

**MINUTES
SPECIAL MEETING
MAY 23 2019
CHEROKEE NATION ELECTION COMMISSION**

Call to order/Roll call of Commissioners:

The meeting of the Cherokee Nation Election Commission was called to order by Chairperson Shawna Calico at 9:03 a.m.

Commissioner Carolyn Allen called roll and a quorum was established with the following commissioners present:

Shawna Calico- Chairwoman
Pamela Sellers- Vice-Chairman
Carolyn Allen- Secretary/Treasurer
Rick Doherty- Commissioner
Randy Campbell- Commissioner

Office staff present was Marcus Fears.

Election Commission attorney Harvey Chaffin was present.

Guests present: Attached guest list will be included in the minutes book. This was a hearing of Jodie Fishinghawk, Candidate for District 8. A court reporter was present at the invitation and expense of the Election Commission and a transcript of this meeting will be kept in the election office.

Chairperson Shawna Calico read a statement that this was a public hearing and everyone was made aware of what would be expected of attendees in this public meeting. It was also noted this hearing is taking place today as a continuance from the meeting on May 16, 2019, in which the hearing of Jodie Fishinghawk, Candidate for District 8, was scheduled as an agenda item. A copy of the minutes of the May 16, 2019 minutes are attached to reflect this meeting/hearing today is a continuance of the May 16, 2019 meeting. **(Attachment #1)** The hearing did not take place on May 16, 2019 as the Attorney General commented the notice of hearing sent to Jodie Fishinghawk failed to have all the necessary attachments of evidence against her. Attorney General Hembree had prior conversation with Jodie Fishinghawk and her attorney, Jim Cosby and Attorney General Hembree advised them they did not need to come to the hearing on May 16, 2019. It was noted by the Commission to Attorney General Hembree that the meeting/hearing was called by the Election Commission and Vice-Chairperson, Pamela Sellers who was chairing the meeting on May 16, 2019 advised Attorney General Hembree he had overstepped his bounds. Attorney General Hembree apologized.

The hearing procedure was given to all parties and the court reporter to enter as an exhibit for the Election Commission. **(Attachment #2)**

The hearing participants were:
Jodie Fishinghawk, Candidate for District 8 Tribal Council
Natalie Fullbright-Ostrander, Attorney for Jodie Fishinghawk
Attorney General Todd Hembree

The hearing began with an opening statement by Attorney General Hembree. Ms. Fullbright-Ostrander reserved her opening statement. Attorney General called to testify Brian Catcher of the Marshal Service and Jodie Fishinghawk.

At 10:28 a.m. Rick Doherty made a motion which was seconded by Randy Campbell to recess for 15 minutes. The motion was approved by all commissioners.

At 10:44 Rick Doherty made a motion which was seconded by Randy Campbell to reconvene. The motion was approved by all commissioners.

Attorney General Hembree called others to testify. This is noted in the court transcript.

Natalie Fullbright-Ostrander presented her opening statement. She presented evidence and called Jodie Fishinghawk as a witness. She presented an affidavit. After review of the affidavit by the Election Commission, Carolyn Allen objected to this affidavit being entered into evidence. Chairperson Shawna Calico said no to the objection but called for a motion on the objection of the exhibit being entered into evidence. Carolyn Allen made a motion which was seconded by Pamela Sellers not to allow this affidavit to enter into evidence based on the fact the affidavit was not notarized. The commission approved the motion. The affidavit was not admitted as evidence.

Natalie Fullbright-Ostrander called Marshall Matt Laney as a witness.

Closing arguments were given by Attorney General Hembree and Natalie Fullbright-Ostrander.

Rick Doherty made a motion which was seconded by Randy Campbell to enter executive session at 12:37 p.m. The motion was approved by all commissioners.

