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### JAT rules 2003 Constitution law

needed, she said. Justice Stacy Leeds issued a dissenting opinion, stating that federal approval for a new constitution was an act of diplomacy on behalf of the Cherokee people to the U.S. government.

"The requirement cannot simply be ignored," she wrote. "The McCaleb letter does not favorably compare to the previous federal approvals in terms of finality or clarity."

Because McCaleb no longer is a BIA official, Leeds stated, it is "inappropriate" for the court to rely solely on that status as a sign of federal approval.

Leeds argued the "McCaleb letter, which was written before the Cherokee people went to the polls, contains the following statement: 'We have no objection to the referendum as proposed, and I am prepared to approve the amendment deleting the requirement for the federal approval of future amendments.'

"This letter confirmed that the federal government had no objections to the language being presented to the voters, and it indicates that at the time, the Department of the Interior was 'prepared to approve' the amendment to the 1975 Constitution if adopted by Cherokee voters.

"A pre-election letter stating that a federal official is 'prepared to approve' an amendment does not constitute final federal approval to satisfy Article XV, Section 10, of the 1975 Constitution. It suggests that at least one additional federal action must be taken, once the election is held. ... A federal official can be 'prepared' to take certain action, and then never take such action."

According to Leeds' dissent, the federal government, in a letter provided in Keen's and Hannah's

pleadings, takes the position that federal approval was yet to be obtained. "On July 29, 2004, Regional Director of the BIA Jeanette Hanna provided to the principal chief a letter indicating that the McCaleb letter was only a pre-referendum statement."

Despite her dissent, Leeds stated she is prepared to comply with the ruling.

"This court has spoken, and the Cherokee government shall now operate under the 1999 Constitution (which was ratified in 2003)," she wrote.

The new constitution was effective immediately, with some provisions to be implemented within 60 days.

It creates a speaker of the Tribal Council, who will chair council meetings and be third in the line of succession to the head of government behind the principal chief and the deputy chief. It also creates two additional council seats, which will be elected at-large by voters residing outside the tribe's jurisdiction. The JAT ruled that until such elections can take place, the council has 60 days to seat its new members.

The new constitution also staggers terms for councilors and imposes term limits on councilors and the principal chief and deputy chief. Elected officials may not hold any office for more than two consecutive terms and those term limits will begin with the next election.

The new law provides for the creation of two new appointed posts: head marshal and attorney general. It also changes the name of the JAT to the Supreme Court and increases its size from three justices to five justices.

### Tribal councilors interview at-large candidates

By Teddye Snell, Press Staff Writer

Following passage of the 1999 Cherokee Constitution, the Cherokee Nation Tribal Council is seeking to fill two at-large council positions by appointment until the general election in 2007.

During a special rules committee meeting held Thursday afternoon, councilors interviewed 40 applicants for those positions.

The at-large officials will be appointed to temporarily represent Cherokee citizens residing outside the 14-county jurisdiction until the 2007 election, when the two positions will be filled by voting citizens.

Those interviewing Thursday included Wayne Garner, V. Keith Quinton, Jack D. Baker, Angel R. Smith, Charles A. Gour, Raymond Vann, Sean R. Nordwall, Regina R. Christie, Bob Leach, Elta Faye Ballard Dill, Lucille Meadows-Bartlett, Jennifer L. Barger-Johnson, Teresa Barbo, Pamela C. Peterson, Molly Brewer, Gayle Ross, Taylor R.M. Keen, Scott Gregory, Jeff Beilue Rhoton, Jeffery Vernon Merkey, Ann Wadley, Sherry Garrett, William (Bill) Ryan, Granville Neal Crittenden, Madeline A. Teague, Faron Ray Charles, Richard Lemmon, Gary L. Smith, Jo Layne (Jody) Sunday Kehle, Barbara Dawes Martens, Jerrid Lee Miller, Norman W. Crow Jr., Gifford Tallmadge, Barbara Starr Scott, Dallas Wayne Unger, Jay D. Atkin, Chad Corwyn Meek, Craig Pasqua, Beverly Patchell and Bradley Cobb.

Candidates were taken to a room outside council chambers and brought in one at a time for questioning. According to Cara Cowan-Watts, candidates were to be asked two general questions, then each council member could ask two or three questions.

