Oneida Nation
Oneida Business Committee
PO Box 365 • Oneida, WI 54155-0365
oneida-nsn.gov

BC Meeting Materials July 5, 2016

Open Session

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the following 203 pages are the Open Session meeting materials presented at a meeting duly called, noticed and held on the 5th day of July, 2016.

Lisa Summers, Tribal Secretary
Oneida Business Committee

Oneida Business Committee

Special Meeting
8:30 a.m. Tuesday, July 5, 2016
BC Conference Room, 2nd floor, Norbert Hill Center

Agenda

To get a copy of the agenda, go to: http://oneida-nsn.gov/

I. CALL TO ORDER AND ROLL CALL

II. OPENING

III. ADOPT THE AGENDA

IV. UNFINISHED BUSINESS

A. Approve meeting materials for the August 10, 2016, special General Tribal Council meeting
Sponsor: Lisa Summers, Tribal Secretary

EXCERPT FROM JUNE 22, 2016: Motion by Trish King to defer the meeting materials for the August 10, 2016, special General Tribal Council meeting to a special Business Committee meeting, seconded by Fawn Billie. Motion carried unanimously.

V. ADJOURN

Posted on the Oneida Nation's official website, www.oneida-nsn.gov, at 8:30 a.m., Monday, June 27, 2016, pursuant to the Open Records and Open Meetings Law, section 7.17-1.

The meeting packet of the open session materials for this meeting is available by going to the Oneida Nation's official website at: https://oneida-nsn.gov/government/business-committee/agendas-packets/

For information about this meeting, please call the Business Committee Support Office at (920) 869-4364 or (800) 236-2214.

Special General Tribal Council Meeting

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Wednesday, August 10, 2016

6 p.m.

Radisson Hotel & Conference Center

2040 Airport Drive

Green Bay, Wisconsin

For directions go to: https://goo.gl/uft8ZQ

Four Strategic Directions

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GENERAL TRIBAL COUNCIL MEETING INFORMATION

EXPECTATIONS

No Children Please. All seats are needed for voting age members.

Smoking only allowed in designated area.

No E-cigarettes allowed per Clean Air Policy of BC-05-28-14A.

Please exit the meeting in an orderly manner.

Keeping in line with the Oneida principle of Kalihwi·yó; meeting attendees are expected to treat each other with respect and kindness.

Please do not:

- Use profanity,
- Interrupt others,
- Heckle or threaten others,
- Disrespect property, or exhibit behavior that disrupts the meeting or endangers the safety of other attendees,
- Be under the influence of alcohol or illegal drugs,
- Have a weapon on their person in violation of any applicable law, or
  Take action that violates Tribal law.

TO ATTEND THE MEETING

You must be an enrolled Tribal member.
You must be at least 18 years old.
You must present a valid Tribal or state photo ID when checking in and out.

PHOTO ID REQUIRED

A valid Tribal or state issued photo identification card must be presented. The Enrollment Department issues Tribal ID's.

Tribal ID Card Issuance hours and location:
9 a.m. to 4 p.m. weekdays
210 Elm St. Oneida, WI 54155
(920) 869-6200

GTC MEETING STIPEND

To be eligible to receive the $100 GTC meeting stipend; attendees must be in line to register no later than 15 minutes after the start of the meeting **and** sign out after the meeting adjourns.

Those leaving the designated GTC meeting area will not receive their stipend.

EXITING SAFETY INFORMATION

When the meeting is adjourned, please remain seated until your section is released by the Tribal Chairwoman

FOOD AND BEVERAGES

If you have medical needs, **please bring your own food and beverages** to ensure you are prepared if the meeting runs longer than 3 hours. Some food and beverages will be available for sale.

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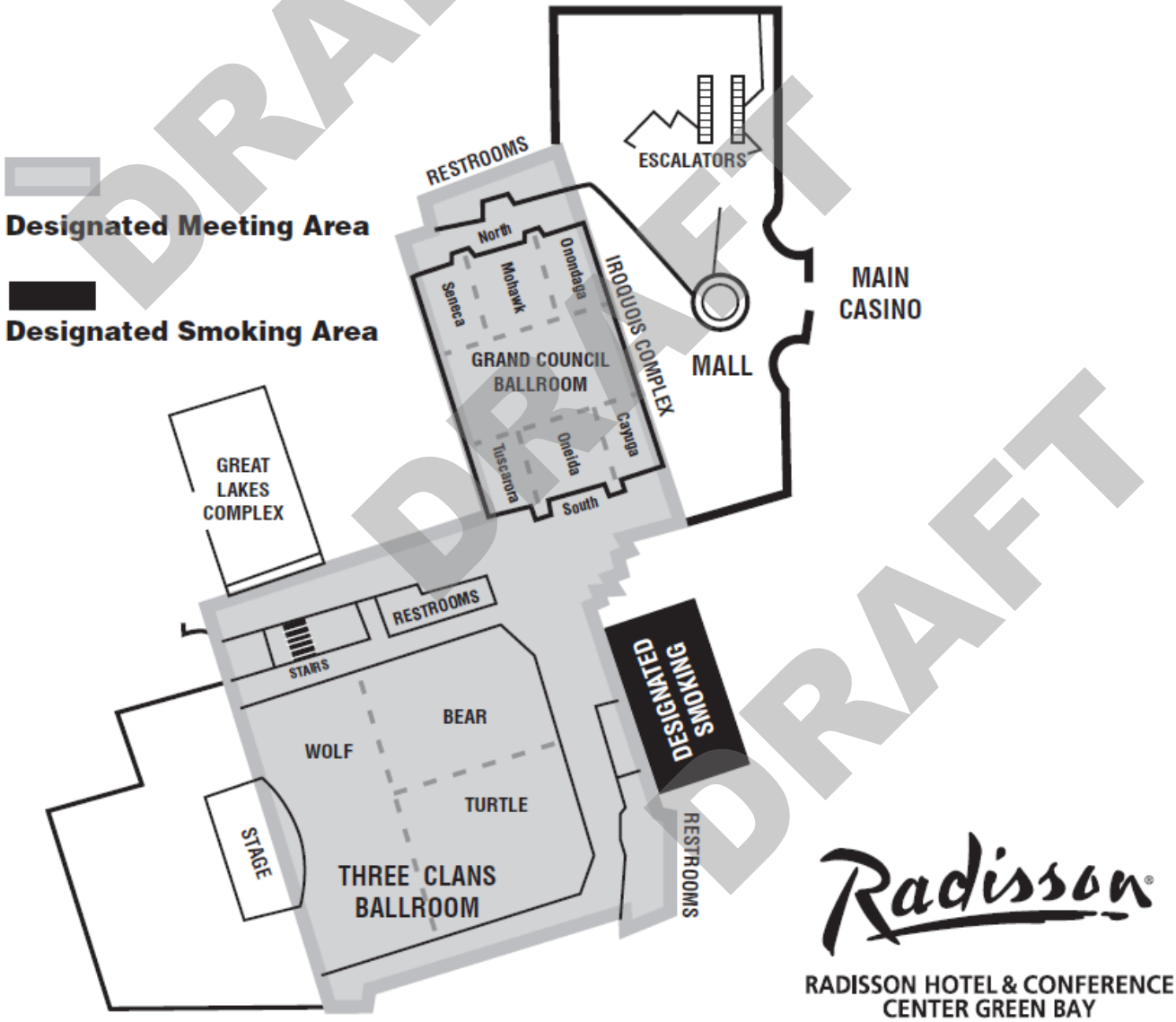
DESIGNATED GTC MEETING AREA

- Meeting attendees must remain inside the designated meeting area or smoking area to remain eligible to receive the meeting stipend.
- You must be an enrolled Oneida tribal member and 18 years or older to be in the designated meeting area



Voluntary Retail Gift Card

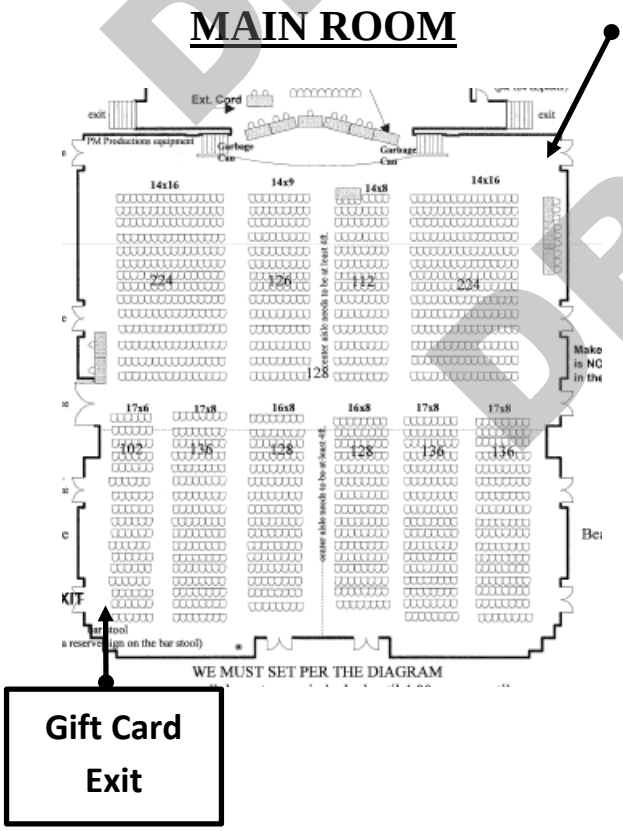
The Oneida Business Committee will again be offering the Voluntary Retail Gift Card at the August 10, 2016, Special GTC Meeting.

Please note the following:

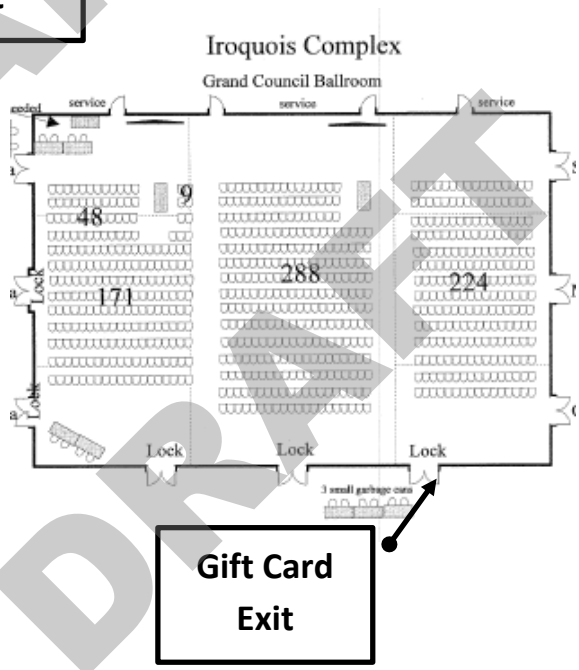
1) This is a VOLUNTARY choice.
2) Lost cards will not be replaced.
3) A signed acknowledgement will be required.

Three exits have been designated for General Tribal Council meeting attendees who choose to receive a retail gift card in lieu of stipend.

MAIN ROOM



OVERFLOW



If you have additional questions, please contact the BC Support Office at 920-869-4364.

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Voluntary Retail Gift Card

Frequently Asked Questions

What if I lose my card, can I get it replaced? No, if a card is lost, it will not be replaced.

Is the card still taxable income? Yes, the card is considered taxable income; the records will be kept the same as the distribution of checks or direct deposit and it will be reflected on your 1099-MISC tax form.

Can I get a card at some meetings and choose a stipend at other meetings? Yes, at each GTC meeting you will have a choice.

Will there be special check-out lines for the cards at GTC meetings? Yes, if you want a card, there will be a special line for checkout to keep the exit process moving smoothly. **Please see the maps on the Announcement page.**

Will we eventually go 100% gift cards for stipends? GTC would determine if there is a full transition to gift cards. This would also require GTC to approve an amendment to the "GTC Meeting Stipend Payment Policy."

Can I redeem my card for cash at any of the places that accept the card? No, the card cannot be redeemed for cash.

Will I be able to use the card at the casino? No, the gift card cannot be redeemed at the casino, hopefully in the near future this can be considered. The gift card is valid at any of the following entities:

- Oneida One Stops, Travel Center and Smokeshops
- Oneida Market
- Oneida Museum
- Oneida Family Fitness
- Oneida Nation Farm
- Oneida Apple Orchard
- Oneida Licensing Department
- Oneida Health Center
- Oneida Housing
- Oneida Utilities

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ONEIDA GENERAL TRIBAL COUNCIL

AGENDA

SPECIAL MEETING

Wednesday, August 10, 2016

6:00 p.m.

I. WELCOME AND OPENING PRAYER

II. ANNOUNCEMENTS & CALL MEETING TO ORDER

III. ADOPT THE AGENDA

IV. NEW BUSINESS

A. Petitioner Frank Cornelius: Report and consider four (4) resolutions[1]

1) Report to General Tribal Council
- a) Presentations
  - i. Petitioner
  - ii. Business Committee
- b) Discussion
- c) Action

2) Investigation into Oneida Seven Generations Corporation
- a) Presentations
  - i. Petitioner
  - ii. Business Committee
- b) Discussion
- c) Action

3) Enforcing salaries for Oneida Seven Generations Corporation
- a) Presentations
  - i. Petitioner
  - ii. Business Committee
- b) Discussion
- c) Action

[1] Typically this item would follow Old Business on the agenda. At the request of the petitioner, the Business Committee agreed to move this item to the top of the agenda as the August 10, 2016, special General Tribal Council meeting was scheduled specifically for this item.

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ONEIDA GENERAL TRIBAL COUNCIL

AGENDA – *CONTINUED*

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4) Freedom of speech, press, and assembly
- a) Presentations
  - i. Petitioner
  - ii. Business Committee
- b) Discussion
- c) Action

5) Imposing a tax on the Oneida Business Committee
- a) Presentations
  - i. Petitioner
  - ii. Business Committee
- b) Discussion
- c) Action

V. OLD BUSINESS

A. Petitioner Madelyn Genskow: Review and consider one (1) resolution regarding Fee-to Trust Process

1) Business Committee Recommendation
2) Discussion
3) Action

B. Petitioner Madelyn Genskow: Review and consider three (3) resolutions

1) Business Committee Accountability
- a) Presentations
  - i. Petitioner
  - ii. Business Committee
- b) Discussion
- c) Action

2) Open Records and Open Meetings Law
- a) Presentations
  - i. Petitioner
  - ii. Business Committee
- b) Discussion
- c) Action

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ONEIDA GENERAL TRIBAL COUNCIL

AGENDA – *CONTINUED*

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3) Repeal Judiciary Law
- a) Presentations
  - i. Petitioner
  - ii. Business Committee
- b) Discussion
- c) Action

C. Petitioner Gina D. Powless: Create a support system for Tribal members engaged with the Oneida Judiciary

1) Judiciary Update re: Self-Representing Litigants
2) Discussion
3) Action

VI. NEW BUSINESS

A. Petitioner Nancy Barton: Open an Emergency Food Pantry

1) Presentations
- a) Petitioner
- b) Business Committee

2) Discussion
3) Action

VI. ADJOURN

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TOPIC:
PETITIONER
FRANK CORNELIUS

REPORT TO GENERAL TRIBAL COUNCIL AND CONSIDERATION OF FOUR (4) RESOLUTIONS

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Oneida Nation

Certification of Petition Signatures

TO: General Tribal Council
FROM: Lisa Summers, Tribal Secretary
DATE: June 22, 2016
RE: Frank Cornelius Petition re: Report to General Tribal Council regarding Oneida Seven Generations Corporation and consideration of four (4) resolutions

Certification of Sufficient Petition Signatures:

Petitioner Name:	Frank Cornelius
Date Submitted:	April 28, 2015
Total # of signatures submitted:	163
Total # of invalid signatures[i]:	3
Total # of valid signatures:	160

One hundred sixty signatures were verified by the Oneida Enrollment Department on April 28, 2015. The number of signatures submitted by the petitioner is sufficient.

Petition: A copy of the petition statement is provided here:

PURPOSE: In accordence with ARTICLE 111, Section 4 of the constitution, the below listed voters request a special General Tribal Council meeting meeting for FRANK CORNELIUS, to report on 7 Gens and present four (4) resoulations to be voted on by the General Tribal Council. 1. full furensic investigation on 7 Gens. 2. Have 7 Gens return the money to the tribe. 3. Direct the Kalihwisaks to print any article as freedom of the press. 4. Impose a "tax" on the BC for not dissolving 7 Gens.

The full petition is available per the Open Records and Open Meetings Law. Contact the Business Committee Support Office for more information at (920) 869-4364.

