

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: OCT 25 2018

ORDINANCE NO. 399 (2018)

WHEREAS, the Tribe's Technology Enhancement Fund was established "to provide for the enhancement and growth of the Tribe's technology infrastructure and capacity to support its governmental and business activities." (C.C. Sec. 16C-10(e) and Sec. 16C-26); and

WHEREAS, the fund receives 4% of distributable net revenue from gaming at Harrah's Cherokee Valley River Casino. (C.C. Sec. 16C-9); and

WHEREAS, the Tribe's Information Technology Strategic Working Group (ITSWG) is responsible for reviewing and approving projects funded by the fund. (C.C. Sec. 16C-10(e); Resolution No. 299 (2014)); and

WHEREAS, the ITSWG may consist of up to 14 members appointed by a variety of people and entities and is supposed to meet regularly, provide monthly reports to Tribal Council, and perform other acts in furtherance of the reasons the group was created. (Resolution No. 299 (2014)); and

WHEREAS, although well-intended, the ITSWG does not meet or function as intended in Resolution No. 299; and

WHEREAS, C.C. Sec. 16C-10(e) should be amended to simplify the mechanism for planning, approving and funding technology projects using the Technology Enhancement Fund.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that Cherokee Code Sec. 16C-10 shall be amended to read as follows:

Sec. 16C-10. - Cherokee Endowment and Investment Funds.

(a) The Tribal Council shall create and fund separate Endowment and Investment Funds with distributable net revenue as set forth in Section 16C-9. The purpose of these Funds shall be to provide a long-term investment and capital appreciation vehicle for the Tribe. Tribal management shall make monthly deposits from distributable net revenue into these Funds.

(b) The first Endowment and Investment Fund ("Endowment Fund No. 1") shall be maintained for the long-term success of the Tribe with a soft-floor of 100 million dollars. If at any time there is a breach of the soft floor, the Investment Committee will monitor investment

1 performance for a period not to exceed two quarters. If the floor should be breached for a
2 period of two consecutive quarters the investment committee shall consider an adjustment to
3 the asset allocation in order to restore an acceptable funding level within a time period deemed
4 appropriate. Earnings of the Endowment Fund No. 1 shall be added to the principal of the
5 Endowment Fund No. 1. The goal for the first Endowment and Investment Fund shall be to
6 accumulate and grow capital for the long-term economic growth and security of the Tribe and
7 its members grown to a funding level of two times the operational budget of the Tribe.

- 8 (c) The second Endowment and Investment Fund ("Endowment Fund No. 2") shall be used as
9 follows:

10 (1) The annual allocation in Endowment Fund No. 2 may be spent for the purposes in Section
11 16C-11.

12 (2) All earnings in Endowment Fund No. 2 may be used for the purposes in Section 16C-11;
13 and provided, however, that the principal of Endowment Fund No. 2 may be used to
14 purchase additional lands for the Tribe and make other investments, so long as other funds
15 are not available for that purpose and in any fiscal year the amount expended does not
16 exceed the amount deposited into the Fund under subparagraph (1) of this subsection;
17 provided further that when the purchase or investment is for a specific economic
18 development purpose and will generate revenue for the Tribe within five years, the
19 principal of Endowment Fund No. 2 may be used so long as no individual land purchase
20 or investment reduces the principal by more than \$10,000,000.00.

- 21 (d) The first and second Endowment and Investment Funds shall be used only for the purposes
22 expressed in Section 16C-11. They shall not be used as supplements to the General Fund. The
23 Principal Chief and Tribal Council shall review the requirements for the second Endowment
24 and Investment Fund every two years to evaluate the need for, and adequacy of, that fund.

- 25 (e) There is hereby created a Technology Enhancement Fund to provide for the enhancement and
26 growth of the Tribe's technology infrastructure and capacity to support its governmental and
27 business activities.

28 (1) The Technology Enhancement Fund shall receive a one-time distribution of
29 \$10,000,000.00 from the Endowment Fund No. 2 in Fiscal Year 2015. The reserve
30 portion of this distribution shall be maintained in a diversified and balanced investment
31 portfolio within the Endowment Fund No. 2 and in compliance with the investment policy
32 statement of the Endowment Fund No. 2. The Technology Enhancement Fund shall be
33 maintained as a sub-account within the Endowment Fund No. 2 for investment purposes.

34 (2) The Technology Enhancement Fund shall be used to fund capital projects that enhance
35 and expand the technology capabilities of the Tribal Government and Tribal entities. The
36 Tribal Government has established the EBCI Information Technology Strategic Working
37 Group (ITSWG) in Resolution No. 299 (2014), to perform certain acts in relation to the
38 fund herein established. Resolution No. 299 (2014) is hereby rescinded. ~~This EBCI~~
39 ~~Information Technology Strategic Working Group~~ The subcommittee described herein
40 shall be responsible for reviewing and approving projects that shall be funded using the
41 resources of the Technology Enhancement Fund, and ~~are~~ is hereby directed to establish
42 funding criteria and limits to be approved by resolution of the Tribal Council prior to
43 funds being disbursed. The subcommittee shall consist of the following: Principal Chief,

1 Vice Chief, Chairman of Tribal Council, Vice Chairman of Tribal Council, Secretary of
2 Information Technology or his/her designee, and the Secretary of the Treasury or his/her
3 designee.

4 (3) For Investment Purposes, the Tribal Investment Committee established under section
5 117-41 shall be responsible for the investment portfolio oversight of the Technology
6 Enhancement Fund as a subaccount to the Endowment Fund No. 2. Earnings from
7 investment returns or return on investment from business activities shall be returned and
8 utilized by the Technology Enhancement Fund.

9 (4) Additional contributions to the Technology Enhancement Fund may be requested and
10 approved by resolution of the Tribal Council and through a needs based budget approach
11 during the annual budget process.

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13 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
14 rescinded, and that this ordinance shall become effective when ratified by the
15 Principal Chief.
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18 *Submitted by Principal Chief Richard G. Sneed*
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