Councilor David Thornton, Vian, took issue with the question limitation.

"Why can't we ask more than two or three questions?" he asked. "I may have several to ask."

Cowan-Watts said the question limit was in place to keep the time down to a minimum.

"I don't have a time limit," said Thornton. "I think this job is important enough that I'll stay all night if necessary."

Councilors did not vote on any candidates; they merely put them through an initial interview.

To be eligible, a candidate must be a citizen of Cherokee Nation by blood; 25 years old; not be convicted of a felony or crime under the laws of the Cherokee Nation that, committed in some other jurisdiction, would be a felony, or proof of a pardon of said crime from the appropriate jurisdiction; and not hold any office of honor, profit or trust in any tribe or Indian Nation, unless approved by the council.

The council must fill the positions by early August, as the law requires it within 60 days of the tribe's Supreme Court ruling.

Although the agenda was laden with old and new items, all but three were tabled until the July meeting.

Councilors passed an amendment to the election act, setting up specific days and times for citizens to cast in-person, absentee ballots. According to Tribal Council Attorney Todd

Hembree, those ballots may be cast from 9 a.m. to 5 p.m., Tuesday through Thursday, the week prior to the election.

In addition, councilors passed an amendment to rules and procedures governing the council members which prohibits the use of electronic devices during council official meetings.

Cowan-Watts immediately opened the question for discussion.

"I don't know where this is coming from," she said. "This just doesn't seem enforceable. Our constituents need to be able to reach us, and I'm not sure of the intent of this amendment, but these things are liberties each of us as adults should manage."

Councilor Melvina Shotpouch disagreed, saying cell phones, Blackberries and the like create distractions.

Councilor Phyllis Yargee agreed with Shotpouch about the distraction element, but didn't think manners should be legislated.

"I go along with Melvina," said Yargee. "But I don't know if we can legislate etiquette or good manners. People come before us, stand at a podium and make presentations. We need to show them we're listening and paying attention instead of typing on laptops or Blackberries, talking on cell phones, or rustling papers. We don't need to make it a law, but we do need to act like adults."

Following a heated debate, councilors narrowly rejected an act amending the corporation code placing the voting rights of shares of stock of corporations owned by the tribe with the tribal council. The vote was 7-7, but must be approved by a majority to send the proposed act to the regular council.

Again, Cowan-Watts was first to find fault with the proposition.

"I can't support this legislation," she said. "It violates our Constitution and creates a problem with separation of powers. Think of the logistics. Why would you want 15 elected officials being busy-bodies over your business, when it is the express power of the chief to conduct all business and communications for the tribe?"

Councilor Charles Hoskin asked for Hembree's legal opinion on the constitutionality of the act.

"It's completely constitutional," said Hembree. "The section of the constitution being referred to has a caveat. Nothing in it warrants all business to be done by one person or 17. It's up to councilors to decide what business they want the chief to conduct on their behalf."

General Counsel Dianne Hammons disagreed.

"Where does the Legislature's ability stop?" she asked. "This does, indeed, violate the constitution as it's written."

Hembree commented on having a number of people involved in the decision-making process.

"You're not having the councilors run the business," he said. "You're allowing them to have control of the voting shares of the stock. The board of directors runs the business and answers to shareholders in the business world. The purpose of this act is to have the board of directors

### Blood requirement goes to vote of the people

By Teddye Snell, Press Staff Writer

During the first meeting of the Cherokee Nation Tribal Council under its new Constitution, councilors passed a resolution proposing a constitutional amendment to require a blood quantum to determine citizenship.

The amendment will go to a vote of the people during the June 2007 general election.

A number of councilors wanted the issue placed on a ballot for special election in November, but the resolution calling for such was narrowly defeated, 8-7.

District 1 Councilor Bill John Baker was in favor of the matter being included in the general election, rather than holding a special election.

"I believe it would be cost prohibitive to hold a special election, and believe the Cherokee people are intelligent enough to decide on this matter on the general election ballot," he said.

Cara Cowan-Watt believes adding the item to the general election muddies the voting process.

"By having citizenship or blood quantum added to the general election, it makes the issue a political football for those campaigning for office," she said.

Tribal citizen Jim Ketcher was irritated by having to wait to vote.