Executive Session:

- a.) Consideration of evidence for District 8 Candidate Jodie Fishinghawk
- b.) Confidential discussion with attorney on pending litigation, claims, investigation or protests
- c.) Personnel
- d.) Exit Executive Session:

Pamela Sellers made a motion which was seconded by Rick Doherty to exit executive session and reconvene at 2:23 p.m. The motion was approved by all commissioners.

Action form Executive Session:

Copies of The Decision were given to the parties and to the court reporter. Chairperson Shawna Calico read The Decision of Hearing No. 2019-2 in the Cherokee Nation v. Jodie Fishinghawk, District 8 Tribal Council in its entirety. The conclusion of THE DECISION stated: IT IS THEREFORE THE DECISION OF THE CHEROKEE NATION ELECTION COMMISSION that Jodie Fishinghawk is disqualified as a candidate for District 8 Tribal Council for the 2019 General Election.

A motion was made by Randy Campbell and seconded by Pamela Sellers to approve THE DECISION. The motion was approved by all commissioners. **(Attachment #3)**

Announcements:

There were no announcements.

Adjourn:

Rick Doherty made a motion to adjourn at 2:26 p.m. Meeting was adjourned.

Minutes submitted by Carolyn Allen, Secretary
Cherokee Nation Election Commission

June 11, 2019

CHEROKEE NATION ELECTION COMMISSION
MINUTES OF SPECIAL MEETING
MAY 16, 2019

Vice-Chair Pamela Sellers called the meeting to order at 9:03 a.m. She announced she would be chairing the meeting today due to the death of the father of Shawna Calico.

Roll call was taken. The following commissioners were present:

Pamela Sellers
Randy Campbell
Rick Doherty
Carolyn Allen

A quorum was established.

Election Commission Attorney Harvey Chaffin was present as well as Administrator Marcus Fears. A guest list is attached in the minutes book.

Current Items:

- a.) Hearing pursuant to Section 11.C.12.f and Section 38 of the election code for District 8
Candidate Jodie Fishinghawk:

Attorney General Todd Hembree was present. Jodie Fishinghawk was not present nor was there representation for Ms. Fishinghawk. Attorney General Hembree commented the notice of hearing sent to Ms. Fishinghawk failed to have all the necessary attachments of evidence against her. He noted she received the investigative report only and that every citizen has to know or have access to evidence to give fair opportunity to present their case. A five day notice must be given to the candidate prior to a hearing. Attorney General Hembree recommended the Election Commission set a continuance of hearing, allow five days notice and the Attorney General's office would deliver a full set of documents to Ms. Fishinghawk. He commented the Attorney General's office was not prepared to go forward today to present evidence. Commissioner Carolyn Allen asked Attorney General Hembree if he had spoken with Jodie Fishinghawk and/or her attorney Mr. Jim Cosby and if they had been advised they did not need to report to the hearing today. Attorney General Hembree confirmed this and apologized if he over stepped his bounds. Commissioner Allen commented to Attorney General Hembree that this hearing was a hearing set by the Election Commission. Again Attorney General Hembree apologized if he had over stepped his bounds.

Executive Session:

Rick Doherty made a motion which was seconded by Randy Campbell to enter executive session at 9:09 a.m. to discuss this issue. The motion was approved by the commission.

Upon exiting executive session, Rick Doherty made a motion which was seconded by Randy Campbell to exit executive session at 9:51 a.m. The motion was approved by all commissioners.

Action from Executive Session:

Rick Doherty made a motion which was seconded by Randy Campbell to approve a continuance of hearing, setting the continuance of hearing for Thursday, May 23, 2019 at 9:00 a.m. at the Election Commission office. The motion was approved by all commissioners present.

Election Commission Attorney Harvey Chaffin asked Attorney General Hembree if he was satisfied next Thursday, May 23 is a sufficient amount of time for notice. Attorney General Hembree agreed it was. Vice-Chair Pamela Sellers commented to Attorney General Hembree that he had over stepped his bounds. Attorney General Hembree again apologized.

Announcements:

There were no announcements.