[i] Reason(s) for invalidation: 1 – member did not meet age criteria; 2 – names submitted more than once

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MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: ~~December 17, 2015~~ *Updated February 26, 2016*

SUBJECT: Petition – Cornelius – Oneida Seven Generations

You have requested a legal review regarding a petition submitted by Frank Cornelius. The petition contains a single paragraph. The Enrollment Department has verified a sufficient number of signatures on the petition. The petition contains the following request.

> "In accordance with ARTICLE 111, Section 4 of the constitution, the below listed voters request a special General Tribal Council meeting meeting for FRANK CORNELIUS, to report on 7 Gens and present four (4) resolutions to be voted on by the General Tribal Council. 1. full forensic investigation on 7 Gens. 2. Have 7 Gens return the money back to the tribe. 3. Direct the Kaliwhisaks to print any article as freedom of the press. 4. Impose a "tax" on the BC for not dissolving 7 Gens."

The petition was submitted without the referenced resolutions being attached. After discussion at the Oneida Business Committee meeting, the petitioner identified that no resolutions were in existence at the time of drafting the petition, obtaining signatures or filing the petition with the Tribal Secretary. A legal opinion was requested regarding the resolutions that were submitted after the petition. In summary, a petition is interpreted to have been reviewed by every person signing the petition, including all attachments. The signature is an indication that the member wishes to have the author present the information to the General Tribal Council. As a result, the resolutions, created and submitted after the petition, are not considered part of the petition. However, the resolutions are briefly analyzed in this opinion. *See "Opinion – Missing Pages in Petition – Cornelius Petition," September 8, 2015, attached to this opinion.*

In addition to the above resolutions, the petitioner has also submitted a three page report to be included with his petition. As a part of the process the Tribal Secretary generally notifies a petitioner that he or she may submit a statement to be included in the mailing to the membership. I have included this three page report in this analysis. This legal opinion is subject to change if this report is withdrawn or amended.

To draft this opinion, I have reviewed prior actions of the General Tribal Council, Tribal law, policies and procedures, and various other resources. This opinion is broken into sections to address the issues raised in the resolution – dissolving Oneida Seven Generations Corporation, ACF Leasing, LLC litigation, conditional use permit litigation, lease revenues and Treasurer's responsibilities, investigation of corporation, salary of corporate employees, assessing a tax on

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the Oneida Business Committee, and Kaliwhisaks. In addition, there are separate sections regarding the four issues raised in the petition and in the resolutions which were not submitted with the petition – Kaliwhisaks, taxation, contracts and forensic audits.

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Background

Dissolving Oneida Seven Generations Corporation
On December 15, 2013, the General Tribal Council adopted the following motion to dissolve the Oneida Seven Generations Corporation.

> "Motion…to dissolve Seven Generations Corporation and for Frank Cornelius to assist and work with the Business Committee on the dissolution[.]"

The Oneida Business Committee immediately began addressing this directive of the General Tribal Council. There were several meetings, some were scheduled and some occurred as a result of an individual meeting between members of the Oneida Business Committee as well as the board members of the corporation. Frank Cornelius was invited to all formal meetings to discuss dissolution. However, he did leave the area during this process.

The Oneida Business Committee met on December 24, 2013, to address the dissolution of the corporation and to provide direction on how that will be carried out by adoption of resolution # BC-12-24-13-A. In Whereas #8, "the Oneida Business Committee, who is charged with carrying out the lawful actions of the General Tribal Council, present[ed] this resolution to begin the process of dissolution of the Oneida Seven Generations Corporation in a business-like manner[.]" The resolution began this process by narrowing the authority of the corporation, stabilizing the banking and business relationships to avoid loan defaults and partnership defaults, and finally to attempt to identify a business structure that would meet the commercial leasing needs of the Tribe. The goal was to complete the dissolution without resulting in financial penalties and create a strong commercial leasing entity.

The amendments to the corporate charter removed references to the board of directors and limited the actions of the corporation to commercial leasing. The goal of limiting the authority of the corporation was to begin the dissolution process and narrow the scope of the corporation's activities during the dissolution process. The resolution also appointed an Agent, Sage Stone Management, LLC, whose sole purpose was to begin dissolution of the corporation.

As identified at the December 15, 2013, General Tribal Council meeting, dissolution of the corporation involved significant financial agreements and partnership agreements. The estimated time frame was 10-12 months. This involved, for example –

- negotiating with banks to pay outstanding loans, and how the remainder would be paid;
- identifying and transferring existing leases back to the Tribe;
- identifying the value of property owned by the corporation and allocating the value in accordance with the corporate charter; and
- negotiating in regards to corporation value and ownership in limited liability companies.

In addition to the above, the Oneida Business Committee requested the Agent to take two specific actions. The first action was to stabilize the corporate relationships. By this time, the Oneida Business Committee had been receiving information regarding corporate loans being

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considered in default and partnership concerns about next steps after the dissolution of the corporation. These actions could have resulted in significant financial costs as identified in the report submitted by McGladrey & Pullen. Primarily, if the dissolution were conducted in a fiscally responsible manner the financial impact would be minimal.

The second action was to identify alternatives to manage the commercial properties of the Tribe. In addition to the Agent making recommendations, the Oneida Business Committee also reviewed the abilities of the Division of Land Management in regards to managing the commercial properties of the Tribe. The Oneida Business Committee has received a proposed draft of a corporate entity restricted to managing the commercial properties of the Tribe. The proposal identified that this type of a corporation could absorb the debt of Oneida Seven Generations, repay the loans issued by the Tribe, and estimated a regular dividend payment to the Tribe.

Between January 2014 and March 2014 the Oneida Seven Generations Corporation was not financially able to pay off all loans. In addition, negotiating amendments to the limited liability company partnerships was not able to be completed in order to avoid penalties associated with those business partners. Further, there were ongoing contracts and leases that it was not possible to finalize and conclude. Finally, transferring leases on Tribal fee land may have been able to be concluded, however leases on trust land were, and are, more difficult to finalize.

ACF Leasing Litigation – Contract Dispute
ACF Leasing, LLC and others brought suit in Illinois against Oneida Seven Generations Corporation, the Oneida Tribe of Indians of Wisconsin, and various other entities on March 16, 2014.[1] This litigation affected the ability of Oneida Seven Generations Corporation to transfer or dispose of assets, including dissolution. The Oneida Business Committee and the Agent for Oneida Seven Generations Corporation met to discuss litigation strategies and next steps.

A request for proposals from law firms with Indian law and business law expertise was made. After a review of the responsive firms and negotiation of a fee schedule the Oneida Business Committee and Oneida Seven Generations Corporation engaged the following law firms.

- Whyte, Hirschboeck, Dudeck, S.C. represents the Oneida Tribe of Indians of Wisconsin and Oneida Seven Generations Corporation.
    - Swanson, Martin, & Bell, LLP represents the Oneida Tribe of Indians of Wisconsin and Oneida Seven Generations Corporation as local counsel in the State of Illinois.
- Reinhart, Boerner, Van Deuren, S.C. represents Green Bay Renewable Energy.

In addition to the litigation, Whyte, Hirschboeck, Dudeck, S.C. was also brought on board to assist in the legal issues regarding the dissolution of the corporation. This included addressing the financing agreements, limited liability company agreements and leasing agreements. After the initial review by this firm, no further action has been taken by the firm as a result of the litigation being filed. Upon conclusion of the litigation or at a point when assets from Oneida Seven Generations Corporation can be transferred without liability of further litigation this firm may be requested to finalize the legal matters regarding the dissolution.

[1] The documents regarding this litigation have been placed on the Tribe's website.

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Since the December 2013, action by the General Tribal Council and the Oneida Business Committee, the dissolution of Oneida Seven Generations Corporation was restricted by the litigation which limited the ability to close out the operations of the corporation. The Oneida Tribe of Indians of Wisconsin and Oneida Seven Generations Corporation have been dismissed from the case at the trial court level. ACF Leasing, LLC appealed this determination and the dismissal was upheld on appeal. No appeal of this decision by ACF Leasing, LLC was filed and the dismissal of the Oneida Tribe of Indians of Wisconsin and Oneida Seven Generations Corporation is final. However, ACF Leasing, LLC has a remaining complaint against Green Bay Renewable Energy and has received approval from the court to amend the complaint to include two additional corporate entities.

ACF Leasing, LLC has filed motions to dismiss its complaints against Green Bay Renewable Energy and other corporations. The court has accepted the motions and the case have been dismissed. As a part of the agreement to dismiss the case, ACF Leasing, LLC and Green Bay Renewable Energy have entered into a settlement agreement to settle all claims between the parties.

The dismissal of the case by ACF Leasing, LLC allows Oneida Seven Generations Corporation to begin the process of closing out some of the corporate entities owned by Oneida Seven Generations Corporation. However, as identified below, there remain some claims for damages in favor of the corporation which have not yet been settled or concluded through litigation. The Oneida Business Committee, as of the date of this opinion, was in the process of receiving recommendations from the Agent on the next steps regarding closing some of the corporate entities.

Green Bay Renewable Energy and Oneida Seven Generations Corporation – Conditional Use Permit
During this time period Green Bay Renewable Energy and Oneida Seven Generations Corporation were appealing the revocation of the conditional use permit by the City of Green Bay. The appellate court ruled in favor of the corporations and the City of Green Bay appealed. The Wisconsin Supreme Court upheld the appellate decision ruling that the City of Green Bay had not identified sufficient reasons for revoking the permit. At this time, Green Bay Renewable Energy and Oneida Seven Generations Corporation are pursuing a settlement with the City of Green Bay regarding the revocation of the conditional use permit. This is a potential recovery of lost profits or sunk costs.

Leasing Revenues
Oneida Seven Generations Corporation holds the master lease regarding several different properties owned by the Tribe. In some circumstances, the corporation has obtained loans to build office space or warehousing on those properties. In all circumstances, the corporation pays lease fees to the Division of Land Management for the use of those properties. None of the leases allow the land to be encumbered and a review of existing documents conducted earlier does not identify that this has occurred.

The master leases allow Oneida Seven Generations Corporation to sublease the properties to commercial tenants. Those tenants pay rent to the corporation which covers the cost of the

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master lease fees, utilities, building maintenance, and in some circumstances build-to-suit construction costs.

Based on the 2015 Semi-Annual report submitted by the Treasurer, Oneida Seven Generations Corporation has $17 million in assets, $9 million in equity, and the Tribe has invested $1.9 million since its creation in 1996.[2] This does not include lease payments made by the corporation to the Tribe regarding the master lease agreements and does not deduct lease payments made by the Tribe to the corporation for buildings such as – Ridgeview Plaza, Mason Street Plaza, Gaming Warehouse, or the Nori Damrow Food Distribution building. In some cases, the Tribe has developed a corporate partnership with Oneida Seven Generations Corporation, such as with the corporation Generations, LLC regarding the financing and construction of the Travel Center. In the event of profits realized at that site, the Tribe would realize a share of those profits while also paying rent for that portion of the building used by the Tribe.

Treasurer's Responsibilities
The Treasurer is delegated responsibilities in Article I, Section 4 of the By-Laws of the Oneida Tribe of Indians of Wisconsin, the job description approved by the General Tribal Council on July 30, 1990, and as a result of various directives of the General Tribal Council through the years.[3] More recently, the General Tribal Council has adopted actions directing specific reporting requirements for activities such as travel by the Oneida Business Committee and submission of audits for tribal corporations.

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[2] Note the $1.9 million does not include loans to the corporation which must be repaid to the lender.

[3] For example, the General Tribal Council has directed that the Treasurer (as well as individual members) should maintain the finances of the Tribe and financial information as confidential information.

> July 9, 1983, General Tribal Council meeting, "Motion to support the confidentiality of the Treasurer's Report…motion carried."
>
> July 6, 1993, General Tribal Council meeting, "Motion…that the Treasurer's Report be held in confidence by tribal members…motion carried."

A1989 action by General Tribal Council adopting resolution # GTC-07-03-89-C regarding budgeting processes which contained the following directives; although this resolution has been modified by the adoption of processes and requests of the General Tribal Council, such as resolution # GTC-01-31-94-A and other more frequent actions.

> 1. That all tribal departments, including enterprises, shall be reviewed separately by the Oneida Business Committee in a special budget meeting called for that purpose;
> 2. That a mark-up session follow the special meeting;
> 3. That the budget, as approved, should contain special instructions by the Oneida Business Committee relative to philosophy, priorities, funding and spending limitations.
> 4. That a Special General Tribal Council meeting be called for September for the exclusive purpose of approval of the budget by the membership;
> 5. That any future approvals of budget during the fiscal year are limited to $200,000.00 dollars and all others must be reviewed in public hearings and submitted to the General Tribal Council for approval.

On January 6, 1997, the General Tribal Council adopted the following motion.

> Motion…to have a standardized format for the GTC Annual and Semi Annual reports by having each Tribal department separately submit a one to two page maximum report which includes the following: 1. Mission Statement, 2. Summary of major goals and objectives, ie. scheduled completion, revised completion, % complete, status/comment, 3. Staff, 4. Budget summary A. Personnel, B. Discretionary spending (training, travel, contracts, subcontracts, business & meeting expenses) C. Capital expenditures[.]

This motion was later repealed by resolution # GTC-07-07-03-B.

In November 2008, the General Tribal Council reviewed a resolution submitted with a petition regarding the Treasurer's responsibility and ultimately adopted resolution # GTC-11-15-08-C. This resolution directed reporting requirements by the Treasurer to the General Tribal Council. The July 14, 2008, legal opinion, "*Genskow Petition – Resolution – Treasurer Reporting to GTC,*" identified that there are in excess of 580,000 transactions each year identified within the accounting systems of the Tribe. More recently, the Fiscal Year 2015 budget is made up of in excess of 1500 pages. The retail enterprises, excluding gaming likely have over 1 million transactions each year. Reporting on "every dollar" at "every GTC meeting" would result in 1000s of pages of activity.

The By-Laws of the Oneida Tribe of Indians of Wisconsin contains the following responsibilities delegated to the Treasurer in Article I, section 4.

> "The Treasurer of the Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Council, whether they be tribal funds or special funds for which the Council is acting as trustee or custodian. He shall deposit all funds in such depository as the Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession and custody, at each regular meeting of the General Tribal Council, and at such other time as requested by the Council or the ~~executive~~ *business* committee."

This language requires the Treasurer to report on funds in his or her custody. How that report was made has changed over the course of the Tribe. For example, at the July 2, 1940 meeting the Treasurer's report identified that the Tribe had a cash balance of $33.38, took in a little over $47.00 in receipts and made approximately $152 in expenditures. The minutes identify 10 different expenses. On the other hand, previous Treasurers have all reported on the overall financial status of the Tribe and presented an annual independent audit report.[4]

In addition to these reports, the Treasurer oversees the Tribe's accounting systems and personnel. These systems include documentation of every transaction or revenue and expenditures and ties into systems which maintain back-up documentation supporting these transactions. In addition, all revenues and expenditures are managed according to either Purchasing procedures, Accounting Department procedures, or business unit supporting procedures set forth in manuals and Standard Operating Procedures. All of these activities are maintained in accordance with accounting principles set forth by the Government Accounting Standards Board, federal regulations regarding accepted grants, and various other governing documents.

As identified above, in 1990, the General Tribal Council adopted resolution # GTC-11-15-08-C provides the most recent directives regarding Treasurer reporting requirements in Resolves #1 and 2.[5]

> "…all Treasurer reports hereinafter include an independently audited annual statement that provides the status or conclusion of all the receipts and debits in possession of the Treasurer of the Tribe including, but not limited to, all corporations owned in full or in part by the Tribe[.]"

[4] Previous Treasurers for which research identified reports in General Tribal Council materials include Kathy Hughes, Judy Cornelius, Mercie Danforth, Tina Danforth and recently Patricia King.
[5] The minutes for this General Tribal Council meeting identified that the intent was not to require additional independent audits other than those already conducted.

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> "…all Treasurer's reports to the Oneida General Tribal Council at the semi-annual and annual Oneida General Tribal Council meetings hereinafter include an independently audited financial statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer of the Tribe and including, but not limited to component units (Tribally chartered corporations and autonomous entities, limited liability companies, state charted corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) owned in full or part by the Tribe[.]"

Since adoption of this resolution, the annual independent audits of the Tribe and its corporations have been presented to the General Tribal Council. An audit represents an opinion by the audit firm that the financial reports of the Tribe accurately reflect the finances of the Tribe and sufficient safeguards for these funds are in place. It does not reflect a review of every transaction and every procedure or process in place.

Requested Actions by Petitioner

The petitioner requests the General Tribal Council to consider four actions – Kaliwhisaks (free speech), taxation, contracts and a forensic audit. To support these actions, the petitioner later submitted four resolutions. Article VI of the Constitution of the Oneida Tribe of Indians of Wisconsin incorporates the individual protections set forth in the U.S. Constitution.

> "…All members of the tribe may enjoy, without hindrance, freedom of worship, conscience, speech, press, assembly, association and due process of law, as guaranteed by the Constitution of the United States."

