



CHEROKEE NATION
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OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL

Question Submitted by: Julia Coates, Cherokee Nation At-Large Tribal Council Member

Opinion Number: 2012-CNAG-07

Date Decided: October 29, 2012

This office has been asked for an opinion answering the following:

I. Is it permissible for the Joint Council meeting to go on, with the Cherokee Nation declared to be a participant in it, if the Cherokee Nation did not have a quorum of its own Council present?

The Attorney General's Office represents the Cherokee Nation and can render opinions on questions of Cherokee Nation law, but the Attorney General does not have the same role over the Joint Council. The Joint Council may approve and adopt measures according to its own rules and by-laws.

II. Does Cherokee Nation's Constitution and law require that a number representing the majority of the tribal council members present vote in the affirmative for a measure to pass, or can a minority of the overall Council pass a measure when there are council members abstaining from the vote?

Due to the language of the Constitution, a measure will fail for lack of a majority of the Council members present, regardless of whether a measure manages to obtain the approval of a majority of the voting Council members. According to Cherokee Nation law and the Rules of Procedure Governing the Cherokee Nation Tribal Council, most recently adopted on September

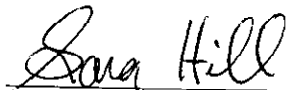
27, 2007, Roberts Rules of Order, revised edition, controls unless those rules are inconsistent with some other specific rule adopted by the Council, Act or Constitution¹.

Article VI, Section 10 of the Cherokee Nation Constitution specifically requires that,

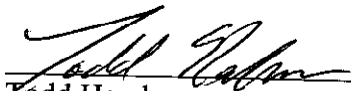
Every enactment which shall have been approved by a majority of the members in attendance at the Council shall, before it becomes effective be presented to the Principal Chief, who may approve the enactment by signing it; if not, the Principal Chief shall return it with objections to the Council, which shall enter the objections in the Journal and proceed to reconsider it. (emphasis added)

Because the Constitution specifically requires a majority of the members in attendance at the Council, any contrary procedural rules or laws must be disregarded. When all 17 members are in attendance at a meeting, a minimum of nine yeas were required for a measure to pass.

Respectfully submitted by:



Sara Hill
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¹ "Rules and procedure generally. All proceedings, meetings, and sessions of the Council and proceeding shall be conducted in accordance with recognized rules and procedures, and, where the same does not conflict with rules adopted by the Council, this Act, or the Constitution, said recognized rules and procedures shall be consistent with Roberts Rules of Order, revised edition." 19 C.N.C.A. § 35