

**OSAGE MINERALS COUNCIL
SPECIAL MEETING
OSAGE COUNCIL CHAMBERS
PAWHUSKA, OKLAHOMA
FEBRUARY 2, 2016
MINUTES**

Call to Order:

Chairman Everett Waller called the meeting of the Osage Minerals Council to order at 10:00 A.M.

Opening Prayer:

Chairman Everett Waller gave the opening prayer.

Roll Call:

Minerals Council Executive Administrative Assistant Lacey Reynolds called the roll. Osage Minerals Council Members present were Cynthia Boone, Galen Crum, Stephanie Erwin, Everett Waller and Andrew Yates. Joseph Cheshewalla, Kathryn Red Corn, Talee Redcorn were absent. A quorum was declared.

Visitors to the meeting were Keli Mashburn, Paul S. Revard, Eddy Red Eagle, Shane Matson, Sharon Long, Alan Clemshaw, Linda Heskett, Chuck Spurgeon, Joe Hall, Julie Wilson, Justin DeLong, Linda Jackson, Scott Tyler, Nona Roach, Stan DeLong, Jamie Seking, John Burroughs, Mark Short, Doug Norton.

Access Permits: Chairman Waller opened by saying, "I'd like to go to Item #4, Access Permits. Stephanie, do you want to start with that?"

Councilwoman Erwin said, "I believe we talked about this, Friday, in last month's meeting. I think we probably need to decide, one way or the other, whether or not we need to do this. I kind of feel like we need this be done. It might help curtail the things that have gone on out west of town. I'm making reference to the windmills. I think this would help curtail it.

Chairman Waller asked her, "Do you want to go with your resolution in the past, or do you need regulations?" Councilwoman Erwin replied, "Well, let's just go ahead with the resolution, and we'll see if it passes, or whatever, and move on." Chairman Waller asked the Council, "Are there any questions?"

Councilman Crum, being recognized, said, "The idea of having permits that you have to have north of the intercontinental state is a very good idea. When our attorney brought that to us, he said we'd probably have to have the Osage Congress pass a law to do it. Because, I read through this, and it's going to be an Osage Minerals Council resolution, and I realize we're just talking about the resolution at the moment. But back there on the back, it talks about penalties and that sort of thing. Who, on Earth, would collect these penalties, and what would require anybody to get that from you. It's just a Minerals Council resolution." Councilwoman Erwin said, "Excuse me..." Chairman Waller said, "Hang on." Councilman Crum continued, "The Police Department will not enforce Minerals Council resolutions. We've already seen that, in the past – the Osage Police Department, I'm talking about. They have to have a law by the Osage Congress to do so. So, when I asked, again, Mr. Fredericks using a resolution who would do that, I asked about four different times. Finally, he said the people will probably just want to cooperative with us, and come get a permit. Well, I never noticed the perfect people that work problems out here, in the years we've been fighting them over the windfarms really wanting to cooperate with us that much. So, they're probably not going to come and talk to us, whether getting a permit, when there's no law, either Tribal or State or Federal requiring them to do so, just a resolution by the Osage Minerals Council. So, my objection isn't to the concept. I think it would be very good to have such a step that we are requiring

to have happen. **If we do this, we're thinking we're doing something where we're doing absolutely nothing, I think that could be more dangerous than actually doing nothing. If we think we've done something that's unenforceable, why, they won't actually do something that is enforceable.**"

Councilwoman Erwin, being recognized, asked Councilman Crum, "Well, could that be any more dangerous than doing something, and not being in Federal Court, when we first went down there, because the experts that we had, testified, and we lost in our arena. We should be down there in that Federal Court case. But, that was lost because of the experts." Councilman Crum agreed. She continued, "I read the Court minutes." He said, "And that has to do with this what?" She said, "We did something, and it didn't do any good, then, and so you're telling us we need to do nothing, now? We need to keep fighting it, one way or the other. We get no help from the Bureau. Every time we ask them to do something, it takes months, if not years to get anything done. I don't know what you suggest. I think we need to do it and start here, and move on forward." Councilman Crum said, "Do you actually know what I'd suggest?" She said, "No." Chairman Waller said, "Please, I'll direct." Councilman Crum said, "Don't you have white hair what I suggest?" Chairman Waller, directing to Councilman Crum, "Councilman..." Councilwoman Boone suggested, "Why don't we amend the resolution to say we will let our attorney find a way to enforce this access permit issue?" Councilman Yates, being recognized, said, "The reason I want a resolution supporting the material, I'm not terribly against it. I just think it needs some more work. I mean, there's some stuff in here that I agree with, and some that I don't. I just think it, maybe, ought to be tabled, and work on it a little more, before we bring it before the Council. You're talking about delegating/establishing a board. I think that's what we're supposed to be doing." Councilwoman Erwin said, "Actually, if you read it, anything that decisions are made, we have the ability to have somebody to let them field it to us. We have the last word on it, sir, and that's what we need. This is our arena." Councilman Yates said, "Well, that's what I'm saying. I think that's what we're supposed to be doing." She said, "OK, Mr. Yates, would you like to redline it, and give it back to me, and what you think it needs to be?" Mr. Yates replied, "I could." She said, "I appreciate that, sir." Chairman Waller said, "Let him finish." Mr. Yates continued, "Also, you have a 24-hour public notice, like it ought to be 48 hours." Chairman Waller said, "More, more, a little more, or longer." Councilman Yates said, "...or longer. '25 cubic yards' reference in here – I'm not an engineer, here. How big of an area is that, before it meets the threshold of exemption?" She said, "It's 5,000 cubic yards." He said, "Well, how big of an area is that?" She said, "I don't know. You could build a home, build a swimming pool. You could build a pond to a certain size." He said, "And again, I'm asking how is it going to enforce this?" She said, "Put your suggestions on paper, sir." He said, "I'm just asking you a question. You're the one presenting it." She said, "Yes, sir, I am presenting it. You all don't seem to think that backing's the best thing to do." Chairman Waller said, "Ma'am..." Councilman Yates asked, "How did you propose that we're going to enforce this?" She said, "Like we have to do everything else. We asked them to do what's right, and if they don't do what's right, then we probably take some legal action against them. But I can assure you, after they realize that we're not going to stand by and take it, I think they will come to terms with us."