This section of the opinion will analyze the four requested actions separately within the protections identified in Article VI of the Tribe's Constitution and the U.S. Constitution.

Kaliwhisaks
The petitioner requests the General Tribal Council to direct that every "article" submitted by a member be published and the "article" shall not be "edited." To protect against liability, the petitioner directs the Kaliwhisaks to place a disclaimer regarding the "articles." Although the proposed resolution is titled "Freedom of Speech, Press and Assembly" the petitioner is only requesting action regarding the press, i.e. the Tribal newspaper. This opinion will not address protected speech or assembly. The analysis regarding these concepts is unique to each and would span many pages of information that is not applicable to the requested action.

Finally, this opinion presumes that the request by the petitioner is to publish opinion letters, not newspaper articles. A newspaper publishing an article carries much greater liability which cannot be avoided by placement of a "disclaimer." An article is reflective of the newspaper's (including the editor's and the reporter's) presentation of statement of facts, However it should be noted that even clarifying that the "articles" are opinion letters or letters to the editor does not exempt the newspaper from liability.

Newspapers, editors, reporters and individuals who submit opinion letters are subject to various forms of liability – defamation, libel, and invasion of privacy, to name a few. The required elements of each type of lawsuit depend on whether the individual is a public or private figure. In addition, the Kaliwhisaks is posted on-line on the Tribe's website which provides an additional

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level of liability under a different set of rules and tests. This set of legal questions will not be included in this opinion.

The Kaliwhisaks publishes original articles written by reporters it employs, reprints articles it purchases from other news sources (such as Reuters and AP), editorials, letters to the editor and advertisements. The office maintains a manual of procedures and standards set forth for each type of publication which includes guidance regarding fact-checking and verifying accuracy. These can be found at the Kaliwhisak's offices.

The primary purpose of the Kaliwhisaks is to present the news regarding tribal activities and affecting Indian country. The newspaper is also the location all official publications of the Tribe are made. *For example, see Legislative Procedures Act, 16.8-2(c) and Oneida Judiciary Rules of Civil Procedures, 153.5-6(c).* Although the newspaper is subsidized by Tribal funding contribution, it supports its costs through selling advertising space. The newspaper also reserves space for opinion letters.

The policy for submission of opinion letters is included in the newspaper's operations manual. There is also a summary printed in the newspaper.

> "Letters must be limited to 250 words. All letters are subject to editing and must have your signature, address and phone number for confirmation. Confirmation of letters will be needed before publication. Kaliwhisaks has the right to refuse publication of submitted letters."
>
> "Effective January 1, 2001 per Kaliwhisaks Policies & Procedures, Section I(c)(4), "individuals will not be allowed to publish more than eight (8) letters per year regardless of topics."" *See page 8B of the December 3, 2015, Kaliwhisaks for example.*

Letters to the editor are published on a space available basis. The editor has identified the number of opinion letters received per edition of the newspaper averages from none to three letters. This amount generally increases during election periods. Editing of letters are generally to allow the letter to fit within the 250 word limit and to correct grammar. However, the editor has identified that letters have been edited to exclude information that could not be verified. Finally, some letters have been rejected in their entirety for the following reasons.

- Too much unverifiable information.
- Over the word limit.
- Potentially libelous information.
- Attacking individuals.
- Illegible.
- A personal ad more appropriate for the advertising section.

Taxation

The petitioner requires the General Tribal Council to impose a tax on Oneida Business Committee members for actions taken in regards to Oneida Seven Generations Corporation and the December 2013 General Tribal Council action. Specifically, a tax of $5000 is placed on Oneida Business Committee members who voted "not to dissolve 7 Generations but only restructure" and a $10,000 tax on the "Chairwoman and Tribal Attorney."

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In Blodgett v. Holden, 275 U.S. 142, 147 (1927), the U.S. Supreme Court struck down a tax retro-actively applied. The tax was a new gift tax applied to a period prior to the legislation's enactment date, and even prior to the proposed legislation being presented in Congress. The court stated, "…a statute purporting to lay a tax may be so arbitrary and capricious that its enforcement would amount to a deprivation of property without due process of law within the inhibitions of the Fifth Amendment." In Untermeyer v. Anderson, 276 U.S. 440, 445-6 (1928) that same gift tax was reviewed regarding the constitutionality of its application after the legislation was presented to Congress for consideration but prior to its being enacted into law. The court stated that, "[t]he taxpayer may justly demand to know when and how he comes to be liable for taxes – he cannot guess and ought not be required to guess the outcome of pending measures. The future of every bill before Congress is necessarily uncertain. The will of the lawmakers is not definitely expressed until final action thereon has been taken." The petitioner proposes to apply a tax to the action of the Oneida Business Committee taken over two years prior and for which no person could have had any notice that their actions could be subject to a tax.

In addition, to the taxation question, the proposed action by the petitioner also violates due process by finding the actions of the Oneida Business Committee to be in violation of the December 2013 General Tribal Council action without having the opportunity to provide any defense or response to the accusation. As identified in the eighth Whereas in resolution # BC-12-24-13-A, "the Oneida Business Committee, who is charged with carrying out the lawful actions of the General Tribal Council, presents this resolution to begin the process of dissolution of the Oneida Seven Generations Corporation in a business-like manner[.]" The third Resolve states, "…remain in office until such time as the dissolution of the corporation has been completed or amendments to the corporate charter are made[.]"

Contracts

The petitioner proposes that the General Tribal Council adopt a resolution calling for salaries of employees of Oneida Seven Generations Corporation to be modified going back to 2008, to be limited to no more than 25% of the profits of the corporation, and that salaries in excess of this amount be returned to the Tribe. This action violates the Tribe's Constitution regarding due process, is not consistent with the charter of the corporation, and is not consistent with the language in the original charter.

Oneida Seven Generations Corporation was created in 1996 by the Oneida Business Committee through adoption of resolution # BC-12-04-96-B. Under the authority delegated to the Oneida Business Committee to carry out the governance of the tribe, the corporation was created in accordance with Article IV, Section 1(h) of the Tribe's Constitution. The corporation has been in continuous existence since its creation and is currently directed by the December 2013 action of the General Tribal Council to be dissolved.

The original corporate charter contained the following language in Article IX.

> (B) The Corporation shall remit to the Oneida Nation seventy-five percent (75%) of net profits after the establishment of a reserve for debt service and working capital needs. On an annual basis, the Corporation will submit to the Oneida Nation the projected need for working capital. The reserve for debt service will be set at an amount equal to six (6) monthly payments.

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(C) Excess profits will then be paid over to the government of the Oneida Nation. No distribution of earnings or profit may be made to any individual by the Corporation.

In 2006, the Oneida Business Committee adopted resolution # BC-09-27-06-H. In the fourth Whereas, the Oneida Business Committee stated, "…it is in the best interests of the Tribe to amend the charter of the Oneida Seven Generations Corporation to promote and enhance the business and economic development of the Tribe[.]" Among other amendments, Article IX was amended as follows.

(B) The Corporation ~~will remit to Oneida Nation seventy-five percent (75%) of net profits after the establishment of a reserve for debt service and working capital needs. On an annual basis, the Corporation will submit to the Oneida Nation the projected need for working capital. The reserve for debt service will be set at an amount equal to six (6) monthly debt payments~~ *shall establish a cash reserve for debt service which will be set as an amount equal to six (6) months debt payments and one (1) year working capital. Debt payments are defined as payments on principal and interest for all current debts of the Corporation. Working capital is defined as current assets minus current liabilities*.

(C) ~~Excess profits will then be paid over to the government of the Oneida Nation. No distribution of earnings or profits may be made to any individual by the Corporation~~ *Distribution of earnings or profits may be made at the discretion of the Shareholders, which will be mutually agreed upon at the Annual Shareholder's Meeting*.

Corporate employees are employed under an agreement or contract between the corporation and the individual. The proposed resolution suggests that the employee's salaries be negatively affected retro-actively back to 2008. The General Tribal Council does not have the authority to affect these contractual employer-employee relationships in this manner. The actions of the corporation were taken in accordance with the lawfully adopted charter and the delegated authority. To retro-actively change this employment contract would violate Article VI, "…all members of the tribe may enjoy, without hindrance…due process of law, as guaranteed by the Constitution of the United States." The federal Constitution prohibits the impairment of contracts in Article I, Section 10. This prohibition involves both public contracts, i.e. contracts with the state, as well as private contracts, i.e. contracts between individuals. The proposed resolution does not affect future employment relationships, it attempts to affect lawful employment contracts entered into and maintained for the past seven years.

In addition, as identified above and in prior opinions, the reference to the required percentage return to the Tribe was removed from the corporate charter in 2006. It is not clear why 2008 was chosen as the time period in which retro-active action is requested. As a result, the resolution attempts to implement language that was amended in 2006 and is no longer effective. At this time, the action that could be taken would be to amend the charter to reflect the original language in the 1996 charter and make that language effective after adoption.

Nothing in the employer-employee relations would be in violation of the corporate charter or the delegated authorities to Oneida Seven Generations Corporation.[6] Further, nothing in the employer-employee relations is in violation of the original charter language. The 1996 language identified that the corporation will return 75% of the **net** profits less working capital and reserve

[6] It should be noted that Oneida Seven Generations Corporation has one full time and one part time employee, not four as identified by the petitioner.

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needs of the corporation. The revenues of the corporation minus operating expenses equal the net profit of the corporation. Employee salaries are an operating expense of the corporation.[7] As a result, the resolution, even though it would be unconstitutional, would have no effect as employee salaries are an operational cost of the corporation and would be one of the expenses deducted prior to paying 75% of net profit to the Tribe.

Forensic Audit
The General Tribal Council has received four prior legal opinions regarding Oneida Seven Generations Corporation.

- September 23, 2013, *Cornelius – Petition – Dissolution of Oneida Seven Generations Corporation*
- March 12, 2013, *Dodge – Petition – Land Use – Oneida Seven Generations Corporation*
- February 15, 2011, *Genskow Petition – Resolution – Oneida Seven Generations Corporation*
- July 10, 2008, *Genskow Petition – Resolution – Oneida Seven Generations Corporation*

I have requested the Secretary's Office to place these prior opinions on-line on the Tribe's website in order to provide much of the background investigation requested by the petitioner in the resolution. Although these memos have been presented at prior meetings in which action was taken regarding the petitions and/or resolutions, members are encouraged to read these prior documents.

The petitioner requests that an "outside forensic federal audit or investigation" be conducted for "possible fraud in their land transactions or other financial improprieties." There is no specific allegation of fraud or impropriety. It is presumed that this is in relation to the land leased to the corporation which is developed and leased to commercial tenants. However, the Tribe utilizes both internal and external audits to determine that the appropriate measures are in place to track expenditures and receipts and to verify the accuracy of the financial statements.

A forensic audit looks at a specific activity in which fraud is alleged to have occurred. The Bureau of Indian Affairs does not currently have systems or personnel to provide such audit services, particularly when no federal funds are involved. Further, there is no specific allegation of fraud having occurred. As a result, it is not clear what is being investigated. The forensic audit requires specific skills and knowledge in order to conduct and there is generally a higher cost associated with this type of audit. The statement and proposed resolutions call for an "outside" audit, and identifying the scale or cost of such an audit if conducted by an independent auditing firm is not possible to calculate.

Analysis

The petition contains a request to call a General Tribal Council meeting to provide a report on the December 2013 directive of the General Tribal Council to dissolve the Oneida Seven Generations Corporation and to take action on four resolutions which were not attached to the petition. The petitioner has submitted a three page statement to the Tribal Secretary to be included with his petition. This is typical, allowing the author of a petition to submit a 'cover

[7] See generally http://www.investinganswers.com/financial-dictionary/financial-statement-analysis/net-profit-2230 for an explanation of net profit calculation.

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letter' with a petition and to give a presentation at the meeting itself. The statement identifies several different issues raised by the author regarding the dissolution process. As identified in this opinion, there are inaccurate facts presented within the statement.

The statement erroneously identifies the Oneida Business Committee's intent in carrying out the General Tribal Council's December 2013 directive. There were individual requests to reconsider the December 2013 directive; however that is within the individual ability to do so. Even if that individual is the Chairman of the Oneida Business Committee. However, the Oneida Business Committee also took actions to begin the dissolution process.

The statement identifies that the attorney for the corporation was the same attorney working for Nature's Way. Research into the claim identifies no such attorney existed. This may be a reference to an individual who was appointed as a board member, but that individual was not hired as an attorney by the corporation or Nature's Way. There was no attorney engaged by the Oneida Seven Generations Corporation for the purposes of defending the corporation in regards to a General Tribal Council meeting or in regards to action that may have been taken as a result of a petition. The corporation has engaged legal counsel in regards to the litigation regarding the conditional use permit and ACF Leasing, LLC.

The dissolution of Oneida Seven Generations Corporation requires negotiation of the payment of bank loans and lines of credit. Such loans and lines of credit would either be paid in full through the corporation assets or as a result of either the Tribe or some other entity taking up the debt. In addition, the limited liability companies have rules for changing a member in the company in order to avoid penalties that may include purchasing the value of the assets and conclusion of the partnership. The statement identifies that the corporation could have been dissolved within 10 days. However, as identified above, it was not possible to conduct this within that time period and to avoid a negative financial impact. The materials for the December 2013, General Tribal Council meeting and the external accounting report both presumed that the dissolution would be conducted in such a manner as to avoid financial impact.

The proposed actions in the petition and the four late submitted resolutions are also problematic. The resolution regarding directing that all "articles" be published in the Kaliwhisaks results in increased liability to the Tribe which cannot be avoided by the placement of a disclaimer. However, the newspaper does provide an opportunity to publish letters to the editor, opinion letters, with minimal restrictions – i.e. 250 words or less, maximum eight times per year, and basic fact checking regarding the information in the letter. The resolution regarding taxation of the Oneida Business Committee and retro-active infringement on the employer-employee contracts within the Oneida Seven Generations Corporation are in violation of the protections in the Constitution of the Oneida Tribe of Indians of Wisconsin. Finally, the resolution regarding a forensic audit conducted by the Bureau of Indian Affairs is outside of the scope of that federal agencies activities and for which it does not appear funding exists. Further, it is not possible to identify what financial cost a forensic audit would rise to in light of the lack of allegations of fraud on the part of the corporation. As a result, it could be that every transaction of the corporation since its inception would have to be reviewed resulting in a fee far exceeding the value of any findings.

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Conclusion

The petition requests an opportunity to present a report to the General Tribal Council and requests that body to take four actions. Four months after submission of the petition, the petitioner drafted and submitted the four referenced resolution. The petitioner has also submitted a statement to be included with the mailing to members for this meeting.

The petitioner's request to present a report to the General Tribal Council is in order. However, two of the proposed resolutions (taxation and retro-actively affecting contracts) would be in violation the Tribe's Constitution and are not in order for adoption by the General Tribal Council. The resolution regarding publishing "articles" in the Kaliwhisaks would subject the Tribe and the editor to undue liability which cannot be waived or avoided. It is recommended that the General Tribal Council, if anything, reaffirms the letters to the editor policy currently in place by the Kaliwhisaks as sufficient opportunity to present opinions to the members. Finally, the request for the Bureau of Indian Affairs to conduct a forensic audit is outside of that agencies activities and if conducted by an independent auditing firm engaged by the Tribe may result in costs that far outweigh any benefit obtained by the request for the audit given the lack of specificity of allegations and the almost 20 year life of the corporation. It is recommended that the General Tribal Council not direct such action be taken. If action is taken a two-thirds vote would be required to adopt the resolution since it will have an impact on the Tribe's budget and require funds to be identified for this purpose.

If you have further questions, please contact me.

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TO ALL OF THE PEOPLE OF THE ONEIDA NATION: **June 2015**

After 18 months, 7 Generations is still alive and costing us money. Dissolving 7 Gens is simple and should NOT have taken over 10 days. It is all spelled out in Article XV, Dissolution, in their Charter. It states:

1. By 2/3 of the Corporation Board members and
2. By the Business Committee Resolution, withdrawing the Charter.

Sage Stone told the BC they could dissolve 7 Gens and pay off all the bills in4-6 months but the BC told them to only restructure.

The GTC is the supreme law of the land. They voted to create 7 Gens and now they voted to dissolve 7 Gens. But the BC did not do that.

Seven Gens was notified and were given the chance to defend themselves, but they chose not to do so. They had their own lawyer – the same lawyer who worked for "Natures Way" where we lost over $4 million.

If anyone wanted to sue 7 Gens or the LLC's they could have AFTER it was dissolved; they had their own lawyer. However, because the BC did not do as directed, they got themselves involved.

The BC has abused their position of trust and has not carried out their oath of office. They planned to profit from their scheme of not dissolving 7 Gens and only re-structured 7 Gens in large part, through promoting friends and relatives and giving jobs to their supporters.

