



COMMONWEALTH of VIRGINIA

Virginia Council on Indians

P. O. Box 1475, Richmond, VA 23218

L. Preston Bryant, Jr.
Secretary of Natural Resources

William P. Miles
Chair

Virginia Council on Indians Meeting May 20, 2008

Present: Chief Bill Miles (Pamunkey); Assistant Chief Earl Bass (Nansemond); Sharon Bryant (Monacan), Chief Stephen Adkins (Chickahominy), Mitchell Bush (Indian at large, Onondaga), Sherry Munford (Indian at large, Sappony), Deanna Beacham (Council staff, Weapemeoc)

Absent: Chief Anne Richardson (Rappahannock), Chief Ken Adams (Upper Mattaponi), Joanne Howard (Chickahominy Eastern Division), Chief Carl Custalow (Mattaponi).

Attendees: Arlene and Jack Milner (Upper Mattaponi); Dante Desiderio (Sappony); Gerald Epps (Sappony); Burlong Epps (Sappony); Kenneth Epps (Sappony); Ken Munford, Paige Archer (Meherrin), Roger Archer (Meherrin), Lynette Allston (Nottoway of Virginia), Allard Alston, Teague Allston (Nottoway of Virginia), Archie Elliott (Nottoway of Virginia), Leroy Hardy (Nottoway of Virginia), William Wright (Nottoway of Virginia), Sidney Turner (Nottoway of Virginia), Harvey Flythe (Nottoway of Virginia), Joyce Flythe (Nottoway of Virginia), Helen Rountree, Ishneila Moore.

Call to Order:

1. The meeting was called to order at approximately 6:30 PM by Chief Bill Miles, Chair, who also gave the invocation. He then asked those present to introduce themselves.

Administrative Business:

1. The first order of business was the approval of the minutes from the April 15, 2008 meeting. A motion to accept was made by Assistant Chief Bass, seconded by Chief Adkins, and the minutes were accepted unanimously.

2. The budget report was not presented as the VCI office had not yet received it. Members who have expenses to be reimbursed were requested to turn in their expense

reports by the end of the month so that they could be included in the expenses for this fiscal year.

Public Comment:

The first public comment was offered by Mr. Allard Allston, whose comments pertained to the recognition procedure in place for the Nottoway Indian Tribe of Virginia. Mr. Allard's comments were submitted in writing and are appended to these minutes.

The next public comment was made by Paige Archer, who previously served as a Council member and as Chair of the recognition committee considering the Nottoway petition. Ms. Archer said her comments were in response to an email sent to the VCI members and recognition committee members by Dr. Helen Rountree, who was previously serving as a consultant to the recognition committee and is now a member of that committee. Ms. Archer's comments were also submitted in writing and are appended to these minutes.

The final public comment, made by Ms. Janet Moran and Mr. Mark Langenfeld, was an announcement about an event called the Longest Walk, the southern route of which will pass through Virginia in the June 27- July 5, 2008. They submitted information which can be found on the website <http://www.longestwalk.org>. According to the website, this event is being organized by Dennis Banks, co-founder of the American Indian Movement. Contact information is available on the website.

Old Business:

1. The first agenda item was Committee Chair Earl Bass's report on the Nottoway Tribe of Virginia recognition committee progress. There had been a meeting at 2 PM of the same day, May 20. Four members of the committee were present, with Chief Anne Richardson being absent. Previously the committee had voted that the petition showed that criteria 2 and 4 were met, and that criterion 1 was not met. At the May 20 meeting a vote was taken on whether the petition of the Nottoway Tribe of Virginia demonstrated that criteria 3, 5 and 6 for recognition were met. The vote was split 2-2 on each of those criteria. Assistant Chief Bass said that the committee's report to the VCI on the proceedings of the recognition committee would reflect this vote. He stated that the next step would be for the committee to meet with the VCI legal counsel to determine what should be in the committee's report to the VCI, which would then be submitted to the VCI according to the procedure. The VCI Chair asked if the report would include the committee's recommendation to the VCI. Assistant Chief Bass replied that it was unclear as to what recommendation the committee could make beyond reporting on their votes for each of the criteria, but that the committee would have to meet again to produce a report, so they could vote on a total recommendation at that time. Chief Miles suggested, and Chief Adkins agreed, that a revote could be taken on the final 3 criteria when all members were present. Attorney General's counsel Ishneila Moore agreed that it would be acceptable to vote again on those criteria after the committee member who had been absent had an opportunity to review the minutes of the meeting and listen to the audiotape of the meeting taken by the recording secretary.