Chairman Waller said, "I'd like to step in for a second. All I want you to do is to expound '5.5.3 – *Grounds for Suspension*'. It talks about it goes to the board, and then it talks about it goes to the Nation, and then it turns out and practical laws of the State of Oklahoma. Comply with applicable laws regulation the United States. That needs to be turned around. The Nation's not my trustee. They allow them to interfere/interject what the penalties will be, and it will go to the Nation, and ask them if they'd like to go with us, and we enforce them. This is on access permitting, but I think that precedence set there will be how we handle a lot of items coming up. I'm trying to list how many cases we're going to be in. No Council's been here before. No Council has been in this arena." Councilwoman Erwin said, "But we can't sit here and..." Chairman Waller said, "Let me finish. I'd like to see that effort put in as the Federal Government. They have permitting, U.S. Fish and Wildlife. If we had it before, maybe we could have had someone go out there. Maybe we could have had the big scene happen. So, I would just like to ask that we go into what is the Federal effort, and then do we go to the Nation, or do we go to the Court – and, we'll be there, anyway – kill two birds with one shot." Councilwoman Erwin said, "But I'm concerned about Mustang Run. You know they're going to build on oil wells. We don't need any more oil out there. We can't sit here and do nothing. We've got to keep on..." Chairman Waller asked, "Do you mind the

Federal entity deal put in to that process?" She said, "No, I'm sure if the Bureau would do it, if you could get them to do it. That's my problem. They need to do it, but they're not doing anything for us." Chairman Waller said, "I'll take a look at it. I'd like to see the rewrite on, at least, those efforts on enforcement. This is a compact contract trial effort. We're Direct Service. We have some angles here that will be beneficial to us as a Direct Service Tribe with the Bureau of Indian Affairs and the Osage Nation. We didn't have redundancy of the programs, because we lost all of the facts as a Council. So, what we'll turn around and do is that we'll look at, #1, This is a process that's going to try to stop the effort that's going to keep going. If we don't stop it now, that's not going to be 87 wind turbines, that's going to be 800 wind turbines." Councilwoman Erwin said, "Exactly." Chairman Waller continued, "They got here because there's more of them there but here. They know what they're doing. You can't tell me that Enel and General Electric don't know what they're doing. They found a weakness, and they try and stop us."

Councilman Crum, being recognized, said, "Mr. Chairman, I agree. Again, the concept is – I fully agree. Doing something that has no chance of enforcement makes no sense. So, obviously, you're right in the Federal will be the best way to enforce it. Second best, and I'm not sure that it gets to be another venue, the second best would be the Osage Nation. An actual law would be, perhaps, enforced. So, if we can find a way to redo this, I would be wholly in favor of it. I've been in this windmill fight for as long as anybody..." Councilwoman Erwin said, "Yeah, I know." Councilman Crum continued, "Perhaps, Mr. Chairman, we could have some civility in here. I try not to respond in a negative fashion."

Chairman Waller said, "Assistant Chief, would you like to say something? I'd like to have protocol and have my Assistant Chief come and talk to us."

Assistant Principal Chief, Raymond Redcorn, said, "Thank you, sir. Thank you for allowing me to address the Council. This is one of those incidences in where, conceptually, the interests of almost all, as far as I could tell, from what I am hearing, almost all members of the Minerals Council believe that the Osage Nation should be able to do something to stop this. I can tell you from the conversations that's occurred in the Executive Branch, we agree with you. We agree that the Osage Nation can do things to stop this, because this is, after all, the Osage Nation. We stand ready to work with any departments involved. I'm going to step out and say that I believe your real path to enforcement with the minimum amount of complication is through the Osage Nation Congress. I know that's something the members of the Minerals Council do not agree with. But we will agree to disagree on that issue. I don't believe, from what I am understanding, that anyone has addressed this issue to the Osage Nation Congress. But ask them if they would be willing to draft a law to specifications of the Osage Minerals Council, until we get this done. I just wanted to say that much. Thank you, Mr. Chairman." Chairman Waller said, "Assistant Chief, before you leave, I'd like to ask that, I understand that element, and I think that's a beautiful direction. What I'd like to see, though, is a – You don't have a trustee. We do. I think it's time they come up to both you and I and all of our Nation, take care of, at least, what we are going to do later. Because, we're going to run into, this is the sad part of all of this is that, I've got to have you today, and I'm going to face you tomorrow. That's wrong in the Osage Nation. We're doing something wrong. I've been on four different governments. Now, that's how come we're getting cornered here. That's how come I've got these folks over here. They're putting out everything they've got. And now, they're suffering. And, at our Oil and Gas Summit, I told them, *'Now you know how we feel'*. So, with that, I appreciate you. I'd like to, actually where, when we get into this direction, let's give something that our kids can use. Let's not give something that lasts until we're re-elected. You know, we've got to look way down the road, here. And, two years and six years is not long. We've got to make some decisions that's going to take care of these children. Assistant Chief, go right ahead."

Assistant Principal Chief said, "A final word. Our primary motivation in this is exactly what Councilwoman Boone said. It's very, very difficult to get a response from the BIA, and I would only ask that the Council consider the Osage Congress' alternative. Thank you, sir."

Councilwoman Boone, being recognized, said, "And I have to go on record as saying that I have always taken the standpoint that the Nation and Congress does not need to be in our business. We're a Federal

entity with a Federal trust, etc., etc. But, also, I'd like to address a statement that was addressed by Councilman Crum about the civility he wants imposed here. That should go even to the emails that he sends out, where he is not civil."

Councilman Crum, being recognized, asked, "Did I understand your statement, earlier, that you would like a motion to table this?" Chairman Waller said, "I'd like to see that. We've got to see how we're going to enforce it. Used to, they would have to enforce it, but they'd enforce it against those guys. Now we've got another group, here, but they don't care. I got the letters. I'll see what they told the Nation in State Court. That's my only query right there, Councilwoman Boone, and as far as that goes, that has to be inert. We have to know what our heading is, as far as..." Councilwoman Erwin asked, "Can I make a motion to table it?" Chairman Waller replied, "Yes, please." She said, "I'd like to make a motion to table it, waiting for you guys to have some input, redline, please." Councilwoman Boone said, "I second it." Chairman Waller said, "That's all of us, all of us. I have a motion on the floor by Councilwoman Erwin, second by Councilwoman Boone. I'd like to table this resolution on the Access Permitting for further review on enforcement. Without any discussion, I'd like to call for the question."