It is both fascinating and fitting that the GTC should do their job in accordance with Article IV, Section 1, Paragraph (h) "Charter subordinate organizations – reserving the right to review any action." Now the GTC must correct the BC. For too long the BC never got called out on anything they did. They work for us, sometimes they have to be reminded of that. If they are wrong, it is up to us, the GTC, to correct them in accordance with the rule of law in our Constitution under Article IV, Section 1, Paragraph (i) "to adopt Resolutions regulating Tribal officials."

So we have to clean up and correct the BC for the rest of the Tribe and for our children. If the Oneida leadership had thought about everyone, we most likely would not need this GTC today. Big egos, big money, big corruption like in "Natures Way," cost us $4,000.000.00.

The Chairwoman would be the first to tell you the BC is innocent, at least for now, but the cronies and others in the inner circle, based on the facts that we know from the sworn affidavits and all the testimony from the case on 7 Gens in Illinois, will prove them wrong.

From the attorneys you will find out that we had NO idea what has been going on for the last 10 years.

They hid behind "cooperation-courpet vail-special entity." They put their families in positions thinking there is no one with the fortitude to stop them, until December 15, 2013.

Now they only restructured 7 Gens, they did not dissolve them like they were told to do. They plotted and schemed to keep 7 Gens alive, they meekly hid behind outside studies. In November 2013 they hired McGladery & Pullen for $150,000 and did not like their conclusion, because they told the BC:

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1. From a quantitative prospective as of September 30, 2013, the proposed dissolution of OSGC into the Tribe has MINIMAL IMPACT ON THE TRIBE.
2. The Tribe would maintain its ability to meet financial commitments.

So on December 24, 2013 over the phone, they hired an old friend of theirs, who only had one year in business "Sage Stone Management, LLC, for $12,000 a week, and gave him orders to re-structure 7 Gens. They also hired the highest paid financial firm in the state of Wisconsin, Whyte, Hirschboeck & Dudec., without the GTC approval as required in our Constitution.

Finally, the BC would NOT even notify me when they discussed 7 Gens. I was appointed by the GTC as a representative or agent "to work with and assist the BC in the dissolution" in accordance with Article l, Section 5 of our by-laws. Not notifying me is illegal in accordance with Article 111, Section 3 in our Constitution. It requires that I report back to the Council from time to time. They also tried to make me sign a secret piece of paper – something the GTC never intended to do to me. In order to make good decisions for the GTC I need to have access to all documents.

I have tried for over 18 months to give a report to you (the GTC), to no avail. I have written the Chairpersons almost every month asking for a place on any GTC meeting. In accordance with Article 111, Section 4, it states, "50 qualified voters may by written notice, call special meetings of the GTC." It is in our Constitution. I was insulted, humiliated, and my microphone was shut off when I tried to give you my report. You (GTC) appointed me so if they did that to me, they did that to you. Everyone has a right to disagree – but they DO NOT have the right to be disrespectful. We all have a right to "free speech." In accordance with Article VI of our Constitution it states "All members of the Tribe may enjoy freedom of speech and press."

I even gave them a second petition for a GTC meeting and they plotted to stop me from getting on the floor. The BC said that "I was late." The BC HAS NO SAY-SO ON THE CONSTITUTION. The Constitution is silent on the BC. The Constitution specifically states "The Chairman OR 50 qualified voters may by written notice call special meetings of the GTC."

I have not been afforded "due process" and I have not even been questioned on anything and the BC does NOT give me any information on this matter as required in the Resolution dissolving 7 Gens.

I spent 22 years in the Marine Corps to protect and defend this Tribe and this country. Now I have immersed myself to the improvement of the lives of my fellow Oneidas, following the rule of law according to our Constitution, and because the GTC appointed me to represent them in the dissolution.

The BC has in the past fostered a culture of corruption and greed that has created a drifting from the rule of law. After 10 years of corruption, we must correct the BC to provide honest oversight and supervision across the board – so here in Oneida any enforcement action by the GTC will get us through these difficult times, as unfortunate as these events are, it should be clear that we welcome the actions to reinforce measures that put us back into the rule of law and take out wrongdoing.

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Transparency is the problem, our Constitution in Article 1 in the by-laws states in Section 4, TREASURER OF THE COUNCIL, we are supposed to get a report where every dollar went at every GTC meeting, and such other times as requested by the Council or the BC. They DON'T DO THAT.

This is why we must pass these 4 resolutions today:

1. Get an investigation on 7 Generations
2. Collect the profit from rent on our 17 properties
3. Obtain freedom of the press and freedom of speech
4. Impose a tax or fine on the BC for spending money on 7 Generations for not dissolving them on December 15, 2013, until today, as we ordered them to do.

If you get good governance and good leadership you make good decisions and this leads to good outcome for all of us.

The BC has made it very clear that they don't give a flip about the will of the people. The people voted 814 to 689 to dissolve 7 Generations 18 months ago.

I hope that you will support the efforts of the dedicated and brave enough to fight the good fight – there is so much at stake here. It is in your power to vote to follow the rule of law and our Constitution. The facts are absolutely devastating to the BC. Now you have the inside scoop about the secrets and lies surrounding 7 Generations. The Tribe's future is up to you.

Luckily there are some people brave enough to stand up for our Constitutional rights, even against the BC. This could be the historical first time the people took off their gloves and slapped down the BC. Article IV, Section 1, Paragraph (f) in our Constitution specifically states, "only the GTC can levy and collect taxes of any kind." We are fast approaching a Constitutional crisis provoked by the BC for not following their oath of office and dissolving 7 Gens 18 months ago like we told them to do.

This is historic. You voted to dissolve 7 Gens 18 months ago. NOW we must act in such a way (all together), to make the BC respect the Constitution and rule of law, to carry out their sworn duties for the future generations. The BC thinks that WE work for THEM so they do not even follow the rule of law.

Please don't let the BC run roughshod over your liberties and your freedoms. Stand strong for YOUR Constitution. It only takes a moment of your time to raise your hand and vote to do something that will have a profound effect on Oneida's survival. It is only through the faithful, strong people like you to fight this critical battle. We told them to dissolve 7 Gens 18 months ago – the BC did not do it. That is insubordination and against the Oneida Constitution. This is your investment in the future of our Tribe.

RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE
JUN 29 2015
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS

Thank you,

F. L. Cornelius
GTC Representative to Dissolve 7 Generations

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Oneida Seven Generations Corporation
P O Box 257, Oneida, WI 54155
Phone: 920-347-0500
Fax: 920-347-0504

OSGC Dissolution response:

Per the General Tribal Council's action, we continue with the dissolution of Oneida Seven Generations Corporation (OSGC).

However, because OSGC is involved with ongoing litigation it is imperative that we continue to operate as the commercial real estate company on behalf of the Oneida Nation until it is feasible to be fully dissolved.

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Oneida Seven Generations Corporation

Combining Statement of Net Assets as of: March 31, 2016

	Oneida Seven Generations Corporation	Glory, LLC	Oneida Generations, LLC	Oneida Energy, Inc	TOTAL
Assets					
Total Current Assets	1,231,764	76,173	27,524	5,563	1,341,025
Total Noncurrent Assets	7,803,520	2,763,190	3,610,957	235,526	14,413,192
Total Assets	**9,035,284**	**2,839,363**	**3,638,481**	**241,089**	**15,754,217**
Liabilities and Net Assets					
Current Liabilities:	3,237,043	210,325	466,620	227,907	4,141,895
Noncurrent Liabilities:	1,441,672	530,894	1,548,126	1,982,448	5,503,141
Total Liabilities:	**4,678,715**	**741,219**	**2,014,746**	**2,210,355**	**9,645,035**
Total Net Assets	**4,356,569**	**2,098,144**	**1,623,735**	**(1,969,266)**	**6,109,181**
Total Liabilities & Net Assets:	**9,035,284**	**2,839,363**	**3,638,481**	**241,089**	**15,754,217**

Oneida Seven Generations Corporation

Oct 2015 - March 2016 Combining Statement of Revenue and Expenses

	Oneida Seven Generations Corporation	Glory, LLC	Oneida Generations, LLC	Oneida Energy, Inc	TOTAL
Total Operating Revenue	1,036,161	254,397	278,730	-	1,569,288
Total Operating Expenses	431,074	228,567	172,449	177,750	1,009,840
Operating Income (Loss)	605,087	25,830	106,281	(177,750)	559,448
Total Nonoperating Revenue (Expenses)	(81,669)	(19,804)	(62,536)	(30,000)	(194,010)
Income (loss)	**523,418**	**6,026**	**43,745**	**(207,750)**	**365,438**

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REPORT TO GTC

BUSINESS COMMITTEE RECOMMENDATION

PLACE HOLDER

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RESOLUTION

INVESTIGATION INTO ONEIDA SEVEN GENERATIONS CORPORATION

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RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE
JUN 26
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS

GTC RESOLUTION _____

INVESTIGATION INTO ONEIDA SEVEN GENERATIONS CORPORATION

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida General Tribal Council can manage all economic affairs, charter subordinate Organizations, and adopt resolutions not inconsistent with the Constitution; and

NOW THEREFOR BE IT RESOLVED that the General Tribal Council directs the Chairperson to request The superintendent of the Bureau of Indian Affairs to conduct an outside forensic Federal audit or investigation into the Seven Generations' operation for possible fraud in their land transactions or other financial improprieties; and

BE IT FURTHER RESOLVED that the General Tribal Council be informed of the following:

A. Who are the leaders in all the limited liability companies
B. Who are all the investors, Indian and non-Indian
C. Who are the stockholders
D. Who are the attorneys
E. Are the LLC officials receiving stipends or a salary
F. What is the relationship of the Business Committee, past and present, to the Seven Generations Corporation, LLC's, or investors, if any.
G. How many LLC's do we have
H. Who are the owners
I. Who are the board members
J. How much do they get paid
K. What do they use for collateral
L. Is Seven Generations' assets co-mingled with tribal property
M. Is Seven Generations' money co-mingled with tribal money; and

BE IT FURTHER RESOLVED that the Business Committee withdraws Seven Generations' charter Immediately.

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Legislative Reference Office
P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214

Oneida Tribe of Indians of Wisconsin

Committee Members
Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
David P. Jordan, Councilmember
Jennifer Webster, Councilmember

Statement of Effect

Investigation into Oneida Seven Generations Corporation

Summary

This Resolution has three components. First, it states that the Oneida "General Tribal Council (GTC) directs the Chairperson to request the superintendent of the Bureau of Indian Affairs (BIA) to conduct an outside forensic Federal audit or investigation into the Seven Generations' operation for possible fraud in their land transactions or other financial improprieties." Secondly, it requires that the GTC "be informed of the following:

A. Who are the leaders in all limited liability companies
B. Who are all the investors, Indian and non-Indian
C. Who are the stockholders
D. Who are the attorneys
E. Are the LLC officials receiving stipends or a salary
F. What is the relationship of the Business Committee, past and present, to the Seven Generations Corporation, LLC's, or investors, if any.
G. How many LLC's do we have
H. How are the owners
I. Who are the board members
J. How much do they get paid
K. What do they use for collateral
L. Is Seven Generations' assets co-mingled with tribal property
M. Is Seven Generations' money co-mingled with tribal money."

Lastly, this Resolution requires that the Oneida Business Committee (OBC) "withdraw[s] Seven Generations' charter immediately."

Submitted by: Krystal John, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

This Petition was submitted to the Tribal Secretary's Office on April 28, 2015, and was verified by the Enrollment Department. This Petition was placed on the OBC agenda and accepted at the May 13, 2015 OBC meeting. This Petition requests a special GTC meeting allowing the Petitioner to present on and address four Resolutions, including the subject Resolution.

Procedural Update

On May 13, 2015, the OBC acknowledged the receipt of the Petition without the resolutions referenced in the Petition being attached. On May 20, 2015, the LOC added the Petition to the active files list and directed that a memorandum be sent to the OBC stating that the Petition did not include the four resolutions in which the Petition referenced On May 27, 2015, the OBC received a memorandum from the LOC and directed that the Tribal Secretary reach out to the Petitioner in order to request the resolutions and that they be submitted within 30 days. On June 24, 2015, Chief Counsel expressed concerns relating to the validity of the Petition because it was not possible to determine whether those whom had signed the Petition had actually seen and endorsed any resolutions because they were not attached to the verified Petition. The Petitioner asserted that there had not been any resolutions included with his original Petition, but that he could return with resolutions if they were required. The OBC directed the Tribal Secretary to work with the Petitioner relating the resolutions.

At the July 22, 2015 OBC meeting the Tribal Secretary presented a memorandum to the OBC stating that a meeting was held with the Petitioner on June 29, 2015 during which it was agreed that the Tribal Secretary would research whether any resolutions could have possible been submitted with the Petition. The memorandum stated that further research confirmed that her office had not received any resolutions with the original Petition. Lastly, the memorandum stated that the Petitioner submitted a report to the Tribal Secretary, June 29, 2015; the report was attached to the Secretary's July 22, 2015 memorandum as a handout. At the July 22, 2015 OBC meeting, discussion ensued and the Petitioner asserted that he had in fact presented resolutions to the Tribal Secretary's Office and the Tribal Secretary's office maintained that she had not yet received any resolutions. On July 22, 2015, at 11:35 AM the Tribal Secretary's office received the Petitioner's four resolutions. On August 12, 2015, Councilman Jordan received the Resolutions from the Petitioner with a date stamp of June 26, 2015.

The First Component of this Resolution – Chairperson Request the BIA to Conduct an Outside Forensic Federal Audit or Investigation into the Seven Generations' Operation

In regards to the first component of this Resolution, the proposed GTC directive that the chairperson request the superintendent of the BIA to conduct an outside forensic Federal audit or investigation into the Seven Generations' operation for possible fraud in their land transactions or other financial improprieties, adoption has no legislative impact.

The Second Component of this Resolution – GTC be Informed of Information Pertaining to Seven Generations Corporation and Other Businesses Owned by the Tribe

In regards to the second component of this Resolution, that the GTC be informed of items A-M listed in the Summary section above, it is possible that items requested to be disclosed to the GTC would conflict with the Limitations Upon Access and Exceptions to the Open Records and Meetings (Law) pursuant to section 7.4, specifically, subsections (b) and (e). Subsection (b) exempts "[c]ontracts or other agreements which specifically prohibit disclosure of the content of the contract or agreement to third parties." Subsection (e) exempts "[t]rade secrets and commercial or financial information obtained from a person or business, or such information

belonging to the Tribe where the trade secrets or information are proprietary, privileged, or confidential or where disclosure of the trade secrets or information may cause competitive harm. Nothing contained in this paragraph shall be construed to prevent a person or business from consenting to disclosure."

Without a closer look at the information requested to be disclosed to the GTC, it is impossible to determine if the third component of the Resolution would violate the Open Records and Meetings (Law), however, section 7.4-6 of the subject law requires that if an authority, which in this case would be the OBC, "is unsure about whether a document may be released, the authority shall consult with the Oneida Law Office prior to release."

The Third Component of this Resolution – Require the OBC to Withdraw Seven Generations Corporation's Charter Immediately

In regards to the third component of this Resolution, which requires that the OBC withdraw Seven Generations' charter immediately, the Tribe does not have a Corporate Code adopted, so there is no legislative impact. The withdrawal of the corporate charter must be pursuant to the charter itself.

Conclusion

Adoption of the first and third components of the Resolution would not affect any current legislation of the Tribe; however, the second component may conflict with the Open Records and Meeting (Law).

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Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

ONEIDA TRIBE OF INDIANS OF WISCONSIN

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

ONEIDA FINANCE OFFICE
Office: (920) 869-4325 η Toll Free: 1-800-236-2214
FAX # (920) 869-4024

MEMORANDUM

DATE: November 20, 2015

FROM: Larry Barton, Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: **Financial Impact of Resolution– Investigate Oneida Seven Generations**

I. Background

Under consideration is a petition which contained a resolution directing an investigation of the Oneida Seven Generations Corporation. The Petition, if approved, would require the Chairwoman to "request the Superintendent of the Bureau of Indian Affairs to conduct an outside Federal forensic audit or investigation into the Seven Generations' operation for possible fraud in their land transactions or other financial improprieties."

Further, there are thirteen (13) separate bullet points listed, detailing directed information regarding the legal structures of partnerships involving Oneida Seven Generations Corporation, which the petitioners request be disclosed to the General Tribal Council. Lastly, the resolution would direct the Oneida Business Committee to immediately withdraw the Charter of the Oneida Seven Generations Corporation.

