic – Self-Governance Resolution – (SEE ATTACHED)**

Chairman John Berrey explained under Public Law – 638, the Quapaw Tribe currently has PL-638 contracts with the Department of the Interior, including Social Services, Indian Child Welfare, Vocational Education, Adult Education, Direct Employment Program, General Assistance and Consolidated Tribal Government Programs. Public Law – 638 allows Tribal governments to compact with the Department of the Interior, to use the money that is appropriated for their local agency, to perform the services that the Agency would perform, and do them in-house tribally. We are working on the fourth “clean” audit. The Tribe is **not interested** in compacting trust related programs, issues of IIM accounting, reality, or probate.

**GENERAL COUNCIL RESOLUTION NO. 013104-B, A RESOLUTION TO REAFFIRM THE BUSINESS COMMITTEE’S CONTRACTING AUTHORITY. Seconded by Quapaw tribal member Debbie Wray. Discussion:**

Comment Session

Sonny Glass: Former Business Committee Member, former Tribal Administrator would like to know the status of previous years audits and if confirmations were received.

Chairman John Berrey: Current audit is FY 2003. Audits for FY 2000, FY 2001 and FY 2002 have come back with no findings. FY 2003 has not been completed.

Sid Griffin: Believes that if the Business Committee sticks strictly to “638” contracts and not have the authorization to extend beyond that we will be OK. Concerned that if the pursuit to self-governance is approved we are giving the Business Committee a blank check to do away with the Tribe. Does not support this resolution. Does not feel the Business Committee needs complete control.

Barbara Kyser-Collier: Twelve years ago she left the Tribe as the Administrator. Since then has annually checked on the status of the Tribe’s application for self-governance; no clean audits, no this, no that. Finally, we are at a point where we can apply. Years ago the eight tribes had to meet to approve budgets for the “638” contracts at the Miami Agency. Community Services was agreed upon to operate the offices, education was agreed upon for our children; after that everything was a mess. The Quapaw Tribe needed things that other tribes didn’t need. The Bureau was allowed to dictate to the eight tribes; why should we allow this to continue. How many years has a group of people as a Business Committee, ever done anything that they meant to be harmful for the Tribe? The intent of the Business Committee was so that they could conduct business for the Tribe. The Bureau wrote the resolution and forced the Tribe to use it; at the time the Business Committee agreed so they could move on and tribal members could receive their payment. The intent was not to halt daily business of the Tribe as it grew. The Tribe has grown into big business. The Bureau would not even give the Tribe their share of the funds to write the proposal; it would take away from their operating expenses. The Bureau should not be able to prioritize the Tribe’s money to the Bureau’s needs. The Tribe should be able to prioritize the money to fit the Tribe’s needs.

Shirley Payton: Former Business Committee member. Thinks self-governance would be good for the Tribe. If there is language in the resolution that needs to be corrected then correct it today.

Steve Owens: As a student, studying tribal government, 90% of the “gripes” are about answering to the Department of the Interior. Moving forward with the resolution for self-governance would give the Tribe the ability to operate with more freedom and would also improve the sovereignty

Beth Blalock: Self-governance is a good thing. Concerned about the IIM accounts. Concerned that the Tribe does not contract their share of education funds from the Bureau.

Comment Session – Topic –Self-Governance

Tamara Summerfield: IIM accounts are not a part of the proposed self-governance plan. Only the portion of Social Services currently being administered by the Tribe are included.

Chairman John Berrey: IIM accounts are a division of the reality department of the Bureau of Indian Affairs; which the Tribe is not including in their plan.

**Motion by Warren Harkins to vote on this issue by secret ballot. Seconded by Jesse McKibben. Discussion. Secret ballots are for election purposes only. Motion is defeated by show of hands.**

Without further discussion, Call for the Question

**GENERAL COUNCIL RESOLUTION NO. 013104-B, A RESOLUTION TO REAFFIRM THE BUSINESS COMMITTEE’S CONTRACTING AUTHORITY. Seconded by Quapaw Tribal member Debbie Wray.**

**VOTE: 110 YES    15 NO    20 ABSTAINING    MOTION/RESOLUTION APPROVED**

**Topic – Pursuit of the Tribal Natural Resource Damage Lawsuit (SEE ATTACHED)**

Chairman John Berrey explained that the Tribe has recently filed this litigation to force the companies that made huge fortunes in the mine located in the Tribe’s homeland to live up to their responsibilities to the Quapaw landowners and to all members of the Quapaw Tribe. Chairman John Berrey also explained never in the history of the United States has a landowner ever been successfully sued for environmental damages on property they owned, which were done by someone else. The lawyers that the Tribe have will render services to anyone who has been sued in this case at no cost to those people.