MOTION PASSED: CYNTHIA BOONE-YES, JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-YES, STEPHANIE ERWIN-YES, KATHRYN RED CORN-ABSENT, TALEE REDCORN-ABSENT, EVERETT WALLER-YES, ANDREW YATES-YES

Resolution Concerning OPA: Chairman Waller said, "Resolution Concerning OPA. You have that in your books. Open it up for discussion." Councilman Crum, being recognized, said, "Other than when you want to read it, I move that we accept the proposed resolution that we received from Mr. Frederick's office, and send a letter." Chairman Waller said, "I need a second." Councilwoman Erwin asked, "Are we approving this resolution? I second." I have a motion on the floor by Councilman Crum, second by Councilwoman Erwin, on support of the OPA. No discussion, let's call for the question."

MOTION PASSED: CYNTHIA BOONE-YES, JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-YES, STEPHANIE ERWIN-YES, KATHRYN RED CORN-ABSENT, TALEE REDCORN-ABSENT, EVERETT WALLER-YES, ANDREW YATES-YES¹

Councilwoman Erwin said, after the vote, "See how redlining works?"

Lankford Letters: Chairman Waller opened by saying, "Lankford Letters. This'll be exciting. Would you like to start this off?"

Councilwoman Erwin said, "Sure. I'd like to start off with the one that we're asking for a category exclusion." Chairman Waller said, "It shows 'Osage Royalty Interest Taxation'. The one that you're wanting is the third one." Councilwoman Erwin said, "Does it? I don't know. It just says 'Lankford Letters'. I didn't know there was any certain way." Councilman Yates said, "Go to Indian Energy Development. Is that the one where they reference these back?" Chairman Waller said, "The Federal funding goes to four other organizations." Councilwoman Erwin said, "That's a different one." Chairman Waller asked, "Which one would you like to start with?" She replied, "Well, I would like to start with the Category Exclusion. I'm trying to find it here in my..." Chairman Waller said, "Legislative proposal over schools and Indian Electric Energy Development? We're asking, is the Reception 390 Energies Policy Act '05 in that same category exclusions under the NEPA?" She said, "Yes." Chairman Waller said, "Federal Public Lands have to do with Indian Lands. Council, do you have any discussion on that?" Councilwoman Erwin said, "Actually, that we're asking for the same kind of the exclusion that the public land and the forest lands get. They get a category exclusion under the review of the NEPA. I think that's something that we need to ask for." Councilman Yates said, "You need to read these letters, so everyone

¹ Councilman Yates, on voting, said, "I would just say that I'm happy to see that you did add the workover permits, as I requested."

knows what we're doing." Councilwoman Erwin said, "Sure." Councilman Yates continued, "We're referencing..." Chairman Waller asked, "Do you want to give it a shot?" Councilman Yates replied, "No, no thank you. I'm not representing this." Councilwoman Erwin asked, "Can Cynthia read it?" Chairman Waller said, "Please." Councilwoman Boone said, "Mine's under 'Senator Lankford'. *'On behalf of the Osage Headright Owners of the Osage Minerals Estate, the Osage Minerals Council writes to submit the attached legislative proposal to amend the Section 390 of the Policy Act of 2005 to make the same categorical exclusion under the National Environmental Policy Act, or NEPA, that are available to Federal public lands applicable to Indian lands.*

'This would help overcome one of the many obstacles that prevents the OMC and many other Indian Tribes with fully benefiting from their energy resources. The OMC submits these proposals in response to requests from your office to help oil and gas development production return to the Osage Minerals Estate. The OMC, respectfully, requests that you work with the Senate Committee on Indian Affairs and your colleagues in Congress to pass this amendment that will benefit energy production in Oklahoma and across the United States. Since July, 2014, the Osage Mineral Estate rapidly declined due in large part to a new policy from the Superintendent of the Osage Agency, Bureau of Indian Affairs, that requires all applicants for oil and gas related permits and leases to prepare and require NEPA compliance document, typically an environmental assessment.

'While prohibiting the applicant from tiering to the existing programmatic environmental assessment, the Superintendent's new policy has been applied to all new drilling permits, workover permits and plugging permits, which has resulted in a standstill in new production. Many of these activities would have been permitted with the category exclusion if they occurred on Federal land, rather than Indian land, demonstrating how Federal bureaucratic requirements have, once again, failed tribal economic development. Providing the same categorical exclusions for Indian lands are available to public lands is a common sense method to promote efficient and responsible development of Indian energy resources. In addition, categorically excluding these activities under NEPA on Indian lands would be consistent with environmentally responsible energy development, and more importantly, responsible management of Indian trust resources by the Secretary of the Interior.

'Section 390 of the Energy Policy Act of 2005 directs the Secretaries of the Interior and Agriculture to provide a presumption that certain oil and gas activities on public and forest lands are categorically excluded from review under NEPA, and these same activities on Indian lands should be provided the same presumption for categorical exclusion under NEPA.

'The OMC requests of these amendments for Indian land should also include Osage lands pursuant to the 1906 Osage Allotment Act. On behalf of the Osage Headright Owners, we request your assistance in removing these obstacles through legislation.

'If you have any questions or need additional information, please contact our legal counsel, Thomas W. Fredericks at Fredericks, Peebles and Morgans, LLP, at (303) 673-9600, or Rollie Wilson at Fredericks, Peebles and Morgan, LLP, Washington, D.C. office at (202) 450-4887. The Osage Minerals Council would welcome the opportunity to discuss either or both of these requests with you.

'Sincerely, (signed by our Chairman)'.

Chairman Waller said, "Thank you. Councilwoman Boone said, "You're welcome." Chairman Waller asked, "Any discussion?"