Adjourn:

Rick Doherty made a motion to adjourn at 9:58 a.m. The meeting was adjourned.

Carolyn Allen

Submitted by Carolyn Allen
Secretary of the Election Commission
May 21, 2019

BEFORE THE CHEROKEE NATION ELECTION COMMISSION
OF THE CHEROKEE NATION

Cherokee Nation)	
)	
)	Hearing No: 2019-2
v.)	
)	
Jodie Fishinghawk, District 8)	
Tribal Council Candidate)	

Hearing Procedure

This hearing is being conducted pursuant to Section 38 of Title 26 of the Cherokee Code Annotated and the Rules and Regulations of the Commission. Notice of this Hearing has been given as provided by law to the Candidate, with a copy of the Investigative Memorandum and Attachments submitted by the Attorney General of the Cherokee Nation, Rules and Regulations of the Election Commission and the Hearing Procedure attached. Proof of service on the Candidate shall be made a part of the record.

The Procedure for this hearing will be as follows:

1. The Chairman will preside over the hearing and make any necessary rulings, and may consult with Commission legal counsel. Any Commission Member who disagrees with the Chairman's Ruling may request a voice vote by full Commission and the Majority vote shall control.
2. The Charges and evidence in support thereof shall be presented to the Election Commission by the Office of the Attorney General of the Cherokee Nation;
3. The parties, counsel for the parties and the audience should conduct their selves in a respectful and courteous manner and anyone creating a disturbance will be asked to leave.
4. The formal rules of evidence shall not apply unless

the Commission in its discretion rules otherwise.

5. The Commission Members and Commission Attorney may ask questions at any time. Commission Members or Commission Attorney may not be called as a witness.

6. The proceeding shall be recorded by a Certified Court Reporter, who shall also swear any witness.

7. First, the Commission shall make a part of the Record the Investigative Memorandum and Attachments submitted by the Attorney General of the Cherokee Nation.

8. Second, the Attorney General of the Cherokee Nation shall present evidence in support of the Investigative Memorandum and Attachments submitted to the Cherokee Nation Election Commission on April 8, 2019; and, the Candidate shall be allowed to cross exam any witness called and redirect and recross will be allowed. All Exhibits shall be marked and made a part of the record.

9. Third, the Candidate shall be given the opportunity to present any evidence in opposition to the Charges; and, the Attorney General shall be allowed to cross exam any witness called and redirect and re-cross will be allowed. All Exhibits shall be marked and made a part of the record.

10. At the end of the evidence, the Candidate and Attorney General will be allowed closing arguments to the Commission within a time frame set by the Commission; and, after such closing argument, the Commission will consider the evidence in executive session.

11. The Commission will reconvene the hearing to render its decision.

Cherokee Nation Election Commission
BY:

Pamela Sellers, Vice-Chairperson

BEFORE THE CHEROKEE NATION ELECTION COMMISSION
OF THE CHEROKEE NATION

Cherokee Nation)
)
v.)
)
Jodie Fishinghawk, District 8)
Tribal Council Candidate)

Hearing No. 2019 - 2

DECISION

Now on this 23th day of May, 2019, this matter came on for hearing before the Cherokee Nation Election Commission and the Cherokee Nation appears by and through the Attorney General of the Cherokee Nation, Todd Hembree: and the Candidate Jodie Fishinghawk, appears in person and through her attorney Natalie Fullbright-Ostrander.

The Commission, after hearing the evidence of witnesses, sworn and examined, examining exhibits introduced, the written charges, hearing arguments of counsel and the Candidate and after full deliberation, finds that Notice of this Hearing was given and served as provided by law; finds that the Findings of Fact and Conclusions of Law attached hereto are incorporated herein by this reference; and, that the Candidate, Jodie Fishinghawk, is disqualified as a candidate for District 8 Tribal Council for the 2019 General Election.