"I'm disgusted," said Ketcher. "This goes against the Dawes Commission. The people want to vote on this issue now."

The issue involving a blood quantum specifically targets the Cherokee Freedmen and their rights as Cherokee citizens. Freedmen are descendants of former slaves of Cherokee citizens who were enrolled with the Dawes Commission.

of Cherokee-owned companies answer to a more representative body in the tribal council."

Thornton felt it in the best interest of the 250,000 citizens to have "17 sets of eyes" approve stock purchases and sales rather than just one.

Finally, the council passed a resolution authorizing the marshal service to submit an application to the U.S. Department of Justice Office of Community Orientated Policing Services, for \$404,897 to purchase new vehicles. The grant has a \$101,224 match to be met with pre-allotted funds from the tribe's motor vehicle division.

What's next

The next regular meeting of the Cherokee Nation Tribal Council will be held at 6 p.m., Monday, July 10, in the council chambers at the W.W. Keeler Tribal Complex south of Tahlequah

The Cherokee Nation Supreme Court ruled 2-1 in March that descendants of black freedmen must be recognized as citizens of the tribe.

The ruling sets aside a previous opinion against the descendants, and strikes down a 1992 Cherokee Nation Tribal Council law limiting citizenship to those who are "Cherokee by blood."

The council also elected a speaker and deputy speaker as required by the new Constitution. Councilor Meredith Frailey will serve as speaker of the council, and Charles Hoskins will serve as deputy.

The measure relieves Deputy Chief Joe Grayson from serving as president over the council. Frailey and Hoskins will serve a 90-day temporary term, giving the council time to seat the two new at-large tribal councilors before permanently filling the positions. The two new council positions will be determined by tribal councilors, with the positions coming up for election in June 2007.

Other action

In other matters, the council approved:

• David Tippeconic and Michael C. Webber as board members of Cherokee Nation Enterprises.

• Warren Ross and Charles Plunkett as board members of Cherokee Nation Industries.

• Increasing CNE's land purchase by \$6 million.

What's next

The next meeting of the Cherokee Nation Tribal Council will be at 6 p.m., Monday, July 10, in council chambers at the W.W. Keeler Complex south of Tahlequah.

on term limits:

Under the governance of the 1976 Constitution, there are no term limits. He can run and run and run. Under the governance of the 1999 Constitution, someone who has served TWO TERMS in the office of Principal Chief, must sit out for one term. Chad is currently serving his second term as Principal Chief. The 1999 Constitution derives its authority from the 1976 Constitution. The office of Principal Chief is the same office in both constitutions. In my opinion, he cannot run again until he sits out one term, he must sit out the next election. Will he, probably not. There will undoubtedly be a lawsuit against him and various council members in an effort to clarify the term limit question. Or, in the alternative, the election commission may choose to deny him and the two term councilors candidacy, in which case, the Election Commission will be sued. Either way, its going to end up in court.

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### Suit names Cherokee chief

By S.E. RUCKMAN World Staff Writer

time when it had approximately \$12 million in losses and no assets, according to the lawsuit.

The suit accuses the three of deliberately using misleading information on Securities and Exchange Commission reports with improper accounting devices that were intended to portray the company's situation in a favorable light.

The 12-page filing also contends that Majewski committed to buy the stock from the Global Energy Group sellers without due diligence. That failure has financially harmed the tribe and Cherokee Nation Industries, it claims.

Cherokee Nation Industries purchased Global Energy Group in August 2005 for about \$2.5 million.

Majewski was placed on leave June 7 pending a further review

by Cherokee Nation Industries' board for his part in the acquisition of Global Energy Group. The company has offices in Texas, Arizona and Florida, records show.

The 250,000-member tribe owns three business entities: Cherokee Nation Industries, Cherokee Nation Businesses and Cherokee Nation Enterprises. Cherokee Nation Industries reports sales of about \$90 million a year.

Seven of the tribal council's 15 members joined in the suit: Joe Crittenden, Bill John Baker, Johnny Keener, David Thornton Sr., Linda O'Leary, Melvina Shotpouch and Chuck Hoskin.

Smith said in a prepared statement that he regarded the lawsuit as politically motivated with the intent of causing a "political firestorm."

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