Councilman Crum, being recognized, said, "I asked what the specific exclusions were, I asked him for those, and he didn't give us, so I have to work some up from memory. So that people don't think that we're certainly not going to be underneath it anymore, that that's not the case. There was very specific ones they were going for on a Nationwide basis, and we would be asked if we'd be tied in to that effort to ask for that and do ask that the '06 Act be included, as we're normally excluded, and they had to do with

things like whether that lease had been accessed and drilled on, in the last five years, that's one of them. There was a pretty large acreage thing that was a part of it that could be helpful to us, because it was like a five-acre piece rather than what we have normally for them. There were several different things, some of them could be helpful to us, but we're not wiping out NEPA people. I think that's not what it is. I don't know whether the BIA had time to research any of what the other Federal land stuff is. Having said that, like I said, some of that could be a part of ours. One of the things that we need to consider is that Mr. Fredericks is working for other tribes on this same issue, and he's asking us to join in with it, so we would now be part of paying for his activities on behalf of them. Is it worth the money "when we're as cat-strapped" as I suspect? I'm going to find out if we are, in Executive. I don't know. It's just a consideration for what we would gain, whether it would be worth the trouble. If obviously we would be getting some points with the rest of the Indian world, you know, energy folks, that we join with them, rather than staying out, and whatever exclusions you get from me. So, I'm just throwing that out there for discussion. I'm ambivalent on it, whether it's worth our trouble to join with them on these specific categorical exclusions."

Chairman Waller said, "May I ask the Superintendent for one item? Have you guys ever come out with a categorical exclusion, while you've been here?" The Deputy Superintendent said, "Not that I'm aware of. For oil and gas development, specifically, or...?" Chairman Waller said, "Anything". Deputy Superintendent said, "We approve these kinds of actions, Yes, sir." Chairman Waller said, "So it's available, and it's a used property in its parameters, and that's what I'm trying to lead into, is that the United States Government's allowed to do that, we got whipped by the White House. That's how this got here, and there's nothing we can do about it. But I do think, if we do go in to look at it, I understand the idea of getting to the Senator, but right now, he's not in his room all the time. We just sent him a check for the State and Federal funding – Nationally, housing, transportation and health care, education. If there's any way we could work that with the Superintendent's office that we could apply that, and just what the Council is talking about, in different arenas, because I'd want to go on record is that we have got to stipulate NEPA is there for us, and put on record is that it's still going to be there for us, and if we have to have an exclusion to keep this operation going, then they should be in their option for the Council to take to our lessees. Because, last time I was up there, they were the only ones that were making some money. We received nothing generated from Federal funds, number one. That 22.7 left us. That housing money left us. That gaining I started, left us. We're going to have to go back to the Bureau, and you don't have to answer this, Richard, but I think we're entitled, I can ask you, do you think the Senator's going to help you in any way, shape or form later with this environment?" Deputy Superintendent answered, "Personally, the answer is..." Chairman Waller said, "I say, 'No'." The Deputy Superintendent said, "No?". Chairman Waller continued, "That's the only problem I have. Council, go right ahead."

Councilwoman Boone, being recognized, asked, "I'd like to ask the Bureau, specifically, Mr. Daniels, what kind of categorical exclusion have you given?" Mr. Daniels replied, "The Bureau, itself, all of our exclusion categories are listed in our Department Manual, so that citation is 516 DM 10.5 and it outlines all of the different categorical exclusions available to the Bureau, and it would be mainly realty-type action, grazing leases, hunting leases, things of that sort, and then there's some various types of transportation, forestry, types of activities that could be categorically excluded. There is some oil and gas stuff in there, specifically assignments as we read every assignment processed by the Agency. There's a categorical exclusion for that. But, there's nothing available for oil and gas development drilling, roughly, those kind of activities. Councilwoman Boone asked, "And so, I asked you, specifically, give me one that you decided and given a categorically an exclusion to. I know the rules are posted somewhere. You have to know them..." He said, "Yeah, 516 DM 10.5 covers things like grazing..." Councilwoman Boone, then, said, "No, I'm asking you which – I understand you're quoting the rules. I'm asking you, give me the categorical exclusion that you've given to somebody. What kind of categorical exclusion have you given to anybody?" Mr. Daniels replied, "Would you like for us to send to you a...?" Councilwoman Boone said, "I'd like for you to answer it now. You said you've given one. Obviously you know that you did give one." He replied, "I forwarded five of them to Richard, this morning to approve. They were for various real estate activities. I can't give any specific names or legals..." Chairman Waller said, "I understand." Councilwoman Boone continued to question, "...in regards to oil and gas?" Mr. Daniels said, "No,

ma'am." Councilwoman Boone said, "So, have you given one specifically a categoric exclusion to anyone in oil and gas?" The Deputy Superintendent said, "No, that's what he's saying. No." She replied, "No." Mr. Daniels said, "First time that action is, yes, ma'am, but not for drilling or workovers." She said, "OK, thank you." Chairman Waller said, "Thank you, Councilwoman. Councilwoman Erwin, do you want to add to that?", and she replied, "No." Chairman Waller asked, "Thank you. Any other discussion?"

Councilman Yates, being recognized, said, "Are we going to handle these letters individually, or they going to...?" Councilwoman Boone answered, "Yes." Councilman Yates, then, asked, "Will someone make a motion to accept that letter? I just asked are we going to vote on all letters..." Councilwoman Boone said, "Yes." Councilman Yates continued, "...or for all individual..." Councilwoman Boone said, "Individual." Councilman Yates said, "Then, I'd say call for the question." Chairman Waller said, "Question accepted." **Councilman Yates said, "I make a motion to accept the letter to Senator Lankford, on behalf of the Minerals Council, entitled, "Legislative vote to overcome hospitals in the energy development." Councilwoman Erwin said, "I second it." Chairman Waller said, "Without any discussion, I'd like to call for the question. I have a motion on the floor by Councilman Yates, second by Councilwoman Erwin."**

MOTION PASSED: CYNTHIA BOONE-YES, JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-YES, STEPHANIE ERWIN-YES, KATHRYN RED CORN-ABSENT, TALEE REDCORN-ABSENT, EVERETT WALLER-YES, ANDREW YATES-YES

Chairman Waller said, "I think I'd like the next letter in which we need to discuss, Legislative Amendments, to the Osage Royalty Interest Taxation. Anyone like to open up on that? Who would like to read this in?" Councilwoman Boone agreed to read it into the record. Chairman Waller said, "...and leave the redline on." Councilwoman Boone said, "I will read the redline copy," which Chairman Waller agreed.