**GENERAL COUNCIL RESOLUTION NO. 013104-C, A RESOLUTION TO CONFIRM THE PURSUIT OF THE COMPANIES AND ENTITIES THAT ARE RESPONSIBLE TO RESTORE THE LANDS WITHIN THE QUAPAW RESERVATION. Seconded by Quapaw Tribal member Debbie Wray. Discussion:**

Comment Session

Sid Griffin: Concerned that there was no urgency to file. Knowing that the General Council was going to meet this month; it was filed just last month. It was filed without the approval of the General Council. Counter suit has been filed; will those persons have legal representation? Feels that it was “sloppily” put together and filed; all persons named on the suit are being sued with anticipation of more names being added. Concerned about attorney fees. Feels like this money belongs to the Quapaw people.

Chairman John Berrey: The urgency to file was based on, ASARCO, one of the companies being sued, was recently purchased by another company out of New Mexico in an attempt to hide from their liability in this lawsuit. Other companies named have been working with the government to limit their liabilities by paying \$200,000 for a study of Tar Creek. Jason Aamodt is the Tribe’s attorney who is licensed to practice in the 10<sup>th</sup> District of Oklahoma. Allan Kanner, the Tribe’s attorney for this lawsuit has agreed to provide legal representation, free of charge, to any tribal member named in this lawsuit.



Comment Session – Topic – Pursuit of the Natural Resource Damages Lawsuit

Allan Kanner came to the Tribe three times before the Business Committee made any decisions on filing the lawsuit. The suit was filed on the authority of the law.

Barbara Kyser-Collier: Environmental Program Director for 9 years. With regards to attorney fees, 67% of something is better than 0% of nothing. Allan Kanner is one of the best. It makes sense for Allan Kanner to hire Jason Aamodt to take care of his local work here. All persons named in the lawsuit are going to be taken care of by Allan Kanner; we are protected no matter what we do. No tribal members are receiving payment for chat being hauled off. Fully supports approving the resolution to continue with the lawsuit.

Linda Kay: Concerned about the articles in the local newspapers regarding the counter lawsuit. Would like to have something in writing that the attorneys are going to represent tribal members ProBono in the lawsuit.

Jason Aamodt: The case is filed as a class action; the counter suit by the mining companies is a threat to intimidate tribal members. The counter suit was filed in a way, that they tried to sue people who are already represented “class members”. They cannot bring in people within the tribe as defendants, to the extent that legal representation is necessary. Both attorneys would be happy to provide legal representation, free of charge; ProBono. The Quapaw Tribe, through the Business Committee, under 40 CFR, Section 300.610, has the authority, and is the only entity, who has the authority to bring an action on your behalf, with the assistance of “class members”, that will bring fairness to you, that will bring compensation to you for the lost use of your land and the chat, and also clean up your land so that it is worth more in the future. Allan & Jason have a contract for Jason to provide services to Allan as local counsel; however he will only be paid if the Tribe wins; he (Jason) is completely at risk for his time, costs and effort; the Tribe is not paying anything for that.

Carrie V. Wilson: Concerned with the language in the resolution giving the authority to the Chairman of the Business Committee.

Chairman John Berrey: In no way, shape or form will any decisions be made about this case with out the concurrence of the Business Committee. Historically the Business Committee works with the approval of each other as a whole.

**With out any further discussion, Call for the Question**

**GENERAL COUNCIL RESOLUTION NO. 013104-C, A RESOLUTION TO CONFIRM THE PURSUIT OF THE COMPANIES AND ENTITIES THAT ARE RESPONSIBLE TO RESTORE THE LANDS WITHIN THE QUAPAW RESERVATION. Seconded by Quapaw Tribal member Debbie Wray.**

**VOTE: 143 YES 2 NO 4 ABSTAINING MOTION/RESOLUTION APPROVED**

Chairman John Berrey reminded everyone that lunch is going to be served. Also, there are 4 books regarding the settlement with the trust case available for tribal members to look at. The Justice Department will not allow copies to be made. Please check with the office to make sure we have current addresses.

Benediction: Andrew Gray & Ardina Moore.

Adjournment: 1:20 pm

**CERTIFICATION**

Presented and approved by motion, by the vote of the  
General Council of the Quapaw Tribe of Oklahoma on July 4, 2004.