

TABLED

Cherokee Council House
Cherokee, North Carolina

JAN 09 2020

Date

Ordinance No. 87 (2020)

WHEREAS, the Charter and Governing Document authorizes and empowers the Eastern Band of Cherokee Indians (EBCI) Tribal Council to adopt laws and regulations for the general government of the Tribe. Charter and Governing Document, sect. 23 (Sept. 5, 1995) *see also* C.C. §117-10.

WHEREAS, in 2006, the Tribe found “that it is vital in a democratic society that public business be performed in an open and public manner.” C.C. Sect. 132-2(a)

WHEREAS, individuals serving on authorities, boards, committees, commissions, or teams are subject to the Standards of Ethical Conduct. C.C. Sect. 117-45.1(a)(1)(b).

WHEREAS, individuals serving on authorities, boards, committees, commissions, or teams “shall maintain or enhance the honesty and integrity of their respective offices; and safeguard the reputation of the EBCI as a whole.” C.C. Sect. 117-45.3(d)(16).

WHEREAS, the general public wants more transparency regarding all authorities, boards, committees, commissions, or teams.

NOW THEREFORE BE IT ORDAINED in Annual Council assembled at which a quorum is present that the Tribal Council amends Cherokee Code section 117-37, as follows in EXHIBIT A.

BE IT FURTHER ORDAINED the Ordinance provisions that amend or adopt new sections of the Cherokee Code shall be codified by the Department of Justice. The Department of Justice shall incorporate such amended provisions in the next codification of the Cherokee Code.

BE IT STILL FURTHER ORDAINED should any provision of this Ordinance be determined invalid by the Cherokee Supreme Court, or the Cherokee Court without appeal to the Cherokee Supreme Court, or any other court of competent jurisdiction, those portions of this Ordinance which are not determined invalid shall remain the law of the Eastern Band of Cherokee Indians

BE IT FINALLY ORDAINED that the prior C.C. §117-37 is rescinded and that this ordinance shall become effective when ratified.

Submitted By: Bo Crowe, Wolfstown/Big Y Representative

Cherokee Code

Chapter 117 – TRIBAL GOVERNMENT

ARTICLE III. – BOARDS AND COMMITTEES

Sec. 117-37. – Manpower Committee Public access to authorities, boards, committees, commissions, or teams meetings.

(a) Purpose.

Tribal Council finds that public authorities, boards, committees, commissions, or teams exist to aid the conduct of the Tribe’s business. The law’s intent is that their actions be taken openly and that their deliberations be conducted openly.

~~The Manpower Committee shall be composed of the members of the Executive Committee, the Chairman of the Tribal Council, and two members of the Tribal Council elected by the Council.~~

(b) Application.

(1) This section applies to a “legislative body”. A “legislative body” shall mean an authority, board, commission, committee, team, or other tribal body created by charter, ordinance, or resolution. Specifically, this section applies to Tribal Gaming Commission (TGC) established in C. C. §16-2.01, Tribal Casino Gaming Enterprise (TGCE) established in C. C. §16A-3, Cherokee School Board established in C. C. §115-8, Cherokee Police Commission established in C. C. §120-4, Tribal Alcoholic Beverage Control Commission (TABCC) established in C. C. §18B-200, Tribal Employment Rights Commission (TERO) established in C. C. §92-5, and the Sequoyah National Golf Club L.L.C Board of Directors established in Eastern Band of Cherokee Indians (EBCI) Tribal Council Resolution No. 418 (2008). However, advisory committees, comprised solely of Tribal

1 Council members that are less than a Tribal Council quorum are not
2 subject to this section. Tribal Council standing committees irrespective of
3 their composition, which have a continuing subject matter jurisdiction, or
4 a meeting schedule by charter, ordinance, resolution, or formal tribal
5 council action are bound by this section.

6 (2) This section does not apply to the following committees:

7 (i) Business Committee as defined in C.C. §117-33,

8 (ii) Housing Improvement Program (HIP) Committee,

9 (iii) Qualla Housing Authority (QHA) Board of Commissioners (BOC)
10 as defined in C.C. §44-6,

11 (iv.) Social Service Committee, and

12 (v.) Enrollment Committee as defined in C.C. §49-4.

13 ~~The duties and authority of the Manpower Committee shall be to oversee, select~~
14 ~~or approve all personnel actions for Tribal employees subject only to those~~
15 ~~specific powers and authority delegated by the Tribal Council to the Community~~
16 ~~Services Committee.~~

17 (c) "Meeting" Definition.

18 (1) As used in this section, "meeting" shall mean any majority congregation
19 of the board, committee, etc. at the same time and location to hear,
20 discuss, deliberate, or take action on any item that is within the subject
21 matter jurisdiction.

22 (2) A majority of the members of a legislative body shall not use a series of
23 communications of any kind, directly or through intermediaries, to
24 discuss, deliberate, or take action on any item of business that is within the
25 legislative body's subject matter jurisdiction.

26 (3) Nothing in this sub-section shall impose the requirements of C.C. 117-37
27 on any of the following:

28 (i) The majority of the legislative body member's attendance at a
29 conference or similar gathering open to the public, provided there will no
30 subject matter business discussed.

1 (ii) The majority of the legislative body member's attendance at an
2 open publicized meeting organized to address a topic of local
3 community concern, provided there will no subject matter business
4 discussed.

5 (iii) The majority of the legislative body member's attendance at a
6 purely social or ceremonial occasion, provided there will no
7 subject matter business discussed.

8 (d) Open Meetings. A legislative body meeting shall be open and public. The
9 meetings shall be televised or streamed. All persons shall be permitted to attend
10 any meeting except as otherwise provided by this chapter in C.C. §117-37(e).

11 (e) Closed Sessions. Closed sessions are not open to the public or broadcasted. The
12 legislative body may hold closed session to discuss the following:

13 (1) A confidential final draft audit from the Office of Internal Audit and
14 Ethics or an independent audit firm. However, after the public release of
15 an audit, if the legislative audit meets to discuss the audit report, it shall do
16 so in an open session unless exempted from another provision of the
17 Cherokee Code.

18 (2) A purchase price, sale, exchange, or lease of real property and payment
19 terms for the EBCI or EBCI member.

20 (3) Advice from legal counsel or any lawyer-client privilege.

21 (4) Matters posing a threat to the public buildings security, essential public
22 services security, including water, drinking water, wastewater treatment,
23 natural gas service, and electric service, or a threat to the public's right to
24 access to public services or public facilities.

25 (5) Matters regarding employment, discipline, dismissal or other employment
26 issue unless the employee requests a public session.

27 (6) Any other reason set forth in C.C. §117-13(b) or C.C. § 132-11(a).