Councilwoman Boone said, "This is a letter to Senator Lankford regarding Legislative Amendment to the Osage Royalty Interest Taxation.

"On behalf of the Osage Headright Owners and the Osage Mineral Estate, the Osage Minerals Council writes to thank you for your interest in passing legislation to benefit Osage tribal members and to ask for you to take action on a matter of great significance to the Osage Minerals Council.

"We request your assistance in the empowerment of our tribal community and businesses through the amendment of a 1940 Joint Resolution 54 Stat. 168 that authorizes the State of Oklahoma to assess a five per cent (5%) tax on the Osage royalty interest. The 1940 Joint Resolution was an amendment to the 1921 Act, 41 Stat. 1249, which regulated Oklahoma's taxation of the Osage Tribe's oil and gas. The 1940 amendment authorized the State of Oklahoma to levy and collect a gross production tax on all oil and gas produced in Osage County, not to exceed five per cent (5%) to be paid by the Secretary of Interior from the amount received by the Osage Tribe of Indians as royalties from the production of oil and gas, 54 Stat. 168.

"The Osage Minerals Council requests you to introduce an amendment to the 1940 Joint Resolution to prevent the five per cent (5%) gross production tax to be an Osage Minerals Council tax with the proceeds going to the Osage Minerals Council for the purpose of funding the management development of the Osage Mineral Estate.

"The Oklahoma tax should be repealed so as to avoid any dual taxation of the Osage Mineral Estate.

"As you are likely aware, the state's current tax of the Osage royalty interest arrangement is unheard of in Indian country, outside of Oklahoma. The Osage Minerals Council desperately needs the funding that this tax will provide in order to build infrastructure into higher personnel to improve the increase the amount of drilling and production in Osage County and to manage the Osage Mineral Estate.

"Because of the Oklahoma State tax, the Osage Minerals Council is unable to tax the Mineral Estate in that a dual tax would cause the oil and gas development to be uneconomic. The tax revenues that other governments rely on, the Osage Minerals Council will never have staff to run energy permit programs or provide a stable infrastructure needed to promote long-term energy and business investment. Instead, it will remain dependent on Federal budgets, and be subject to a Federal government-led bureaucratic permitting process that has failed the Osage Mineral Estate to unlock energy resources for the benefit of tribal communities, as well as the United States Energy Security.

"If you have any questions, or need any additional information, please contact our legal counsel, Thomas W. Fredericks, Fredericks, Peebles and Morgan, LLP at (303) 603-9600, or Rollie Wilson at Fredericks, Peebles and Morgan, LLP, Washington, D.C. office at (202) 450-4887.

"The Osage Minerals Council would welcome the opportunity to discuss this request with you.

"Sincerely, (and it will be signed by our Chairman), Everett Waller."

Chairman Waller said, "Thank you. Is that in the form of a motion?" Councilwoman Boone said, "I so move." Councilwoman Erwin said, "Second." Chairman Waller said, "I have a motion on the floor by Councilwoman Boone, second by Councilwoman Erwin. I'd like to open the floor up for discussion."

Councilman Crum, being recognized, said, "Again, doing away with the headright taxation on the headright income to give to the State of Oklahoma, I have the basic perversion to what we're talking about doing here in Federal Court. One of them's a little bit like the other one we talked about, and that was the methodology where the fight we're going to be in, when we attempt this. The State of Oklahoma, obviously, is not going to be happy. The fact that we're creating the Osage Minerals Council was an entity that can levy taxes and collect them, which is outside the Constitution, is likely going to cause us to have some sort of fight with the Osage Nation. I don't know whether Assistant Chief is still here? Yes, he's still here. Maybe he can speak to it, I don't know. So, we're probably getting ourselves in a couple of pretty good battles. But, I'm not afraid to fight, necessarily, if the risk is – you know, the outcome is worth the risk, and the risk that I see is not necessarily with those two entities fighting with us. We can do that. The risk is that what they avoid saying here, and the other day, we had a conference call with our attorney, Mr. Fredericks. I asked him if this 1940 Joint Resolution was an amendment to the '06 Act, to the Allotment Act. He said, 'No, I didn't think so, that it wouldn't cause us any problems.' Well, after pressing a little bit, I said, 'Would you please check and get back with us?' I think all of us got an email a few hours later and said, 'Oh, wait a minute, yeah, there's the amendment to the Allotment Act.' So, I've been real reluctant to Everett ever getting involved in that, because it's a process that brings it open to any of the 100 Senators in the room to add their own amendments to, and start working on the Osage Allotment Act, and I'm very reluctant to trust the judgement of an attorney we didn't even know last week when he had hardly prepared it, and tell us if he was amending the '06 Act. We could use the best attorney in the world, I'd probably be scared to open it up to those senators and actually, I question other people in Indian Law, if this would open it up, and they said, 'Yes, of course it would. Any of them could have the amendments and further, when the court got through, it'd have to be approved by the Congress and the legislators. So, you're open up to 500 people there, a lot of them not friends of Indians. I don't know what Mr. Lankford is, I don't know him well enough. I know his colleague is not the senior Senator from Oklahoma, and he's expressed interest in the passing the diminishing of Indian rights and done so many times, and I fear that if we go at this, there's a great or real possibility that either somebody could actually do us real harm. A lot of people are afraid if the Osage Nation or somebody is going to take our headrights away. I don't see the mechanism in that, but there is definitely one group in the world that has the ability to take it all away from us, and that's the U.S. Congress, and they're probably a little sick of dealing with Indian stuff in general, and Osage stuff, in particular, and they're not going to take the

opportunity to do away with their Osage problem. I'm ready for asking senators in getting involved with this, at this time."