II. Executive Summary of Findings

The Finance Department has not been able to review the Legal Opinion of the resolution, as of this writing. However, in consultation with the Chief Counsel and the Director of Legislative Affairs, it is our understanding that the Bureau of Indian Affairs does not provide the type of service suggested by the resolution. As written, the resolution may not be actionable. However, we have requested a ballpark estimate from RSM US LLP, the audit firm currently conducting our annual audit of the Tribe's financial statements. They have estimated fees would fall in a range from fifty-thousand dollars ($50,000) to two hundred-thousand dollars ($200,000) or more, depending on how many hours are required to drill into the documents of each partnership, should the Business Committee choose to have RSM to perform the requested review. This would be outside the scope of work which the audit firm is already performing for the Tribe.

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III. Financial Impact

There is no direct financial impact of the draft resolution as written. It is our understanding that the Bureau of Indian Affairs does not perform the service suggested by the resolution, therefore it may not be acted upon.

TOTAL ESTIMATED FINANCIAL IMPACT: NOT APPLICABLE

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

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Oneida Seven Generations Corporation - Response to questions in the second resolve of the Resolution entitled "Investigation into Oneida Seven Generations Corporation":

A. Pete King is the managing agent for OSGC, and therefore the managing member of the LLC's; except for Green Bay Renewable Energy and Oneida Energy/Blocker. John Breuninger is the managing agent for Green Bay Renewable Energy and Oneida Energy/Blocker.
B. The investor of OSGC is the Oneida Nation.
C. The Oneida Nation is the only shareholder.
D. OSGC has used Godfrey & Kahn; Reinhart, Boerner, & VanDeuren; Herrling Clark; and Metzler, Timm & Treleven for different litigation issues.
E. Pete King is a paid contractor as the managing agent of OSGC; he does not get paid by the LLC's he manages. John Breuninger is paid as the managing agent for GBRE and Oneida Energy/Blocker.
F. Per the OSGC corporate charter, the Oneida Business Committee appoints the managing agent who exercises authority and management of the Corporation. Each elected official must disclose any relationship to OSGC or LLC's.
G. There are currently nine LLC's.
H. The Oneida Nation is the owner of OSGC; OSGC is the majority owner of the LLC's. Our partners in the LLC's are confidential, but we can disclose that there are no OBC members, past or present; and no past board members.
I. There are no board members.
J. There are no payments.
K. The lease-hold interests.
L. No.
M. No.

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RESOLUTION

BUSINESS COMMITTEE RECOMMENDATION

PLACE HOLDER

DRAFT DRAFT DRAFT

RESOLUTION 2

ENFORCING SALARIES FOR ONEIDA SEVEN GENERATIONS CORPORATION

DRAFT
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RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE
JUN 26
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS

GTC RESOLUTION _____

ENFORCING SALARIES FOR ONEIDA SEVEN GENERATIONS CORPORATION

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, Section IV, Section 1(h) authorizes the Oneida Business Committee "to charter subordinate organizations for economic purposes"; and

WHEREAS, Article IV of the Oneida Constitution Section 1(h) reserves the right to review any action taken by virtue of delegated power; and

WHEREAS, Seven Generations' original charter required that Seven Generations only keep 25% of all the money collected for their operating expenses, and return the remaining 75% back to the Tribe; and

NOW THEREFOR BE IT RESOLVED that the General Tribal Council hereby sets a maximum limit on total salaries of 25% and the operational costs per year for all of the four (4) Seven Generations employees, commencing back in 2008 to date of dissolution, according to the original charter; and

BE IT FURTHER RESOLVED that the General Tribal Council directs the Tribal Attorney to take any and all action necessary to have the employees return the excess profit back to the Tribe in accordance with Article IX(B) using the Federal Courts if necessary, and to commence immediately.

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Legislative Reference Office
P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214

Oneida Tribe of Indians of Wisconsin

Committee Members
Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
David P. Jordan, Councilmember
Jennifer Webster, Councilmember

Statement of Effect

Enforcing Salaries for Oneida Seven Generation Corporation

Summary

This first component of this Resolution would "set a maximum limit on total salaries of 25% and the operational costs per year for all of the four (4) Seven Generations employees, commencing back in 2008 to date of dissolution, according to the original charter." The second component of this Resolution would "direct[s] the Tribal Attorney to take any and all action necessary to have the employees return the excess profit back to the Tribe in accordance with Article IX(B) using the Federal Courts if necessary, and to commence immediately."

Submitted by: Krystal John, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

This Petition was submitted to the Tribal Secretary's Office on April 28, 2015 and was verified by the Enrollment Department. This Petition was submitted to the OBC agenda and accepted at the May 13, 2015 meeting. This Petition requests a special GTC meeting allowing the Petitioner to present on and address four resolutions, including the subject Resolution.

Procedural Update

On May 13, 2015, the OBC acknowledged the receipt of the Petition without the resolutions referenced in the Petition being attached. On May 20, 2015, the LOC added the Petition to the active files list and directed that a memorandum be sent to the OBC stating that the Petition did not include the four resolutions in which the Petition referenced On May 27, 2015, the OBC received a memorandum from the LOC and directed that the Tribal Secretary reach out to the Petitioner in order to request the resolutions and that they be submitted within 30 days. On June 24, 2015, Chief Counsel expressed concerns relating to the validity of the Petition because it was not possible to determine whether those whom had signed the Petition had actually seen and endorsed any resolutions because they were not attached to the verified Petition. The Petitioner asserted that there had not been any resolutions included with his original Petition, but that he could return with resolutions if they were required. The OBC directed the Tribal Secretary to work with the Petitioner relating the resolutions.

At the July 22, 2015 OBC meeting the Tribal Secretary presented a memorandum to the OBC stating that a meeting was held with the Petitioner on June 29, 2015 during which it was agreed that the Tribal Secretary would research whether any resolutions could have possible been submitted with the Petition. The memorandum stated that further research confirmed that her office had not received any resolutions with the original Petition. Lastly, the memorandum stated that the Petitioner submitted a report to the Tribal Secretary, June 29, 2015; the report was attached to the Secretary's July 22, 2015 memorandum as a handout. At the July 22, 2015 OBC meeting, discussion ensued and the Petitioner asserted that he had in fact presented resolutions to the Tribal Secretary's Office and the Tribal Secretary's office maintained that she had not yet received any resolutions. On July 22, 2015, at 11:35 AM the Tribal Secretary's office received the Petitioner's four resolutions. On August 12, 2015, Councilman Jordan received the Resolutions from the Petitioner with a date stamp of June 26, 2015.

The First Component of this Resolution – Set a Maximum Limit on Total Salaries of all Seven Generations Corporation's Employees

The first component of this Resolution would "set a maximum limit on total salaries of 25% and the operational costs per year for all of the four (4) Seven Generations employees, commencing back in 2008 to date of dissolution, according to the original charter." The Tribe currently has no Corporate Code and therefore adoption of this component of the Resolution would have no impact on current legislation of the Tribe.

The Second Component of this Resolution – Direct Tribal Attorney to Take any and all Action Necessary to Have the Employees Return Excess Profit to the Tribe

In regards to the second component of this Resolution, which "direct[s] the Tribal Attorney to take any and all action necessary to have the employees return the excess profit back to the Tribe in accordance with Article IX(B) using the Federal Courts if necessary, and to commence immediately," adoption would not have any impact on current legislation of the Tribe.

Conclusion

Adoption of this Resolution would not affect any current legislation of the Tribe.

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ONEIDA TRIBE OF INDIANS OF WISCONSIN

Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

UGWA DEMOLUM YATEHE Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

ONEIDA FINANCE OFFICE

Office: (920) 869-4325 η Toll Free: 1-800-236-2214

FAX # (920) 869-4024

MEMORANDUM

DATE: November 23, 2015

FROM: Larry Barton, Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: **Financial Impact of Resolution– Salaries for Oneida Seven Generations**

I. Background

Under consideration is a petition which contained a resolution regarding salaries for all Oneida Seven Generations employees. Citing the original charter of the Oneida Seven Generations Corporation, the draft resolution states that the corporation was to keep only 25% of all revenues collected for operating expenses and return the other 75% back to the Tribe. The draft resolution would seek to have funds returned to the Tribe.

The first resolved section states that the General Tribal Council would set a maximum limit for salaries of 25% (for) operational costs per year for all four Seven Generations employees. Further, the draft resolution would establish a look back period, beginning in 2008 and progressing until the date of dissolution of the corporation. The second resolved section would direct the "Tribal Attorney" to take all necessary actions to compel Seven Generations to return any "excess profit" (salary paid to them which may have exceeded 25% of the revenues received by the corporation) back to the Tribe, using Federal Courts, if necessary.

II. Executive Summary of Findings

We have not received the legal opinion as of this writing. Finance has no opinion regarding the legality of such an action. The Statement of Effect drafted by the Legislative Reference Office indicates the Tribe has no Corporate Code, therefore there is no legislative impact of the first part of the draft resolution. They further state that there is no legislative impact if the "Tribal Attorney" were to seek reimbursement from Oneida Seven Generations employees. Development of a Corporate Code would best be addressed by the Legislative Reference Office's processes.

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III. Financial Impact

There is no direct financial impact of the draft resolution as written. It is our understanding that since there is not a current Corporate Code, the draft resolution may not be acted upon.

TOTAL ESTIMATED FINANCIAL IMPACT: NOT APPLICABLE

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

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RESOLUTION 2

BUSINESS COMMITTEE RECOMMENDATION

PLACE HOLDER

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RESOLUTION 3

FREEDOM OF SPEECH, PRESS, AND ASSEMBY

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RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE
JUN 2 6 2015
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS

GTC RESOLUTION _____

FREEDOM OF SPEECH, PRESS, AND ASSEMBLY

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, Article VI of the Oneida Constitution allows freedom of press and freedom of speech; and

WHEREAS, the Business Committee has not followed the GTC Resolution 11-15-08-A; and

WHEREAS, the Oneida Constitution and Bill of Rights is supreme; and

WHEREAS, the Indian Civil Rights Act provides "no Indian Tribe exercising powers of self-government, shall make or enforce any law – abridging freedom of speech or freedom of the press"; and

WHEREAS, the United States Constitution guarantees freedom of press, speech and due process; and

NOW THEREFOR BE IT RESOLVED that the Kalihwisaks will print any article from any Oneida unedited, not to exceed 400 words; and

BE IT FURTHER RESOLVED that the Kalihwisaks will print a disclaimer, so as not to be sued.

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DRAFT

Legislative Reference Office
P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214

Oneida Tribe of Indians of Wisconsin

Committee Members
Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
David P. Jordan, Councilmember
Jennifer Webster, Councilmember

Statement of Effect
Freedom of Speech, Press and Assembly

Summary

This Resolution alleges that the Oneida Business Committee (OBC) has not followed the General Tribal (GTC) Resolution # 11-15-08-A. In order to secure freedom of press and speech, the Petitioner requests that GTC direct that the Kalihwisaks will print any article from any Oneida unedited, not to exceed 400 words and that the Kalihwisaks will print a disclaimer regarding such articles to prevent legal suites from being entered against the newspaper.

Submitted by: Krystal John, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

This Petition was submitted to the Tribal Secretary's Office on April 28, 2015 and was verified by the Enrollment Department. This Petition was submitted to the OBC agenda and accepted at the May 13, 2015 meeting. This Petition requests a special GTC meeting allowing the Petitioner to present on and address four resolutions, including the subject Resolution.

Procedural Update

On May 13, 2015, the OBC acknowledged the receipt of the Petition without the resolutions referenced in the Petition being attached. On May 20, 2015, the LOC added the Petition to the active files list and directed that a memorandum be sent to the OBC stating that the Petition did not include the four resolutions in which the Petition referenced On May 27, 2015, the OBC received a memorandum from the LOC and directed that the Tribal Secretary reach out to the Petitioner in order to request the resolutions and that they be submitted within 30 days. On June 24, 2015, Chief Counsel expressed concerns relating to the validity of the Petition because it was not possible to determine whether those whom had signed the Petition had actually seen and endorsed any resolutions because they were not attached to the verified Petition. The Petitioner asserted that there had not been any resolutions included with his original Petition, but that he could return with resolutions if they were required. The OBC directed the Tribal Secretary to work with the Petitioner relating the resolutions.

At the July 22, 2015 OBC meeting the Tribal Secretary presented a memorandum to the OBC stating that a meeting was held with the Petitioner on June 29, 2015 during which it was agreed

that the Tribal Secretary would research whether any resolutions could have possible been submitted with the Petition. The memorandum stated that further research confirmed that her office had not received any resolutions with the original Petition. Lastly, the memorandum stated that the Petitioner submitted a report to the Tribal Secretary, June 29, 2015; the report was attached to the Secretary's July 22, 2015 memorandum as a handout. At the July 22, 2015 OBC meeting, discussion ensued and the Petitioner asserted that he had in fact presented resolutions to the Tribal Secretary's Office and the Tribal Secretary's office maintained that she had not yet received any resolutions. On July 22, 2015, at 11:35 AM the Tribal Secretary's office received the Petitioner's four resolutions. On August 12, 2015, Councilman Jordan received the Resolutions from the Petitioner with a date stamp of June 26, 2015.

The First Components of this Resolution – Direct the Kalihwisaks to Print any Article from any Oneida Unedited, Not to Exceed 400 Words

The first component of this Resolution directs the Kalihwisaks to print any article not exceeding 400 words submitted from any Oneida as submitted, without edits. While the Kalihwisaks has internal policies, there are no current Tribal laws or policies adopted by either the OBC or GTC which relate to the Kalihwisaks' content selection and editorial processes. Therefore, adoption of this component of the Resolution would have no impact on current legislation of the Tribe.

The Second Component of this Resolution – Direct the Kalihwisaks to Print a Legal Disclaimer with Each Article Submitted

In regards to the second component of this Resolution, which directs the Kalihwisaks to print a disclaimer regarding submitted articles to prevent legal suits from being entered against the newspaper, adoption would not have any impact on current legislation of the Tribe.

Conclusion

Adoption of this Resolution would not affect any current legislation of the Tribe.

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Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

ONEIDA TRIBE OF INDIANS OF WISCONSIN

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

ONEIDA FINANCE OFFICE
Office: (920) 869-4325 η Toll Free: 1-800-236-2214
FAX # (920) 869-4024

MEMORANDUM

DATE: November 20, 2015

FROM: Larry Barton, Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: **Financial Impact of Resolution– Freedom of Speech, Press and Assembly**

I. Background

Under consideration is a petition which contained a resolution regarding the freedom of speech, press and assembly. The first resolved section would compel the Kalihwisaks to print an unedited version of any article submitted by any Oneida tribal member, provided the submission did not exceed 400 words. The second resolved section states the "Kalihwisaks will print a disclaimer, so as not to be sued."

II. Executive Summary of Findings

We contacted the Managing Editor of the Kalihwisaks. It was communicated that the number of submissions cannot be determined. However, if the volume is such that additional pages were required to be added to the editions, the cost is sixty-three ($63.00) per page. Further, the Managing Editor states that a disclaimer would not protect the Kalihwisaks, if the resolution would compel the paper to print any libelous or slanderous material. Last, the Managing Editor is concerned with a potential inability to edit any submissions in order to remove any obscene or objectionable material.

III. Financial Impact

A direct financial impact cannot be estimated. Whether or not additional pages would need to be added to any edition of the Kalihwisaks would be solely determined by the number of submissions which could not be edited by the Kalihwisaks staff. Further, according to the Managing Editor, the paper could be subject to lawsuit if libelous or slanderous material were printed, despite presence of any disclaimers.

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TOTAL ESTIMATED FINANCIAL IMPACT: INDETERMINABLE

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

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RESOLUTION 3

BUSINESS COMMITTEE RECOMMENDATION

PLACE HOLDER

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RESOLUTION 4

IMPOSING A TAX ON THE ONEIDA BUSINESS COMMITTEE

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RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE
JUN 2 6 2015
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS

GTC RESOLUTION _____

IMPOSING A TAX ON THE BUSINESS COMMITTEE

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, Article IV, Section 1, Paragraph (f) states only the GTC can promulgate and enforce the levying of TAXES; and

WHEREAS, Article IV(i) of the Oneida Constitution allows the GTC to adopt resolutions regulating the Tribal officials or Tribal organizations; and

WHEREAS, the Business Committee has not followed the GTC motions of 12-15-13 and violated GTC Resolution 11-15-08-C by not reporting anything back to the GTC; and

NOW THEREFOR BE IT RESOLVED that the General Tribal Council by imposing a tax on all the Business Committee members who voted not to dissolve 7 Generations but only restructure, pay $5,000 as reimbursement to the Tribe for spending millions of dollars of our money on 7 Generations; and both the Chairwoman and Tribal Attorney pay twice that amount, for having knowledge of the law and as an accessory, pay $10,000 each; and

BE IT FURTHER RESOLVED that the General Tribal Council directs all the Business Committee members, who voted NOT to dissolve 7 Generations but only restructure, to start paying the tax from their personal accounts to the Oneida Tribal general account within 60 days from now or have the Tribe cancel their per capita until it is all repaid.