2. The next item of business was assigning duties and organizing a meeting of the VCI advisory committee. Chief Miles suggested that the group be asked to plan the VCI conference for next year. He said he would contact the members of the group to see if they could meet soon. Council member Sherry Munford suggested that the group should think creatively in planning the next conference. Chief Miles asked for all the VCI members to send in their thoughts and ideas on the conference, to be shared with the advisory committee.

3. The next item on the agenda was a consideration of changing the provision in the Tribal Recognition Criteria document which states that petitions will not be considered from a tribe that is already recognized in another state. Members who participated in the original formulation of the recognition criteria in the 1980s could not clarify why such a provision was made to begin with. After some discussion of this provision, the existence of which prevents the Sappony Nation from petitioning for state recognition. Member Sherry Munford pointed out that the Sappony Nation, as a tribe which has always existed on both sides of the North Carolina and Virginia border, and that the government of Virginia has always treated the Sappony as Virginia Indians, so that this provision in the criteria document is inappropriate. Chief Adkins said that while he supported striking that provision from the document, only 6 of the 9 active VCI members were in attendance, and suggested that it would be best for all the Council members to be present if such a vote was going to be taken. Chief Miles agreed with this, and suggested that both this agenda item and the agenda item concerning giving the Sappony a direction of action to take be tabled until all the active members of the VCI could attend. There was general agreement with this suggestion. Chief Miles said an effort could be made to encourage attendance at the next meeting. The Sappony Nation's executive director will be contacted prior to the next meetings about the expected attendance of the VCI members.

New Business:

1. There was no new business to discuss.

Announcements:

1. The next VCI meeting will be June 17, 2008, in room 7 West of the GAB
2. The 21st annual Upper Mattaponi spring festival and powwow will be held May 23-25, at the Upper Mattaponi tribal grounds, King William. May 23 is Children's Day, 10 AM – 1 PM.
3. The 12th annual Nansemond/Chesapeake American Indian festival will be June 7-8, at the Chesapeake Festival Park, Chesapeake.
4. The 13th annual Mattaponi Indian Reservation powwow will take place June 14 on the Mattaponi Reservation in King William County, Virginia.

Adjournment

There being no further business, the Chair declared the meeting adjourned at approximately 7:10 PM.

3/26/2008

Public Period Comments of Allard A. Allston III

25274 Barbara Hill Court
Post Office Box 24
Drewryville, Virginia 23844

434 668-4454

I am Allard A. Allston III and reside with my wife at 25274 Barbara Hill Road in Drewryville, Virginia 23844.

As an interested citizen, I have attended virtually all VCI meetings and conferences for over two years. As most of you are aware, I am also the spouse of a pioneering member of the Nottoway Indian Tribe of the Virginia.

I requested this brief public comment period to express my sincere appreciation for the e-mails and phone calls received this past month, by my wife and other Tribal members within the kinship clusters of the Nottoway Indian Tribe of Virginia, from Virginia citizens. Several of these calls came from members of Virginia's recognized Tribes and from persons involved in the legislative process.

These Virginians expressed universal dismay at the written rationales some the Recognition Committee members offered to support their individual votes regarding Ordinance # 1.

These words of support and encouragement suggest that many Virginians are carefully following this first formal Recognition proceeding in 20 years, and they are doing so with thought, reason and a lack of bias.

That is all that the Nottoway family could hope for in this process.

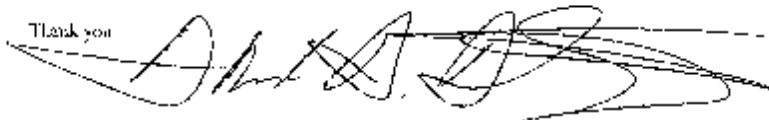
These interested Virginians have been promised that where anyone has made a formal criticism or offered a balanced analysis of a document in the Nottoway Petition, the Nottoway Indian Tribe of Virginia will be make the document(s) publicly available for that citizen or legislator to personally review and decide for themselves.

I have been asked by the Nottoway Petitioners to withhold any additional comment about the odd thinking reflected in the written comments of some Recognition Committee members.

The Nottoway Indian Tribe of Virginia has been reassured by some VCI members that any criticisms and distortions can and will be fully and fairly aired, when the entire Virginia Council on Indians holds its final public review of the Recognition Committee report.

For now the Petitioners are urging interested persons including me to take you at your collective word...and to follow the process closely.