Councilwoman Erwin, being recognized, said, "The only thing I've got to say to that is, yeah, well, maybe they can try to take it away from us, but as you well know, we actually paid for the Mineral Estate. We actually have a deed. We have title, and if they think they're going to take it away from us, they'd better be prepared to pay for it, because they just cannot come in and take it from us. They have to pay for it, and I don't think the Government has enough money to pay for it, myself. Thank you."

Councilwoman Boone, being recognized, said, "We're just asking for this gross production tax. We're not asking them to abolish the 1906 Act, and all of these things I hear Councilman Crum say are if we get the tax back, then maybe we'll be subject to all these things. We haven't gotten it back, yet. And it will be a U.S. Congressional Act, not an Osage Nation Congressional Act. There's a lot of force behind it, being a U.S. Congressional Act. If we don't ask for it, we're never going to get it, and if we had had an accounting given to us on a monthly basis, I'd probably would be against this, but since we don't get an accounting, what are they doing with the money? They're giving part of it to somebody – to a school that's not even on Osage County. So, I'm supporting the request be made by someone at the U.S. level to possibly see if we can get the gross production tax back, because we do need it for infrastructure. A million dollars isn't enough money to manage this multi-billion-dollar trust asset that we have to manage. Thank you."

Councilman Crum, being recognized, said, "The Councilwoman misunderstood what I was saying. I'm not talking about after we got it, I'm talking about when it goes before the U.S. Congress, and they start working on this particular thing we're asking Lankford to put in. At that point, we've opened up the allotment act, and any Congressman in there can start working on it. If he wishes to put in a deal that the trust is dissolved, they can do it. And, whether they have to pay for it or not, that's a whole different deal. I don't know whether they do or not, but they could do it. They could do a world of things that are in lesser amounts than that, but when they're working on this. So, I'm very reluctant to – and even Mr. Fredericks told us that it was a longshot, that the State of Oklahoma would come in and lobby our lobbyists there to not lose this money. So, when I thought about the risk versus the benefit, we don't have a very good chance of a benefit, because they're going to lose it up there, anyway. They're not going to put it in there for us, but while they're working on it, we could really lose a lot by somebody else to put something in. Inhofe, you know, Midnight Rider, we all know about that. Lankford could be a very fine man, but he's a junior senator from Oklahoma, and he can't control that other 100 of them. So, I wasn't talking about after we got it, I was talking about what might happen to us, while we trying to get it.

Councilman Yates, being recognized, said, "I'm hesitant to support this, as I understand it, and I may be incorrect, but the Gross Production Taxes agreement from the State of Oklahoma, the Federal Government, and the tribe, that that would put the Minerals Estate put into perpetuity, I think that If we bring it before the Congress, they may grant the production tax and then take away the perpetuity. So every 25 years, we'll be fighting this fight with certain lawyers from Tulsa, that's got us in court now. The Gross Production Tax is earmarked for Osage bridges, roads and education. I see that as important as to the core of infrastructure in the Osage. Plus, it makes us as good neighbors, and as far as other Osage people and non-Osage people. So, I'm hesitant to support this. I think you go out on the floor in Congress. Any number of things could happen, and nothing's been favorable, so I will not be supporting this.

Councilwoman Boone, being recognized, said, "I need to correct a statement that was made. It was the Act of 1978 that took us into perpetuity, not a Gross Production Tax. Thank you."

Councilwoman Erwin, being recognized, said, "I just wanted to say that if the United States Congress really wants to terminate us or abolish us, I think they can do that. I think that they can just do that with

the signature on some lines somewhere. They've done it to other tribes. I mean, just how protected do you want to be? We're here. They can terminate us at any time."

Councilwoman Yates, being recognized, said, "...I'm aware of the 1978 Agreement. As for whether they'd want to abolish us at any particular time, I don't foresee them calling a special session for entering it on the floor. But, if we go before then, then we definitely would be in their sights."

Chairman Waller said, "I've had to do these Washington Senate hearings over the same thing. I don't know how many millions I've spent on behalf of the Nation to do just what Councilman Yates is talking about. Those aren't just us getting out on those bridges, those roads, that school. We leave every bad category there is in our Reservation, and we're the lucky ones here in the Osage. You go up north, you'll find out what tough life is. I never got much out of them in Washington. You almost had to fight them to get anything. That's Washington. The State of Oklahoma, we lost an Irby case. I filed that case in 1998. The Tribal Council brought it in. It was over taxation, and it was clear cut when it was admitted and changed. We left it, and this was done for a reason. No one shoots a turtle running at you, and shoot the line, so we just "turtled" up there. But then, they changed it, after I left office, and we got the largest group to go against the Osage, at the Capitol. The list is 180 in groups. Everyone went against us. With that, that's why I can't support this. If we hadn't lost that case, I'd say, 'Let's go back out there,' but there are other options over this administration follows. You can never have too many attorneys, but you can have too many bills. You all haven't been here when it went down so bad, we shut the Nation down. I've been here twice, and it hurt. But we came right back. What I'd like to say is the State of Oklahoma is going to be jumping on board with the others when it comes down, because they just have to pay out of taxation now our producers. One time, I was with a tribe that flew me out to Albuquerque. They make a deal with the state. We'll pay seven per cent. In three years, they were paying 24 per cent to make that compact. That's what's going to happen here if we go out that way. Any other comments?"

Councilman Yates, being recognized, said, "One last question, in your bid to get this gross production tax, which is several millions of dollars, what would you do with it?" Councilwoman Erwin replied, "It's to build our infrastructure. Actually, we need some people on hand. We need some geologists, we need a bigger accounting to actually go in and figure our royalties and stuff, and see if we're being paid correctly. That's not happening. We need somebody to reconcile the records for us, because it's not happening. I don't know. We have, what, 8,000 tank batteries, whatever it is. We can only stick six tank batteries a month. There's something wrong with that. That's our money sitting out there in those tank batteries. We need to be accountable for – We need to make everybody know where the oil is." Councilman Yates asked, "So you'd hire a trained engineer, a geologist, an accountant and some gaugers?" Councilwoman Erwin said, "Well, some kind of compliance people."