DRAFT DRAFT DRAFT

Legislative Reference Office
P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214

Oneida Tribe of Indians of Wisconsin

Committee Members
Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
David P. Jordan, Councilmember
Jennifer Webster, Councilmember

Statement of Effect
Imposing a Tax on the Business Committee

Summary

This Resolution alleges that the Oneida Business Committee (OBC) (1) has not followed the General Tribal Council's (GTC) motions made on December 13, 2015 and (2) has violated GTC Resolution 11-15-08-C by not reporting back to the GTC. As a consequence, the Petition requests that the GTC resolve to "impose a tax on all the Business Committee members who voted not to dissolve 7 Generations but only restructure pay $5,000 as reimbursement to the Tribe for spending millions of dollars of our money on 7 Generations; and both the Chairwoman and Tribal Attorney pay twice that amount, for having knowledge of the law and as an accessory, pay $10,000 each." This Resolution requires that those required to pay the subject tax "start paying the tax from their personal accounts to the Oneida Tribal general account within 60 days from now or have the Tribe cancel their per capita until it is all repaid."

Submitted by: Krystal John, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

This Petition was submitted to the Tribal Secretary's Office on April 28, 2015, and was verified by the Enrollment Department. This Petition was placed on the OBC agenda and accepted at the May 13, 2015 OBC meeting. This Petition requests a special GTC meeting allowing the Petitioner to present on and address four resolutions, including the subject Resolution.

Procedural Update

On May 13, 2015, the OBC acknowledged the receipt of the Petition without the resolutions referenced in the Petition being attached. On May 20, 2015, the LOC added the Petition to the active files list and directed that a memorandum be sent to the OBC stating that the Petition did not include the four resolutions in which the Petition referenced On May 27, 2015, the OBC received a memorandum from the LOC and directed that the Tribal Secretary reach out to the Petitioner in order to request the resolutions and that they be submitted within 30 days. On June 24, 2015, Chief Counsel expressed concerns relating to the validity of the Petition because it was not possible to determine whether those whom had signed the Petition had actually seen and endorsed any resolutions because they were not attached to the verified Petition. The Petitioner

asserted that there had not been any resolutions included with his original Petition, but that he could return with resolutions if they were required. The OBC directed the Tribal Secretary to work with the Petitioner relating the resolutions.

At the July 22, 2015 OBC meeting the Tribal Secretary presented a memorandum to the OBC stating that a meeting was held with the Petitioner on June 29, 2015 during which it was agreed that the Tribal Secretary would research whether any resolutions could have possible been submitted with the Petition. The memorandum stated that further research confirmed that her office had not received any resolutions with the original Petition. Lastly, the memorandum stated that the Petitioner submitted a report to the Tribal Secretary, June 29, 2015; the report was attached to the Secretary's July 22, 2015 memorandum as a handout. At the July 22, 2015 OBC meeting, discussion ensued and the Petitioner asserted that he had in fact presented resolutions to the Tribal Secretary's Office and the Tribal Secretary's office maintained that she had not yet received any resolutions. On July 22, 2015, at 11:35 AM the Tribal Secretary's office received the Petitioner's four resolutions. On August 12, 2015, Councilman Jordan received the Resolutions from the Petitioner with a date stamp of June 26, 2015.

The First Component of this Resolution – Direct a Tax be Paid by OBC Members and Tribal Attorney

The first component of this Resolution proposes a GTC directive that a tax be imposed on "the Business Committee members who voted not to dissolve 7 Generations but only restructure pay $5,000 as reimbursement to the Tribe for spending millions of dollars of our money on 7 Generations; and both the Chairwoman and Tribal Attorney pay twice that amount, for having knowledge of the law and as an accessory, pay $10,000 each." The Tribe has no tax law or policy; this component of the resolution has no legislative impact.

The Second Component of this Resolution – When and How the Tax may be Paid

In regards to the second component of this Resolution, that those required to pay the subject tax "start paying the tax from their personal accounts to the Oneida Tribal general account within 60 days from now or have the Tribe cancel their per capita until it is all repaid," the Per Capita and the Oneida Judiciary Rules of Civil Procedure will govern how per capita payments may be attached for the collection of a debt owed to the Tribe. This component of the resolution has no legislative impact.

Conclusion

Adoption of this Resolution would not affect any current legislation of the Tribe.

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ONEIDA TRIBE OF INDIANS OF WISCONSIN

Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

ONEIDA FINANCE OFFICE

Office: (920) 869-4325 η Toll Free: 1-800-236-2214
FAX # (920) 869-4024

MEMORANDUM

DATE: November 20, 2015

FROM: Larry Barton, Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: **Financial Impact of Resolution– Imposing Tax on Business Committee**

I. Background

Under consideration is a petition which contained a resolution that a tax be imposed on the Business Committee members whom voted to restructure Oneida Seven Generations Corporation, as well as on the "Tribal Attorney."

The draft resolution alleges that the Oneida Business Committee has either not followed or has violated various General Tribal Council resolutions cited. The draft resolution seeks to compel all Business Committee members who voted not to dissolve OSGC to pay a "tax" of five-thousand dollars ($5,000.00). However, the Chairwoman and the "Tribal Attorney" (presumably, the Chief Counsel) would be required to pay twice that amount, or ten-thousand dollars ($10,000.00). Further, the draft resolution states that the affected persons begin paying from their personal accounts, or have their per capita payments canceled until the "tax" amount is paid.

II. Executive Summary of Findings

We have not received the legal opinion as of this writing, and have no opinin as to the legality of such an action. The Statement of Effect drafted by the Legislative Reference Office indicates the Tribe has no tax law or policy, therefore there is no legislative impact of the first part of the draft resolution, which imposes $5,000 and $10,000 taxes upon Business Committee members and the Chief Counsel. As to the second part, which describes how the impacted parties may pay the "taxes," there is already a Per Capita Law which would govern any attachments of per capita payments. Attachments may only be ordered currently by the Tribe's Judicial System.

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III. Financial Impact

There is no direct financial impact of the draft resolution as written. It is our understanding that since there is not a current Tax Law or Policy, the draft resolution may not be acted upon.

TOTAL ESTIMATED FINANCIAL IMPACT: NOT APPLICABLE

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

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RESOLUTION 4

BUSINESS COMMITTEE RECOMMENDATION

PLACE HOLDER

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TOPIC:
PETITIONER
MADELYN GENSKOW

REVIEW AND CONSIDER ONE (1) RESOLUTION REGARDING FEE-TO-TRUST PROCESS

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Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Oneida Nation
BUSINESS COMMITTEE

P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

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MEMORANDUM

To: General Tribal Council

From: Oneida Business Committee

Date: May 11, 2016

RE: Oneida Business Committee Recommended Action
Genskow Resolution – Fee-to-Trust Process

We have received and reviewed the petition, legislative analysis, legal analysis and financial analysis, and the petitioner's statements regarding the above proposed resolution.

This item originally appeared on the agenda of the April 11, 2016, Special General Tribal Council meeting. At that time, we notified the General Tribal Council that the proposed resolution was unconstitutional and in violation of Tribal laws and could not be presented unless amended. The General Tribal Council, after the presentation and brief discussion adopted the following motion.

"Motion by Sherrole Benton that we take no action as this resolution will appear on the June 13, 2016, Special General Tribal Council meeting agenda. Seconded by Wes Martin. Motion carried by a show of hands."

The petitioner submitted a supporting memo for the original proposed resolution, but did not submit an amended resolution which addressed the constitutional issues. The petitioner also did not contact the Oneida Business Committee to schedule a meeting to attempt to address this issue.

The Oneida Business Committee discussed amending the proposed resolution to remove the constitutional issues. However, we felt that would be inappropriate given the resolution was submitted with a petition and subject to the request of the signatories on

the petition. We do not recall when the Oneida Business Committee had taken that type of action in the past and did not feel it was within our ability to do so now.

We are recommending that the General Tribal Council reject the presentation of this resolution as the petitioner has failed to provide a corrected resolution. This would not prohibit the petitioner from filing another petition with a resolution that did not contain unconstitutional provisions.

Recommended Action: Motion to deny presenting the resolution because of the unconstitutional actions requested in the resolution.

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TOPIC:
PETITIONER
MADELYN GENSKOW

REVIEW AND CONSIDER THREE (3) RESOLUTIONS

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Oneida Nation

Certification of Petition Signatures

TO: General Tribal Council
FROM: Lisa Summers, Secretary
DATE: April 8, 2016
RE: Madelyn Genskow Petition re: Review and consider three (3) resolutions

Certification of Sufficient Petition Signatures:

Petitioner Name:	Madelyn Genskow
Date Submitted:	March 30, 2015
Total # of signatures submitted:	61
Total # of invalid signatures[i]:	1
Total # of valid signatures:	60

Sixty signatures were verified by the Oneida Enrollment Department on March 31, 2015. The number of signatures submitted by the petitioner is sufficient.

Petition: A copy of the petition statement is provided here:

PURPOSE: We the under signed General Tribal Council members request a special GTC meeting to review and consider the attached resolutions. In the event that Public hearings are required we direct the Business Committee to hold the required Public Hearings and bring these resolutions to the GTC in

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The full petition is available per the Open Records and Open Meetings Law. Contact the Business Committee Support Office for more information at (920) 869-4364.

[i] Reason(s) for invalidation: 1 – Name could not be verified

RESOLUTION

ONEIDA BUSINESS COMMITTEE ACCOUNTABILITY

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ONEIDA BUSINESS COMMITTEE Accountability Resolution

WHEREAS, it appears that the members of the Business Committee cannot make public statements regarding certain problems in the Tribe without a majority vote of the Business Committee and

WHEREAS, this has caused Oneida General Tribal directives to not be carried out because the General Tribal Council is not informed and

WHEREAS, it is documented that the Resolution 11-15-08 C requiring full disclosure was never carried out

NOW THEREFORE BE IT RESOLVED . The first item on every Agenda of the Annual and Semi-Annual meetings shall be that each individual member of the Business Committee must verbally report to the GTC if they, as an individual member of the Business Committee, know if there are any GTC Directives that are not being carried out.

BE IT FINALLY RESOLVED this item may not be deleted from the agenda.

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ONEIDA BUSINESS COMMITTEE
MAR 30 2015
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS

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JO ANNE HOUSE, PHD
CHIEF COUNSEL
JAMES R. BITTORF
DEPUTY CHIEF COUNSEL
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SENIOR STAFF ATTORNEY

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PATRICIA M. STEVENS GARVEY
CAROYL J. LONG
KELLY M. MCANDREWS
MICHELLE L. MAYS

(920) 869-4327 **FAX (920) 869-4065**

MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: October 5, 2015

SUBJECT: Petition – Genskow – Oneida Business Committee Reporting

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You have requested a legal review regarding a petition submitted by Madelyn Genskow. The petition contains three resolutions. The legal opinion will review only the resolution identified above. The Enrollment Department has verified a sufficient number of signatures on the petition.

The resolution contains three Whereas sections.

- "…it appears that the members of the Business Committee cannot make public statements regarding certain problems in the Tribe without a majority vote of the Business Committee[.]"
- "…this has caused Oneida General Tribal Council directives to not be carried out because the General Tribal Council is not informed[.]"
- "…it is documented that the Resolution 11-15-08 C requiring full disclosure was never carried out[.]"

Whereas sections are intended to provide legislative history and background regarding why the resolution is brought forward. Whereas sections are not enforceable.

The resolution contains two Resolve sections.

- "…The first item on every Agenda of the Annual and Semi-Annual meetings shall be that each individual member of the Business Committee must verbally report to the GTC if they, as an individual member of the Business Committee, know if there are any GTC directives that are not being carried out."
- "…this item may not be deleted from the agenda."

To draft this opinion, I have reviewed prior actions of the General Tribal Council, Tribal law, policies and procedures, and various other resources. This opinion is broken into sections to address the issues raised in the resolution – public speaking and resolution # GTC-1-15-08-C.

Public Speaking

The Oneida Business Committee is the elected body representing the Tribe when the General Tribal Council is not in session. As a body, the Oneida Business Committee meets in both open and executive/closed session to receive information and requests regarding issues, discuss those issues, and make a decision by either adopting a motion or a resolution. The Oneida Business

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Committee, as a body, acts on behalf of the Tribe unless a specific delegation is made to a member of the Oneida Business Committee to act on an issue or represent the Tribe.

Individual members of the Oneida Business Committee may speak on their own behalf. However, such speech must recognize the position they hold and the quality of the information they are given as a result of their elected position. In other words, members of the Oneida Business Committee receive and have access to information which is not public information.[1]

Oneida Leadership Group Agreements. When the 2014 Oneida Business Committee began office they met to discuss how they would proceed during their term of office regarding policy and direction of the Tribe as well as how they would interact with each other. The result of those meetings was the "Oneida Leadership Group Agreements." These agreements are set forth below.

- Hold each other accountable for our actions.
- Community atmosphere – we are here to help each other and hold each other up.
- Leave the titles at the door. We are equal working together, on a level playing field.
- Challenge the status quo thinking and maintain an open mind.
- Be present physically and emotionally.
- Respectful communication in tone and style.
- Support the decision of the team.
- Come prepared.
- Pay attention and listen.
- No interrupting.
- Deliver the mail to the right address.
- Assume the best.
- Share the time; everyone gets a chance to speak.
- Check attitude at the door.
- Focus on the issue, not the person.
- Be solution-oriented to problems.
- Do not take any decisions personally.
- Maintain our values.

In addition to the Group Agreement, the Oneida Business Committee has also identified that six members must be present in order to make a decision. Based on this, and the Group Agreement, the members of the Oneida Business Committee committed to meeting to discuss issues and arrive at a consensus that everyone could support.

Public Relations – Newspaper. In the past, the Oneida Business Committee has directed that all contact with reporters (whether print or other media) be conducted through the Public Relations Office. The Public Relations Office is now a responsibility of Intergovernmental Affairs and Communications. The current Oneida Business Committee has not formally re-affirmed this policy; however, the Intergovernmental Affairs and Communications personnel continue to act as a point of contact for reporters.

[1] See also discussion at September 21, 2015, Special General Tribal Council meeting, Chair comments regarding certain business activities requiring confidentiality.

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General Tribal Council Reporting. The Oneida Business Committee continues to provide the travel expense reports as directed by the General Tribal Council. Further, consistent with the prior Oneida Business Committee, a cover letter from the Oneida Business Committee is submitted with the Annual and Semi-Annual Reports. Members of the Oneida Business Committee are contacted regarding subjects to include and the cover letter is approved by the Oneida Business Committee.

Kaliwhisaks. The Kaliwhisaks includes a legislative page for members of the Oneida Business Committee. This page allows, on a rotating basis, individual Oneida Business Committee members to address a letter to the members on issues of importance from their individual perspective.

Oneida Business Committee – Quarterly Reporting. Each subcommittee or standing committee on which members of the Oneida Business Committee participates provides a quarterly report. These reports identify matters before that body, priorities set on activities of the body, and highlights regarding activities or actions taken by the body. These reports supplement the minutes of these entities. Examples of these types of entities include the Community Development and Planning Committee and the Legislative Operating Committee.

Resolution # GTC-11-15-08-C

The General Tribal Council met on November 15, 2008, to review a petition submitted by Madelyn Genskow. That petition contained nine resolutions, one of which was regarding the Treasurer's reports. The petitioner identified that the purpose of the resolution was to have the audits of the Tribe reported to the General Tribal Council, and that the financial reports should include the component units of the Tribe. *Meeting Packet, p 119.* The minutes indicate that very little discussion took place. However, the discussion reported identifies that the intent was to make information available to the members, to increase "communication." The members rejected a motion to adopt a resolution proposed by the Oneida Business Committee which required reporting in accordance with Generally Accepted Accounting Principles and Government Accounting Standards.

The General Tribal Council adopted Resolution # GTC-11-15-08-C after a brief discussion and clarification of its intent and application. The resolution contains four Resolves which can be summarized as follows.

- The Treasurer's report must include the annual audit[2] of the Tribe and the component units.[3]

[2] Prior to adoption of the resolution a Parliamentarian question was presented regarding whether the resolution as in order. The ruling was as follows – "The resolution does not require an audit be conducted outside of existing audit processes as clarified in discussion on the floor and as a result does not violate existing tribal law." *General Tribal Council Meeting Minutes, November 15, 2008, p. 13.* This Resolve is interpreted as requiring only an annual audit of the Tribe.

[3] A "component unit" is a corporate or external entity that derives a majority of its activities from the Tribe and as a result is dependent on the Tribe for its profit and losses. Current component units of the Tribe are identified as the Oneida Seven Generations Corporation (because of the management of commercial property owned by the Tribe) and the Oneida Golf Enterprise (because of the financial reliance on the Tribe).