Thank you



917 Showalter Road
Yorktown, VA 23692
May 20, 2008

Dear Virginia Council on Indians Members,

I am writing in response to several statements in a communication sent to VCI members by Dr. Helen Rountree on Friday, November 12, 2007, and a comment by her included in an attachment to the April 15, 2008 Recognition Committee Minutes. In her November 12, 2007 communication, she states. "I think I have seen genuine intimidation of Committee members going on in the current recognition case." I never felt any intimidation of me and the other Committee members by the Nottoway Indian Tribe of Virginia, Inc. Petitioning Group. Further, I would not compromise my integrity and reputation by making decisions based upon intimidation, and I feel that Chief Gene Adkins and Mitchell Bush along with me with their expertise and character and dedication to the recognition process based their decisions to approve the Petitioners meeting of Criteria 2 and 4 on the genealogical and historical documentation, birth records, affidavits, marriage records, death records, and narratives presented by the Petitioners. Also, I was the enrollment chairperson for the Meherrin Indian Tribe for approximately two years, and my experience in reviewing and analyzing genealogical and other documentation was an asset to me.

Another statement in Dr. Rountree's communication, "I have definitely observed and documented by audio tape those public Committee meetings—a maximum of "silent studying" during the meeting [even if no new documents have been distributed] and a minimum of discussion before votes were taken." When new documents that we requested were presented at a meeting by the Petitioners, we stayed focused and reviewed the documents immediately in the meeting to move the process forward. Their documents were clear and discernable. It certainly took "silent studying" of the documentation followed by any necessary discussion and response from the Committee members to reach a consensus, and at times the Petitioners' spokesperson, Chief Lynette Allston, was questioned for any needed clarification, as we did with any previously submitted documentation.

Dr. Rountree also states, "At present I have very little incentive to drive to Richmond for meetings at which I'm not allowed to speak unless asked a question." Dr. Rountree was certainly given the opportunity to speak when she requested it or if the Committee needed or requested her opinion. As the chair, I did not allow her to submit a communication in reference to some future acquisition of land as it was not relevant to Criterion 4 which was under discussion. Also, at times, I requested VCI legal counsel Assistant Attorney General, Jack Kotvas', opinion on certain aspects of the petitioning process. The role of the consultant is stated in "step 3. The Recognition Committee" under Procedure For Petitioning included with the Tribal Recognition Criteria.

Dr. Rountree was given copies of additional documentation submitted by the Petitioners at each meeting and seldom requested to be recognized for input on such documentation. She certainly would have been recognized by me if she had requested it. With Assistant Attorney General Jack Kotvas' agreement, I did inform her that as consultant she was to submit documentation at the request of the Committee or chair.

In an attachment to the April 15, 2008, Virginia Council on Indians Recognition Committee Minutes, Dr. Rountree stated “Affidavits and oral tradition cannot stand by themselves (Paige Archer was wrong last fall, when she said they did in federal cases; I checked with the BIA).” I never made the statement she attributed to me. She was not truthful in attributing such a statement to me. I informed the Committee that affidavits and oral documentation are used by the BIA as supportive documentation in evaluating federal petitions.

I hope that this response to certain statements by Dr. Rountree will be helpful to the Virginia Council on Indians in clearing up any misconceptions that might have arisen by her publication of such statements.

Sincerely,

Paige Archer

From: Helen Rountree [metemsis@visi.net]
Sent: Friday, November 02, 2007 1:26 PM
Subject: Need changes to Recognition procedure

Dear Members of the Council on Indians,

My lawyer informs me that even though a Recognition case is in progress, and I am a VCI-appointed consultant on it, I have the right to suggest changes to you that, in my professional opinion, are needed in the procedures followed in tribal recognition cases. Some of the changes (#1 and part of #3) are needed immediately.

I have been involved so far in nine recognition cases, eight in Virginia and one in Maryland, not because I was Indian (I am not) but because of my careful and sympathetic research into Indian people's history. Several of you have worked with me in one or more cases. In the present case, I was appointed by the VCI because I have done extensive research on the old Nottoway Indian Reservation, which ceased to exist in 1878.

The current recognition case is the first one to take place using the 2006 criteria and procedures, and I have seen a number of procedural things that I think the Council needs to change soon, some of them very soon indeed. They are as follows:

(1) Committee meetings should not be public meetings anymore. That is a change that needs to be made ASAP. If it involves going to the General Assembly and getting an exception to FOIA for the VCI's Recognition Committee whenever it functions, then please do it. And if that exception is needed, the current recognition case should go "on hold" until the exception is in place.