Councilwoman Boone said, "I have a question for the Bureau. Is it my understanding that you only have one person in the Accounting department after Miss Waupakeche leaves? Is that true?" The Deputy Superintendent said, "Well, we're going to advertise for an open position, and right now, we've got three people in Accounting. When she leaves, we're going to have two." She replied, "You'll only have two and the department is geared for, what, three?" The Deputy Superintendent asked, "For Accounting?" Councilwoman Boone replied, "For Accounting." The Deputy Superintendent replied, "Four." Councilwoman Boone continued, "Four. And so, we're..." The Deputy Superintendent corrected, "Five." Councilwoman Boone continued, "So we'll only have two in there after Miss Waupakeche leaves?" The Deputy Superintendent said, "As I said, we're fixing to advertise one position. Hopefully..." Councilwoman said, "But you'll only have two. OK. Just two. Thank you."

Chairman Waller said, "Call for the question."

MOTION FAILED: CYNTHIA BOONE-YES, JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-NO, STEPHANIE ERWIN-YES, KATHRYN RED CORN-ABSENT, TALEE REDCORN-ABSENT, EVERETT WALLER-NO, ANDREW YATES-NO

Chairman Waller said, "We have another item. No, excuse me, we have that other, later. We have the proposal establishing Indian Regulatory Office. In my former life, I used to be on CERT, TRB, Oklahoma Tribal Advisory Board. We used to do that. Got first class seats, I fly to Washington all the time. I haven't been once, as Chairman. We've had to stay focused, because we were handed a gift here, and it's an expensive one. We keep fighting. Is that what we're going to end up doing? Put the Lord in command, and put us all here for a reason? Sometimes, we squabble a little bit here, but we've got to face this Nation head up. The Federal Law says, that – I don't care who understands this. As Chairman representing my shareholders, I'm going to turn this out there. The Federal Law says, that they have to deal with us as a Nation, Osage Minerals Council. Has to. That's not under the Indian Tucker Act. It's not under any of that other parameters, and it has to be done – with us, where we're happy about it. I've represented so many tribes in transportation, so many was I was in properties, so many in gaming. Oh, yeah, I had a gaming law, and it was wonderful. Gaming's a lot of fun, fly all over the Nation. A little action every once in a while, then you come home. I'm going to wrap this up. And now we want to bring that up for the last comment. We're not part of those anymore, but it did give us a connection to these other tribes, and with that, I'll end. Thank you."

Councilwoman Erwin, being recognized, said, "I'd just like to make a comment to something you did say about us, about the Osage annuitants. We are the legal membership, and it so states that, and yes, they do need to deal with us on one-on-one as a Nation."

Councilman Crum, being recognized, said, "Again, this is an action that has been going on for a little while for other tribes, trying to establish this Indian Energy Regulatory Office. Some of them will help us a little bit, most will help other tribes, because they're trying to get some to the level that we're trying to do some things, now, they're precluded from. Your reference, earlier, to the Irby case is a little like this one, in a way for me, the second paragraph, whereby it says it wants to add the Osage Allotment Act of June 28, 1906, as amended, 34 Stat. blah-blah-blah, providing for what reason receiving inclusion on to this Agency that they're wanting their side agency they're wanting to create. In the past, it sometimes helped us, it sometimes hurts. But the Osages have been excluded from being included in regulations and whatnot that's past. For instance, a year or so ago, I was hearing about the fracking rules. They were going around, and they were doing meetings and stuff about that, and I, as one of the Minerals Council members, I wanted to make sure that there were no changes, whereby, the Osages were included in that, and they were not, and the reason it was before was because whenever they'd do something like that, it's an automatic excluding the Osage Allotment Act. We're excluded from those things, so we didn't have to mess with the Federal fracking rules in terms of the way they were being presented by the BLM on other Federal lands. I asked Mr. Fredericks, and I'm taking his word that it wouldn't change past that. However, my fear is that if we now lose that uniqueness, and we start being lumped – It's not just like having what you said, a separate vote outside that we can be a part of, we would now be included in an Act of Congress that the '06 Act would be included in this. Unintended consequences would be great, and I suspect that if they put more money into the Indian Energy Regulatory structure, that we would benefit from it anyway, whether we were a part of it or not. If they had no money being put into Indian energy regulation and streamlining and stuff, well then, we would probably be a part of those rising waters. Again, we're taking a risk that I don't see a lot of benefit for. It's a fine thing for other tribes we could be joining, but could be just becoming another billing agent for Mr. Fredericks, and his word is always good, and I'm not sure we would affect it any, in terms of whether it would get passed or not, but I do know that, for the first time, the '06 Act would be included in, along with other Indian tribes in the same office."

Chairman Waller asked Councilman Crum, "If I took out the second paragraph, how do you feel?" and he replied, "If we wanted to spend some money saying 'support it', I guess I could do that. It would be a little bit like what we did on the other one." Chairman Waller asked, "Any other comments?"

Councilwoman Erwin said, "Well, as far as politics are concerned..." Chairman Waller said, "Let's not go there..." She continued, "I just want to make this comment. I am not so sure exactly what this is. Maybe

we need to support for these other people, not for ourselves. I don't know. But we're a one-stop shop in 2013. We're where everybody wanted to be. The Bureau came in here and just wreaked havoc with us, and now, we can't do anything. Will this help us? Who knows? Did they come in here to destroy us? I mean, they keep taking away all the employees. They're running, all jumping ship. They know something we don't know. I don't know how many vacancies they have over there. I've been going through the list. You know, they can't even fill some positions over there. So, I don't know. We were a one-stop shop, and this is what everybody else in the tribes wanted to be. But they came in here and wreaked havoc over us. So, I don't know. You want to take out the second paragraph? I don't know. Anybody else?"

Chairman Waller asked, "Any other comments? I couldn't support it with the second paragraph in it. I can support it on the other, because when we go into the room, no tribe gets in there and says, 'Now, who was the first oil tribe?' That's us. Look where it's got us. 117 years later, My God, if y'all don't feel desperate, and that's what we're having here, a lot of pressure you're under. I feel for you. But, with that, anyone want to call for the question?"