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- The Treasurer's report must include an annual audit of the Tribe that reviews the finances of the Tribe and its component units.
- No Tribal employee shall enter into an agreement with a corporation that requires the agreement to remain confidential.
- This resolution will be implemented at the next General Tribal Council meeting a Treasurer's report is submitted.

Prior to adoption of this resolution the Treasurer reported to the General Tribal Council at the Annual, Semi-Annual and budget meetings.[4] In addition, the Treasurer reported to the Oneida Business Committee on a quarterly basis. The reports contained an overview of the financial status of the Tribe and occasionally included information regarding investments made by the Tribe. Since adoption of the resolution, the Treasurer continues to provide the same reporting at the Annual, Semi-Annual and budget meetings, as well as the quarterly reporting at the Oneida Business Committee meetings. However, on an annual basis, the audits of the Tribe and the corporate entities of the Tribe are also submitted to General Tribal Council. In addition, in the Annual and Semi-Annual reports, a brief financial status of the corporations and return on investment is also reported.

The budget for the Tribe remains available at specific public locations (Oneida Community Library and SEOTs offices). In addition, the external and internal audits of the Tribe are available in accordance with the Audit Law. Finally, the annual audit and corporate annual audits are available for viewing with the Tribe's budget.

Analysis

This resolution contains three Whereas sections and two Resolves. The Whereas sections make two general allegations. First, that General Tribal Council directives have not been carried out because an Oneida Business Committee member cannot speak without approval of a majority of the Oneida Business Committee. Second, that "full disclosure" was never carried out. The resolution also contains two Resolves. First, the agenda of the Annual and Semi-Annual meetings must have, as the first item on the agenda, each Oneida Business Committee member to present a verbal report on General Tribal Council directives not being carried out. The second Resolve directs that the agenda item cannot be deleted.

Whereas – Restriction on Public Speaking. It is not clear what directive or restriction is being referred to which restricts an Oneida Business Committee member from speaking. However, there are some processes the Oneida Business Committee has agreed to utilize during their term. For example, the Oneida Business Committee has agreed to a consensus decision making process and committed to that process. For example, the Group Agreements identify that the members of the Oneida Business Committee would "support the decision of the team." If the Oneida Business member have agreed to the difficult process of consensus building, support of that consensus is critical to participation.

[4] See opinion, "Genskow Petition – Resolution – Treasurer Reporting to GTC," dated July 14, 2008, for the history of Treasurer's reports to the General Tribal Council.

If the specific limiting directive or restriction to speech is identified, it will be possible to provide a more in depth review. Without that information, it is not possible to identify what, if any, such a restriction may have had on a member of the Oneida Business Committee.

In addition to the above, the Whereas section suggests that the restriction on speech was somehow the cause of a General Tribal Council directive not being carried out. The General Tribal Council, since the adoption of the Constitution in 1936, has adopted many motions and resolutions directing action. It is not possible to review all of those actions in the limited time available to determine which, if any, were not carried out; even if that review were limited to short time period the research would be significant.[5] Neither the resolution nor the petition identify any examples of General Tribal Council directives that were not carried out, nor has it identified any examples of General Tribal Council directives that were not carried out because a member of the Oneida Business Committee was restricted or limited from speaking. If such examples or specific occasions were identified, further review would be needed and this opinion would need to be updated.

Whereas – Full Disclosure. This Whereas section alleges that a General Tribal Council Resolution was not carried out. The petition does not identify how this resolution has not been implemented, it simply states that it is "documented" that the resolution has not been carried out. As a result, it is not possible to conduct a review of this allegation and to provide an analysis.

Resolve – Agenda Item – Individual Verbal Report. The first Resolve requires individual Oneida Business Committee members to report on failures to carry out General Tribal Council directives. This verbal report is to be presented at an Annual or Semi-Annual meeting. The report could be as simple as – "I do not know of any actions." However, even if there are issues reported, it is not clear what, if any action General Tribal Council could take. A verbal report would not contain sufficient information, presented to the membership prior to the meeting, for informed decision making by the body.

The Oneida Business Committee members take an oath of office prior to entering office. The oath identifies that they will carry out and execute the laws of the Oneida Tribe of Indians of Wisconsin. As such, this directive to present a verbal report at the Annual or Semi-Annual meeting appears to suggest a number of interpretations that would violate that responsibility. For example, the Resolve could be interpreted that a member of the Oneida Business Committee could not take steps to implement corrective action because he or she would then be unable to present a verbal report on such inaction. In the alternative, the verbal report could involve individuals who would have no notice of such action being brought before the General Tribal Council.

- If that individual were an elected official, a verbal report would be in violation of the Removal Law, or the Constitution if this were an allegation against another Oneida Business Committee member.

[5] This research would be made even more difficult where subsequent actions of the General Tribal Council superseded in whole or in part prior actions of that body.

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- If the individual were an employee, a verbal report would be in violation of the delegated authority regarding employment matters to the Human Resources Department and the Personnel Commission.
- If the individual were a gaming employee, a verbal report could be in violation of licensing issues under the Oneida Nation Gaming Ordinance.

The Resolve is not sufficiently clear to provide basic notice requirements to the General Tribal Council to make informed decisions, and does not provide sufficient protections regarding the due process of individuals. As a result, the overbroad nature of the Resolve would pose significant legal issues.

Resolve – Prohibited from Deleting. The second Resolve directs that this verbal reporting item on the agenda may not be deleted. However, it is not clear if such a directive can be implemented. Adoption of the agenda, in accordance with notice requirements under the Ten Day Notice Policy, is subject to the will of the General Tribal Council. For example, for at least the past 20-plus years the General Tribal Council has taken action to re-arranging the agenda placing priority on items by moving the item to the beginning of the agenda. Further, the General Tribal Council has also deleted items from the agenda. It is possible, that even after adoption of this Resolve, the General Tribal Council could still, by two-thirds vote, delete an item from the agenda.

Conclusion

This resolution contains Whereas sections which are unclear. It is not possible to provide a legal analysis regarding the allegations being made.

The resolution contains two Resolves. The first Resolve may result in directing an Oneida Business Committee member to violate the laws and/or Constitution of the Tribe. At the very least, it is a directive to provide a report for which insufficient information has been presented to the members in a timely manner in which to make an informed decision. This Resolve contains constitutional issues which are likely to render it out of order.

The second Resolve contains a directive that the directed agenda item cannot be removed. It is not possible to restrict the procedural actions of the General Tribal Council in this manner. Unlike direct information and notice be presented prior to a meeting, the agenda itself is subject to the authority of the General Tribal Council. As a result, at most, this Resolve could result in a two-thirds vote to amend the agenda to delete these items.

If you have further questions, please contact me.

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Oneida Tribe of Indians of Wisconsin
Legislative Reference Office

Lynn A. Franzmeier, Staff Attorney
Taniquelle J. Thurner, Legislative Analyst
Candice E. Skenandore, Legislative Analyst

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Statement of Effect
Petition Resolution 1: OBC Accountability

Summary

On March 30, 2015, the Tribal Secretary's Office received a petition which states "we the under signed General Tribal Council members request a special GTC meeting to review and consider the attached resolutions. In the event that public hearings are required we direct the Business Committee to hold the required Public hearings and bring these resolutions to the GTC intact." The petition further requests that the meeting be held on a Saturday.

The Petition was verified by the Enrollment Project Specialist on March 31, 2015, and on April 22, 2015, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on the petition. This Statement of Effect addresses the first of three resolutions attached to the Petition, pertaining to OBC Accountability.

Submitted by: Candice E. Skenandore, Legislative Analyst, Legislative Reference Office

Legislative Analysis

According to this Resolution, it appears that the OBC cannot make public statements regarding certain problems in the Tribe without a majority vote by the OBC. The Resolution further claims that this has caused General Tribal Council directives from being carried out. An example was made that states that Resolution 11-15-08-C requiring full disclosure was never carried out.

This Resolution seeks to add a permanent item to the agenda for all Annual and Semi-Annual General Tribal Council meetings which requires each OBC member to verbally report if they know of any General Tribal Council directives that are not being carried out. The Resolution requires this verbal report to be the first item on the agenda; in addition, this item cannot be deleted from the agenda.

This Resolution has no legislative impact at this time. Please consult the legal and fiscal analyses to determine if this Resolution has any legal or fiscal impacts.

Conclusion

Adoption of this Resolution would not affect any current Tribal legislation.

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ONEIDA TRIBE OF INDIANS OF WISCONSIN

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ONEIDA FINANCE OFFICE

Office: (920) 869-4325 η Toll Free: 1-800-236-2214
FAX # (920) 869-4024

MEMORANDUM

DATE: January 20, 2016

FROM: Larry Barton, Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: **Financial Impact of Resolution– Oneida Business Committee Accountability**

I. Background

Under consideration is a petition which contains a proposed Resolution titled, "Oneida Business Committee Accountability Resolution." The "whereas" sections of the proposed Resolution assert that Oneida Business Committee members may not make public statements regarding "problems in the Tribe" without a majority vote of the Business Committee. Further, the proposed Resolution asserts that GTC Resolution # 11-15-08-C requiring full disclosure was never carried out.

The resolved section of the proposed Resolution would require that each Annual and Semi-Annual meeting of the General Tribal Council begin with all nine (9) Business Committee Members individually providing a verbal report detailing whether they know of any General Tribal Council directives which are not being carried out. Further, adoption of the Resolution would not permit removing this item from the agenda of an Annual or Semi-Annual meeting.

II. Executive Summary of Findings

The proposed Resolution contains no examples of the assertions. There is not the presence of items citing reasons for the proposal. It calls for verbal reports to open certain General Tribal Council meetings. Any actions pertaining to said verbal reports may be in violation of a 10 day notice policy.

III. Financial Impact

There is no direct financial impact of the draft resolution as written. It is unknown how long these nine verbal reports – one from each Business Committee member – would take. If the time

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frame required complete an agenda is extended too far, recent activity has shown that those in attendance may choose to recess before completion, which would require at least one additional meeting to complete the agenda. In this case, we would incur costs to convene a second meeting. For the time frame January 19, 2015 to January 6, 2016 we held ten (10) General Tribal Council meetings. The average cost of these meetings was $191,264. It is therefore possible that this proposed Resolution would delay the time to complete an agenda, leading the GTC members in attendance to recess a meeting before its completion.

TOTAL ESTIMATED FINANCIAL IMPACT: zero to $382,528

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

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To: General Tribal Council
From: Madelyn (Cornelius) Genskow

Madelyn Genskow

May 2, 2016
Re: Business Committee Accountability Resolution

They have not carried out the following General Tribal Council directives:

1.Benefits books are not mailed to tribal members including Guidelines, updated annually.

1.a. (Community Funds) where several tribal members were funded $450.00 for gym and dance classes, swim classes, cheer leading class, etc.

2. Oneida hymn singing to be taught in the tribal schools.

3. Land Commissioner to be elected, not appointed.

4. Ombudsmen. As an advocate for someone to the Health Center I found out that if you have a problem at the Health Center. You report the problem to Sandy Schuyler – whose boss is the Director of the Health Center – not to the ombudsman, as directed by the General Council, should be independent of the management of the Health Center.

5. GTC Resolution 11-15-2008C: No one in the Tribe is to sign a corporate contract that the tribal members can not see. The current "Open Records Law" 7.4 limitations upon access and exceptions and 7.4.1 **(B) contracts or other agreements which specifically prohibit disclosure of the content of the contract of agreement to third parties. - the GTC would be the third party.**

See attachments.

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MAY 3 2016
ONEIDA TRIBE OF INDIANS OF WISCONSIN
INITIALS

VII. New Business:

1. External Donation Requests – Discussion
Patricia King, Treasurer

There was a discussion regarding how to move forward with donation requests; Larry Barton provided a brief historical overview of how external giving was provided; in the past few years with diminished dollars concentration was on Oneida Community, local churches, longhouse and vets groups. After discussion there was consensus donation requests can be placed on the FC agenda for review and that information provided today can be accepted as FYI.

Motion by Jennifer Webster to accept all the information as FYI. Seconded by Wesley Martin, Jr. Motion carried unanimously.

VIII. Executive Session: No requests submitted

IX. Community Fund: This should in The GTC ordered "Benefits Book".

1. Green Bay Elite Cheer fees for daughter (JM)

Motion by Jennifer Webster to approve from the Community Fund the Green Bay Elite Cheer fees for the daughter of the requestor in the amount of $500.00. Seconded by Larry Barton. Motion carried unanimously.

2. YMCA Gym/Swim class fees for daughter (YYZS)

Motion by Larry Barton to approve from the Community Fund the YMCA gym and swim class fees for daughter of requestor (YYZS) in the amount of $450.00. Seconded by Jennifer Webster. Motion carried unanimously.

3. YMCA Gym/Dance class fees for daughter (YMZS)

Motion by Wesley Martin Jr. to approve from the Community Fund the YMCA gym and dance class fees for daughter of requestor (YMZS) in the amount of $450.00. Seconded by Fawn Billie. Motion carried unanimously.

4. YMCA Gym/Swim class fees for daughter (YCZS)

Motion by Jennifer Webster to approve from the Community Fund the YMCA gym and swim class fees for daughter of requestor (YCZS) in the amount of $450.00. Seconded by Wesley Martin, Jr. Motion carried unanimously.

X. Follow Up:

1. RPM Advertising – Contract Extension Addendum
Brenda Buckley, Gaming Marketing

No one present to provide follow up information, the FC had several questions pertaining to if there was included in agreement a limited waiver of sovereign immunity, and an updated legal review of this addendum; also there was discussion of this already being approved at both FC and OBC levels and this is follow up.

Motion by Larry Barton to defer until Gaming Marketing can be present and to specifically answer the limited waiver of sovereign immunity and updated legal review. Seconded by Wesley Martin, Jr. Motion carried unanimously.

Thank you and/or FYI:

1. FYI – Outagamie County Service Agreement
Paula King-Dessart, OBC Office Manager

Nathan King was present and provided a handout that further explains services within this agreement and to explain much of the agreement is about mitigation of land into trust; he also

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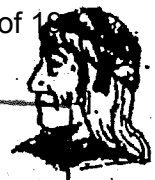
Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Oneida Tribe of Indians of Wisconsin
BUSINESS COMMITTEE

P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040

RECEIVED BY THE OFFICE OF TRIBAL SECRETARY ONEIDA BUSINESS COMMITTEE
MAY 3 2016
ONEIDA TRIBE OF INDIANS OF WISCONSIN



UGWA DEMOLUM YATEHE Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

(General Tribal Council Resolution 11-15-08-C)

Treasurer's Report to include all Receipts and Expenditures and the Amount and Nature of all Funds in the Treasurer's Possession and Custody

Whereas, the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin, and

Whereas, the Oneida General Tribal Council has been delegated the authority of Article IV, Section I of the Oneida Tribal Constitution, and

Whereas, the Oneida Business Committee may be delegated duties and responsibilities by the Oneida General Tribal Council and is at all times subject to the review powers of the Oneida General Tribal Council, and

Whereas, Article I, Section 4 of the bylaws of the Tribe establishes that the Treasurer of the Oneida General Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Oneida General Tribal Council, whether such funds be Tribal funds or special funds for which the Oneida General Tribal Council is acting as trustee or custodian, and

Whereas, aforementioned article and section of the bylaws of the Tribe further establishes that the Treasurer of the Oneida General Tribal Council shall deposit all funds in such depository as the Oneida General Tribal Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his or her possession and custody at each regular meeting of the Oneida General Tribal Council and at such other times as requested by the Oneida General Tribal Council or the Oneida Business Committee, and

Whereas, while in session, the Oneida General Tribal Council in the past has been denied information regarding all receipts and expenditures of the Tribe including receipts and expenditures of all and including, but not limited to, component units (tribally chartered corporations and autonomous entities, limited liability companies, state chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) in the semi-annual and

(FLIP PAGE TO SEE THE FULL DISCLOSURE RESOLVE.)

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annual reports provided to the Oneida General Tribal Council at regularly scheduled Oneida General Tribal Council meetings, and

Now Therefore Be It Resolved, that the Oneida General Tribal Council hereby directs that all Treasurer reports hereinafter include an independently audited annual statement that provides the status or conclusion of all the receipts and debits in possession of the Treasurer of the Tribe including, but not limited to, all corporations owned in full or in part by the Tribe, and

Be It Further Resolved, that the Oneida General Tribal Council hereby directs that all Treasurer's reports to the Oneida General Tribal Council at the semi- annual and annual Oneida General Tribal Council meetings hereinafter include an independently audited annual financial statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer of the Tribe and including, but not limited to component units (Tribally chartered corporations and autonomous entities, limited liability companies, state chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) owned in full or in part by the Tribe, and

Be It Further Resolved, that no "agent" of the Tribe shall enter into any agreement with any corporation that prohibits full disclosure of all transactions (receipts and expenditures and the nature of such funds) and that such an agreement is not binding to the Tribe, and

Be It Finally Resolved, that the Oneida General Tribal Council hereby directs implementation of this resolution at the next regular Oneida General Tribal Council meeting or at such special meeting of the Oneida General Tribal Council whereby a Treasurer's report is requested.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council in session with a quorum of 1,254 members present at a meeting duly called, noticed and held on the 15th day of November 2008, that the foregoing resolution was duly adopted at such meeting by a unanimous vote of those present and that said resolution has not been rescinded or amended in any way.