IT IS THEREFORE THE DECISION OF THE CHEROKEE NATION ELECTION COMMISSION that Jodie Fishinghawk, is disqualified as a candidate for District 8 Tribal Council for the 2019 General Election.

Dated this 23th day of May, 2019.

Cherokee Nation Election Commission

BY: Shawna Calico
Shawna Calico, Chairperson and Member

BY: Pamela Sellers
Pamela Sellers, Vice Chairperson and Member

BY: Carolyn Allen
Carolyn Allen, Secretary/Treasurer and Member

BY: Rick Doherty
Rick Doherty, Member

BY: Randy Campbell
Randy Campbell, Member

FINDINGS OF FACT

- I. Jodie Fishinghawk is a candidate for the District 8 Tribal Council seat in the 2019 General Election.
- II. Between April 10, 2019 and April 19, 2019, an individual dropped off several voter registration forms and absentee ballot requests on three separate occasions to the Cherokee Nation Election Commission ("Commission"). The Commission verified, by access to the Cherokee Nation Citizenship records, that the names on the registrations forms were Cherokee Citizens
- III. On April 10, 2019, the Commission forwarded the Office of the Attorney General because it received voter registration forms for 33 citizens, all with the same last name and all registered at the same rural route address in Adair County: RR 5 Box 4465, Stilwell, OK. Upon receipt, both the Office of the Attorney General and the Cherokee Nation Marshal Service began investigations.
- IV. On April 19, 2019 the Commission contacted the Office of the Attorney General because it received absentee ballot request forms for 11 citizens, all with the same last name and all requesting that an absentee ballot be sent to the same rural route address in Adair County: Rt 2 Box 113, Stilwell, OK.
- V. Also on April 19, 2019, the Commission received and reported absentee ballot request forms for 43 citizens, all requesting that an absentee ballot be sent "C/O Jodie Fishinghawk 309 W. Locust St., Stilwell, OK."
- VI. On each of the aforementioned occasions, the individual who dropped off the voter registration forms/absentee ballot requests stated they were for Fishinghawk.
- VII. Due to irregularities noticed by the Commission on each occasion, the voter registration forms/absentee ballot requests were forwarded to the Office of the Attorney General for investigation of the irregularities.
- VIII. During its investigation, the Office of Attorney General attempted to contact the individuals listed on the voter registration forms/absentee ballot requests. Upon contacting an individual who confirmed they had not completed a voter registration forms/absentee ballot requests, the matter was turned over for further investigation to the Cherokee Nation Marshal Service ("Marshal Service").
- IX. On April 16, 2019, in the course of their investigation, Aaron Flynn was questioned by the Marshal Service. When shown a voter registration form that he had purportedly completed and signed, he executed a written voluntary statement stating "Ive [*sic*] never filled out a voter registration form in the last ten years. That is not my signature on the form the officers showed me."

- X. On April 16, 2019, in the course of their investigation, Celia Flynn was questioned by the Marshal Service. When shown a voter registration form that she had purportedly completed and signed, she made a written voluntary statement stating "I Celia K Flynn did not fill out a voter application form on 3-27-19 and the forementioned [sic] signature does not belong to me."
- XI. On April 16, 2019, in the course of their investigation, Willie Flynn was questioned by the Marshal Service. When shown a voter registration form that he had purportedly completed and signed, he made a written voluntary statement stating "I have never filled out a voter registration card for Cherokee nation [sic] and that is not my signature."
- XII. In the course of their investigation, Johanna Flynn was questioned by the Marshal Service. She admitted that she had agreed to do some "voter stuff" for Fishinghawk. She turned over a "master list" to the Marshal Service which contained names and addresses of Cherokee citizens that Fishinghawk had given her; several confirmation of voter registration postcards; and screenshots of a Facebook messenger conversation with Fishinghawk. Johanna Flynn told Marshal Catcher that Fishinghawk told her to fill out the forms and sign their names.
- XIII. On April 25, 2019, in the course of their investigation, Fishinghawk was questioned at her residence by the Marshal Service. Brian Catcher testified that she admitted to completing voter registration forms and absentee ballot requests on behalf of various individuals. Catcher also testified that Fishinghawk admitted she did so at the request of some individuals and without knowledge of others. Fishinghawk admitted to Marshal Laney to filling out forms and signing on others behalf and without some of them knowing about it.
- XIV. Paige Robin Linville testified that she did not complete and sign a voter registration form.
- XV. Tonya Colston testified that she did not complete and sign a voter registration form.
- XVI. Nedra Flynn testified that she did not complete and sign a voter registration form.
- XVII. Ned Flynn testified that he did not complete and sign a voter registration form.