Councilwoman Boone asked, "Could I have a little more discussion?" Chairman Waller agreed. She continued, "If we were to take out the second paragraph, perhaps, then I think we need to change the wording on the fourth paragraph, where it says, '*the Indian Education Regulatory Office would be available to all tribes*'. I think we ought to insert, '*except the Osage Tribe*'. Chairman Waller said, "I'm going to stay with the first one. The only reason we did that is when I would go out and meet with the other tribes, every once in a while – I just don't want us to be on an island. I just don't want us to be so far out of here that we're in five court cases. Oh, that's right, we are. Maybe two." Councilman Crum said, "Point of Order. I lost track, today, but I think we have a motion on the floor for this one. We probably need to call this question." Chairman Waller asked, "Would you like to call it?" Councilman Crum said, "See how that works? I think we'd need to amend it to do so." Chairman Waller replied, "And that's one clarity, too, is that why we move, and I think the Council is going to have to recognize this. But we're going to have to start adding these meetings. We want to bring it out to our constituents, to talk about it. These conference calls with the attorney, a lot of us talking at once, so that's why we come and ask for this special meeting."

Councilwoman Erwin, being recognized, said, "Call for the question." Chairman Waller said, "Now, you need to make a motion." **Councilwoman Erwin said, "Oh, I make a motion that we approve the letter on the legislative proposal to establish an Indian Energy Regulatory Office." Chairman Waller said, "As amended or as is?" Councilwoman Erwin said, "As amended by the Chairman." Chairman Waller said, "That'll have to strike out the second paragraph." Councilman Crum, said, "Mr. Chairman?" Chairman Waller said, "I need a second." Councilman Crum said, "May I ask the secretary, did we have a motion to second? OK. We're good." Chairman Waller said, "I have a motion on the floor. I need a second." Chairman Waller to Councilwoman Erwin, "You have the motion." She said, "Oh, OK." Councilman Yates said, "I'll second." Chairman Waller said, "I have a second by Councilman Yates. Any more discussion? I call for the question."**

MOTION PASSED: CYNTHIA BOONE-NO², JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-YES, STEPHANIE ERWIN-YES, KATHRYN RED CORN- ABSENT, TALEE REDCORN- ABSENT, EVERETT WALLER-YES, ANDREW YATES-YES

Chairman Waller said, "As amended. The other item we go into Executive, is there any real discussion on this that someone needs to bring up? I'd like to not take care of that without Budget Chairman being here and to the Council. Would you like to move this to next Friday?" Councilwoman Boone said, "I want to discuss it, and then we can discuss it with her. Maybe no action will be taken, but I would like to discuss it." Chairman Waller then said, "Then, would you like to make a motion to go into Executive session?" **She replied, "I make a motion that we go into Executive session." Chairman Waller said, "Yes,**

² During the vote, she asked, "With just that one amendment?" Chairman Waller replied, "Yes, ma'am." Councilwoman Boone replied, "No, there are other amendments that need to be made, so my answer is 'No'.

ma'am." Councilwoman Erwin said, "Second." Chairman Waller said, "I have a motion on the floor by Councilwoman Boone, second by Councilwoman Erwin to go into Executive Session. I'd like no discussion. Call for the question."

MOTION PASSED: CYNTHIA BOONE-YES, JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-YES, STEPHANIE ERWIN-YES, KATHRYN RED CORN- ABSENT, TALEE REDCORN- ABSENT, EVERETT WALLER-YES, ANDREW YATES-NO

EXECUTIVE SESSION (after ten-minute break) – 11:12 A.M.

Motion by Councilman Crum to come out of Executive Session at 11:17 a.m., 2nd by Councilwoman Erwin.

MOTION PASSED: CYNTHIA BOONE-YES, JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-YES, STEPHANIE ERWIN-YES, KATHRYN RED CORN- ABSENT, TALEE REDCORN- ABSENT, EVERETT WALLER-YES, ANDREW YATES-YES

Meeting Minutes: Councilman Crum, being recognized, said, "Mr. Chairman, I see we have Meeting Minutes on here again. I didn't notice that before. Before that, we had corrections to be done, and I haven't seen the corrected one. If it had been sent to me, I hadn't seen it, so I would suggest that we go ahead and table that." Chairman Waller said, "Friday," and Councilman Crum agreed, "Friday, at the regular meeting." Councilwoman Boone said, "I have a question. Are you guys taking these home and reading them and submitting your corrections to our staff, or do you leave them in your book to be shredded?" Councilman Crum responded, "Well, we get them both. They send them to us, electronically. That's the one that I do the most of, but I do take them home, yes." Councilwoman Boone asked, then, "Do you have any additions or corrections that would change any of the meeting minutes?" Councilman Crum replied, "I had not – that's what I was saying, I'm negligent in looking at the notice I have in here. I admit that I had not done it. So, that's the reason I'm asking." Councilwoman Boone continued, "And, Andrew, did you have any?" Councilman Yates replied, "Any corrections?" Councilwoman Boone said, "Corrections, or anything to the minutes?" Councilman Yates said, "I'll have to read over this version. I have not received this version." Councilwoman Erwin said, "Redline it." Councilwoman Boone said, "Redline it, send it in." Chairman Waller asked Councilman Crum, "Would you like to put that in a motion that we table it until next Friday?" Councilman Crum replied, "I did." Chairman Waller said, "I need a second." Councilman Yates said, "I second."

MOTION PASSED: CYNTHIA BOONE-YES, JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-YES, STEPHANIE ERWIN-YES, KATHRYN RED CORN- ABSENT, TALEE REDCORN- ABSENT, EVERETT WALLER-YES, ANDREW YATES-YES

Motion by Councilwoman Erwin to adjourn, 2nd by Councilwoman Boone.

MOTION PASSED: CYNTHIA BOONE-YES, JOSEPH CHESHEWALLA-ABSENT, GALEN CRUM-YES, STEPHANIE ERWIN-YES, KATHRYN RED CORN-ABSENT, TALEE REDCORN-ABSENT, EVERETT WALLER-YES, ANDREW YATES-YES

Adjournment – 11:15 a.m.

Attest:


Executive Administrative Assistant

Approved:


Chairman