There are good reasons why all of the other Recognition Committees I have worked on -- and the evaluators for the Bureau of Indian Affairs in their recognition cases -- have kept their working meetings in a private setting. Anybody can feel intimidated when petitioners are present in a public meeting, especially if the petitioners are vocal. Discussion of their ancestors can be a very emotional experience for petitioners, and they are very likely to react strongly and even threateningly.

I think I have seen some genuine intimidation of Committee members going on in the current recognition case, intimidation which has taken the form of the Petitioners leveling unfounded legal charges and demands for "exposure" against the Consultant (me). They have brought one or more charges against me at the beginning of every single Committee meeting since June. The implication is clear: Committee Members can expect the same treatment if they offend the Petitioners. I have definitely observed -- and documented by audiotaping those public Committee meetings -- a maximum of silent "studying" during the meetings [even if no new documents have been distributed] and a minimum of discussion before votes were taken. I do not think that that is healthy. In fact, I think it may "taint" any decisions the Committee has made so far.

(2) If the Council is not able to privatize the Committee meetings immediately, and if it is unwilling to halt the recognition case until that can be done, then new procedures should set up now by vote of the VCI, specifying that only one designated person from the Petitioners'

group may serve as spokesperson in any one meeting, and then only speak briefly (by that I mean less than 5 minutes) to answer a question. And that rule should be enforceable not only by the Committee Chairman but also by the other Committee members and the VCI Counsel who attends the meetings. Petitioners are presenters of documents, not oral advocates of their case. But I have watched -- and audiotaped -- some extensive oral persuasion by several persons on the Petitioners' side in any given meeting, in a case that is supposedly being decided on the basis of written submissions.

(3) Work up a written definition of the roles, powers, and FOIA responsibilities of the Committeemen, Committee chairman, and any Consultants; have the entire VCI discuss them and vote on them.

One role needs defining by the Council ASAP: at the Petitioners' specific behest this year (once again, I've audiotaped it), the role of the Consultant to the Recognition Committee has been restricted almost out of existence, without those restrictions ever being voted upon by the VCI that appointed me. At present I have very little incentive to drive to Richmond for meetings at which I'm not allowed to speak unless asked a question [that's the Committee Chairman's role definition that I transcribed that from the audiotape of the October Committee meeting]. I have talked with the two other Committeemen who attend the meetings regularly, and once they were finally asked, they said that they think that the Chairman's definition is too constricted as well. We need a VCI ruling pronto.

In addition, I was continually told by the Petitioners in this year's case (with no response from Committee Chairman or VCI Counsel) that I had violated FOIA in various ways; the Petitioners are currently demanding that a letter describing my "guilt" be posted on the VCI website. But when I consulted my own lawyer recently, he told me that a Consultant does not come under FOIA at all -- only Committee Members do. Obviously, a letter whose charges about me are false should not be posted on a website sponsored by a state agency.

Finally, at least some of us (I have checked with several Committee members) got the impression that lest we violate FOIA, we could not communicate about the case at all outside of the public meetings -- meetings in which discussion was not truly free already. Thus we were completely isolated from one another at all times. But my lawyer informs me that any two Committee members can discuss the issues with each other; it is only when three or more Committee Members do the discussing that it becomes a "clandestine committee meeting." And the Consultant can talk with a Committee Member at any time outside a meeting about issues in the recognition case.

These sorts of role definitions need to be checked into and ruled upon quickly. The "seat-of-the-pants flying" (my term) that I've had to watch this year is not good enough.

(4) If there are to be one or more Consultants on a recognition case, each Consultant should have a full copy of the original petition and anything that is added to it later. If that means extra xeroxing in the VCI office, so be it. There is no sense in the Council's appointing a Consultant and supposedly putting her or him to work unless he or she has the right to see all the papers involved. I found out this year that such a right needs to be spelled out plainly in advance.

(5) Current procedure dictates that a copy of the recognition petition is placed in the VCI office to remain on file, but there is presently no mandate to update it as the recognition case progresses. In the current case, some records were withdrawn by the Petitioners as irrelevant to their case, and the Petitioners have supplied many more documents at the Committee's request. When I asked in the October Committee meeting if updating was being done in the VCI office, I was shushed and the matter was dropped. That matter should not be dropped: the VCI office copy is meant to be a permanently retained copy of what was presented in a recognition case.

There may be other things in need of change that your own members can bring up. But please do consider making the changes suggested above. I think it would greatly improve the Recognition Committee's getting at the truth about petitioners' history, whatever that truth may be, and making well-discussed, well-thought-out decisions accordingly.

Sincerely,

Helen C. Rountree, Ph.D.
Professor Emerita of Anthropology
Old Dominion University