CONCLUSIONS OF LAW

- I. Under Cherokee law, the Cherokee Nation Election Commission is charged with the duties to register voters and process absentee ballot requests in the performance of its legislatively established duties. *See* 26 C.N.C.A. § 11.
- II. 26 C.N.C.A. § 38(A) specifically establishes that "any candidate who directly interferes or attempts to interfere with the Election Commission offices and staff in the performance of their duties, or otherwise violates §38 of the Election law, shall be subject to disqualification proceedings before the Commission."

- III. Section 2.10(A) of the Rules and Regulations of the Cherokee Nation Election Commission states that, "any candidate who directly interferes or attempts to interfere with the Election Commission offices and staff in the performance of their duties, or otherwise violates §38 of the Election law, shall be subject to disqualification proceedings before the Commission."
- IV. The facts demonstrate that Fishinghawk directly interfered with the Commission's prescribed duty to register voters and process absentee ballot requests by admitting to forging voter registration forms and absentee ballot requests, and directed Johanna Flynn to forge voter registration forms and absentee ballot requests.
- V. The testimony from Paige Robin Linville demonstrates that Fishinghawk indirectly interfered or attempted to interfere with the Commission's prescribed duty to register voters and process absentee ballot requests by causing voter registration forms and absentee ballot requests to be turned in on her behalf, which included a fraudulent voter registration form executed on behalf of Paige Robin Linville, directed by Fishinghawk to be signed by Johanna Flynn.
- VI. The testimony from Tonya Colston demonstrates that Fishinghawk indirectly interfered or attempted to interfere with the Commission's prescribed duty to register voters and process absentee ballot requests by causing voter registration forms and absentee ballot requests to be turned in on her behalf, which included a fraudulent voter registration form executed on behalf of Tonya Colston, directed by Fishinghawk to be signed by Johanna Flynn.
- VII. The testimony from Nedra Flynn demonstrates that Fishinghawk indirectly interfered or attempted to interfere with the Commission's prescribed duty to register voters and process absentee ballot requests by causing voter registration forms and absentee ballot requests to be turned in on her behalf, which included a fraudulent voter registration form executed on behalf of Nedra Flynn, directed by Fishinghawk to be signed by Johanna Flynn.
- VIII. The testimony from Ned Flynn demonstrates that Fishinghawk indirectly interfered or attempted to interfere with the Commission's prescribed duty to register voters and process absentee ballot requests by causing voter registration forms and absentee ballot requests to be turned in on her behalf, which included a fraudulent voter registration form executed on behalf of Ned Flynn, directed by Fishinghawk to be signed by Johanna Flynn.
- IX. Jodie Fishinghawk, a candidate for the District 8 Tribal Council seat and a citizen of the Cherokee Nation, has violated Section 38(A) of the Cherokee Nation's election law by both directly and indirectly interfering and attempting to interfere with the Commission's prescribed duty to register voters and process absentee ballot requests through forging voter registration forms and absentee ballot requests and directing Johanna Flynn to forge voter registration forms and absentee ballot requests. She is therefore subject to disqualification by the Cherokee Nation Election Commission. Any criminal penalties for her conduct will have to be pursued by the Office of the Attorney General.