Patricia Hoeft

Patricia Hoeft, Tribal Secretary
ONEIDA BUSINESS COMMITTEE

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ONEIDA BUSINESS COMMITTEE
MAY 3 2016
ONEIDA TRIBE OF INDIANS OF WISCONSIN
INITIALS

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Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Oneida Nation
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UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

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MEMORANDUM

To: General Tribal Council

From: Oneida Business Committee

Date: May 11, 2016

RE: Oneida Business Committee Recommended Action
Genskow Resolution – Business Committee Accountability

We have received and reviewed the petition, legislative analysis, legal analysis and financial analysis, and the petitioner's statements regarding the above resolution. We have also reviewed the Action Report from the April 11, 2016, General Tribal Council meeting where the following motion was made.

"Motion by Tehassi Hill to accept resolution on page 58 as information only, and for the Tribal Secretary to provide a written report at the Annual General Tribal Council meeting regarding General Tribal Council directives. Seconded by Sandy Schuyler. Motion carried by show of hands."

This motion by the General Tribal Council carries out the request on the proposed resolution by the petitioner. There is no further action needed.

In addition, every Oneida Business Committee member reports out to the General Tribal Council in the Annual and Semi-Annual report under the Oneida Business Committee's report, and has a column in the Kaliwhisaks on a rotating schedule in which the Oneida Business Committee member gives a report on subjects of interest or requiring further discussion.

In addition, if there are issues requiring action, Oneida Business Committee members:

- meet every two weeks each month in regular session;

- can meet as needed in Special or Emergency Oneida Business Committee meetings;
- participate as members of the Audit Committee;
- participate as members of the Legislative Operating Committee;
- participate in the Officers' meetings; and
- meet in regularly scheduled Strategic or Administrative Work meetings.

It serves no purpose to wait until the Annual or Semi-Annual meeting to report on a directive not being carried out. Especially when that can be brought to the attention of the Oneida Business Committee at almost any time to be taken up and addressed.

Recommended Action: Motion to accept the resolution as information only.

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RE: BUSINESS COMMITTEE ACCOUNTABILITY

BUSINESS COMMITTEE RECOMMENDATION

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(MULTIMEDIA PRESENTATION)

RESOLUTION

OPEN RECORDS AND OPEN MEETINGS LAW

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RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE
MAR 30 2015
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS

Resolution Regarding the Open Records Law

Where as, on March 25th, 2015 Oneida tribal member Yvonne Metivier requested from the Oneida Records Dept. Research for minutes and audio for General Tribal Council meetings where by a motion was made to create the position of Ombudsman, and

Where as, Yvonne Metivier also on March 25th, 2015 requested, was there and General Tribal Council action to create the position of Internal Services Position? And

Where as, the request was denied by the Director of the Oneida Tribal records Department who sited the Open Records and Open Meeting Law 7.7.7. and

Where as, in the past requests have been made for research of minutes and audio of GTC meetings by tribal member Madelyn Genskow regarding GTC minutes and audio and Business Committee minutes, and requests were honored prior to March 25th 2015 and

Where as, the members of the General Tribal Council need access to tribal records in order to hold the Business Committee and Management accountable to the General Tribal Council.

Where as, when Madelyn Genskow requested information regarding the General Manager boxes and their content and who was in possession of those record boxes, she was told that the Internal Services Director could have access to those boxes but tribal members could not and

Where as the types of issues the Position of Ombudsman deals with has been radically changed since it was started by the GTC to address concerns at the Health Center and

Now therefore, be it resolved, the GTC orders that the GTC must approve the Open Records and Open Meetings Law in its entirely.

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PATRICIA M. STEVENS GARVEY
CAROYL J. LONG
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MICHELLE L. MAYS

(920) 869-4327 **FAX (920) 869-4065**

MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: November 20, 2015

SUBJECT: Petition – Genskow – Open Records and Open Meetings Law

---

You have requested a legal review regarding a petition submitted by Madelyn Genskow. The petition contains three resolutions. The legal opinion will review only the resolution identified above. The Enrollment Department has verified a sufficient number of signatures on the petition.

The resolution contains seven Whereas sections.

- "…on March 25th, 2014 Oneida tribal member Yvonne Metivier requested from the Oneida Records Dept. Research for minutes and audio for General Tribal Council meetings where by a motion was made to create the position of Ombudsman[.]"
- "…Yvonne Metivier also on March 25th, 2015 requested, was there and General Tribal Council action to create the position of Internal Services Position?"
- "…the request was denied by the Director of the Oneida Tribal records Department who cited the Open Records and Open Meetings law 7.7.7[.]"
- "…in the past requests have been made for research of minutes and audio of GTC meetings by tribal member Madelyn Genskow regarding GTC minutes and audio and Business Committee minutes, and requests were honored prior to March 25th, 2015[.]"
- "…the members of the General Tribal Council need access to tribal records in order to hold the Business Committee and Management accountable to the General Tribal Council[.]"
- "…when Madelyn Genskow requested information regarding the General Manager boxes and their content and who was in possession of those record boxes, she was told the Internal Services Director could have access to those boxes but tribal members could not[.]"
- "…the types of issues the Position of Ombudsman deals with has been radically changed since it was started by the GTC to address concerns at the Health Center[.]"

Whereas sections are intended to provide legislative history and background regarding why the resolution is brought forward. Whereas sections are not enforceable.

The resolution contains one Resolve section.

- "the GTC orders that the GTC must approve the Open Records and Open Meetings Law in its entirety."

To draft this opinion, I have reviewed prior actions of the General Tribal Council, Tribal law, policies and procedures, and various other resources. This opinion is broken into sections to address the issues raised in the resolution – Open Records and Open Meetings law, records requests, General Manager's records, Ombudsman, and Internal Services Division Director.

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Open Records and Open Meetings Law

The Open Records and Open Meetings law was adopted in January 2005 by the Oneida Business Committee in accordance with the authority delegated in the Administrative Procedures Act. The law is intended, "...to advance the democratic principle of open government by providing access to information regarding the affairs of government[.]" *Section 7.1-1.* In order to advance this policy, "...this law shall be construed with a presumption of public access...consistent with the conduct of governmental business. The denial of public access is generally contrary to the public interest, and only under certain exceptions may access be denied[.]" *Section 7.1-2.*

As identified in other opinions and reviews of the Open Records and Open Meetings law, there are exceptions to public access, or open records. Generally, section 7.4-1 defines records warranting an exception to public access, "...where the public's right to a document is outweighed by the public interest in keeping such documents confidential." Those exceptions are specifically listed in section 7.4, *Limitation Upon Access and Exceptions*. Unless an exception to a public record is specifically listed in this section, the presumption is that the record is a public document.

- Documents submitted or created prior to award of a bid or contract.
- Contracts prohibiting disclosure.
- Documents which if released would result in an invasion of privacy.
- Law enforcement documents.
- Documents which identify trade secrets or financial information of third parties.
- Drafts of documents.
- Documents containing medical information.
- Documents protected by attorney-client privilege.
- Documents from an investigation which contain personal information.
- Documents from the Child Protective Board.
- Documents which contain information which would result in danger to an individual.
- Documents protected by other law.[1]
- Audit related documents.[2]
- Personnel related documents.[3]
- Documents related to a gaming license background check.[4]
- Documents related to student records.

The Open Records and Open Meetings law identifies that records requests should be made to the owner of the record. Where the owner of the record is no longer available, such as a prior member of the Oneida Business Committee or an individual no longer employed by the Tribe, the responsible party is the Tribal Secretary. The owner of a record has a reasonable time in which to respond to a request for records. If the request is denied, the requesting party can appeal that to the Area Manager, or if no Area Manager to the Tribal Secretary. If the records are the

[1] For example: Resolution # BC-8-14-91-A and the rules of order prohibit discussing individuals in open session; General Tribal Council has identified that the financial records of the Tribe shall be held in confidence; and the Membership Ordinance regarding enrollment records.
[2] However, final audit reports, subject to redaction, are available for viewing by Tribal members.
[3] Under the Oneida Personnel Policies and Procedures, personnel records and information is considered confidential.
[4] See Oneida Nation Gaming Ordinance; Tribe-State Gaming Compact regarding vendor licensing; and contracts for the purposes of obtaining background information, especially those concerning financial records.

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responsibility of the Tribal Secretary, the appeal can be made directly to the Judiciary. Any appeal of a denial must be made within five business days. Finally, if the denial is upheld, an appeal may be made to the Judiciary. The Open Records and Open Meetings law places the burden on the owner of the record to prove why the denial of the request is within the scope of the law and the exceptions granted.

Records Requests

Records requests can be made to any department or program throughout the organization which maintains documents. A review of requests of this size is beyond the scope of this opinion. To obtain a picture of records requests the Records Management Office was contacted to identify information. The Records Management Office holds "inactive" records on behalf of the organization. *Section 7.9.* Inactive records include those required to be maintained by law such as accounting and financial records, prior elected officials, and prior employees. Most records, under the Open Records and Open Meetings law, have a hold period of seven years prior to destruction. *Section 7.9-4.*

The information provided involved a time period between February 19, 2015, and September 22, 2015. I have also requested copies of records requests and the responses to those requests. A selection of this latter group of records was submitted. During this time period, there were 40 requests made for records to the Records Management Office by 10 different individuals. Most requests were made for audio recordings with the second category being minutes. Of those requests, 19 were made by Madelyn Genskow, six were made by Leah Dodge, four were made by Mike Debraska, and six other individuals made between one and three requests each.

The report identifies that of the 40 requests, five requests were approved in part and denied in part, one request was denied in full. Two examples of the partial approval/denial are as follows.

- ***March 25, 2015 Request***
  - Audio and minutes for a specific General Tribal Council meeting in 2008.
    - Approved
  - Audio and minutes for a specific General Tribal Council meeting in 2011.
    - Approved
  - General request for Ombudsman information from a General Tribal Council meeting.
    - Denied – the request was insufficiently specific to allow for the records to be pulled.
  - General request for information related to the "Internal Services position."
    - Denied – the request was insufficiently specific to allow for the records to be pulled.
- ***April 22, 2015 Request***
  - General request for information related to the Internal Services Division Director position approval by the Oneida Business Committee.
    - Denied – the request was insufficiently specific to allow for the record to be pulled and the meeting minutes of the Oneida Business Committee are already publicly available through the Tribe's website.
  - Request a specific General Tribal Council meeting in 2005.
    - Approved
  - General request regarding job descriptions and the Quality of Life Subcommittee.

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- Denied – the request was insufficiently specific to allow for the record to be pulled.

The Open Records and Open Meetings law identifies how long records are to be kept and how the records can be accessed. As part of the implementation of the law and technology advances, the Tribe is moving toward electronic records storage and delivery. This changes how records can be made available and accessed.

The Records Management Office is actively involved in the transition from paper records to electronic storage. This involves scanning, reviewing and tagging records with key words. Once this is done, the record is loaded into the OnBase program which allows for storage and retrieval. In addition, with the key word access and the ability to search documents, OnBase also allows easier research of those records. However, the research process still contains a significant amount of paper document searching and reliance on memory to narrow down the search parameters.

In addition to digitization of records, the Tribal Secretary's Office and the Intergovernmental Affairs and Communications department are actively working towards on-line access of records. This on-line access includes public access records such as the laws of the Tribe, resolutions of the Oneida Business Committee and information regarding tribal operations. In addition, the on-line access contains information available only to Tribal members such as General Tribal Council meeting minutes and packets. As records are placed on-line, they become available for members to retrieve without making a records request. For those records, the Records Management Office identifies where they are located on the website and directs the requesting party to search the on-line information. This self-access and research makes records available to members and requestors 24 hours a day, seven days a week. These records are no longer subject to a records request under the Open Records and Open Meetings law.

The Records Management Office has also moved away from fulfilling general research requests. Those requests are not within the Open Records and Open Meetings law parameters which outline the primary responsibilities of the office, and generally are time consuming activities which have been conducted on a time-available basis. The office is working towards making records more available in general and easier to research through an on-line database.

General Manager's Records

There are a number of boxes of records by previous General Managers of the Tribe. These boxes are maintained under the current retention schedules and are sorted, digitized, and destroyed as time allows within the Records Management Office. However, the particular boxes identified in the proposed resolution involve four boxes of records requested in 2013 and six boxes of records requested in 2014 spanning two different General Managers out of more than 100 boxes from previous General Managers. The boxes forwarded to the Internal Services Division Director contained departmental reports, business plans, and notes from various meetings attended. In a brief discussion with the Internal Services Director, it appears that the boxes may have been

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forwarded for a review of the business plans contained in those records.[5] All of the boxes were released and were not returned. The documents were subject to consolidation and re-use or destruction as duplicative or out of date.

A report on a telephone request made by Madelyn Genskow regarding the "King Dome" was included as a part of the reports delivered by the Records Management Office. This telephone request was made in early February 2015. The Records Management Office report identified six hours was spent reviewing the "General Managers" boxes for references to the request and no such records were identified.

The proposed resolution alleges that the petitioner was "told that the Internal Services Director could have access to those boxes but tribal members could not[.]" In general, not every record of the Tribe is available for viewing under the Open Records and Open Meetings Law. Further, the law requires that the request be sufficiently specific so as to identify a record and not be a general fishing expedition. Although there was no written request made, the report identifies that a search for the general record requested was made and that no such record existed. As a result, it would be a true statement, individuals (whether members, employees, or otherwise) would not have access to the boxes to browse through the documents. Although the contents of boxes sent to the Records Management Office must be clearly described, there are often confidential records included in those materials – such as financial records related to business opportunities, personnel records, and personal notes not subject to release – which is the case with some of the identified boxes.

Ombudsman

The position of Ombudsman was created by motion of the General Tribal Council at the conclusion of a meeting held on July 11, 2005.

> "Motion…that a ombudsman position be established that would listen to the concerns of the employees of the health center and tribal community members, and that these concerns are brought to the assistant general manager, and the issues and how their resolved be published in the Kaliwhisaks on a regular basis[.]" *General Tribal Council Minutes, July 11, 2005, pg. 16.*

The July 11, 2005, General Tribal Council meeting was a special meeting called to address a petition regarding the Oneida Health Center. At the time, a significant turnover in doctors was occurring at the health center and there appeared to be a high level of dissatisfaction with administrative decisions. A review of discussion, mailed packet, handouts and presentations during this meeting does not identify any discussion regarding an ombudsman position or scope other than the motion having been made and adopted.

A job description was developed and an individual hired to fill the position. The position has been filled and vacated by employee(s) between its creation in 2005 and today, until being filled by the current employee. The job description approved in 2005 is substantially similar to the job

[5] Since there are a significant number of "General Manager" boxes in the Records Management Office inactive files, and ten specific boxes were requested out of all the boxes present, it appears that this was not a general request for boxes, but a specific request for boxes containing a specific type of record. As identified above, the common record appears to be "business plans." However, there are also a great number of entries regarding departmental reports that also report to the Internal Services Division Director which may have been the focus of the request.

description in place today which was posted on January 6, 2011. The primary difference appears to be transferring supervision from the Chief of Staff to the General Manager and more clearly identifying the duties and responsibilities. The job description remains focused on providing services to the Comprehensive Health Division.

National Ombudsman. At the October 9, 2013, Oneida Business Committee meeting a discussion took place during the presentation of the Ombudsman quarterly report. The report discussed a dispute resolution process for the Tribal organization. The national concept arose out of a discussion from membership in a national networking association. The follow-up discussion after the report was accepted was regarding a national or municipal Ombudsman office. The motion from that meeting was as follows.

> "Motion…to ask Diane McLester-Heim to bring back a recommendation in 90 days to the Business Committee on how to expand the Ombudsman role to a National one for the Tribe[.]"

On January 22, 2014, the Oneida Business Committee referred this issue of a National Ombudsman to the Quality of Life Committee. That committee met on several occasions to discuss this question. On June 10, 2014, the Quality of Life Committee adopted the following motion.

> "Motion…to accept the report and recommendation to work with HRD to change the job description for the Ombudsman to reflect the responsibilities of a National Ombudsman and to forward a recommendation to the OBC recommending this change be included within the FY2015 budget if necessary[.]"

At the June 25, 2014, Oneida Business Committee meeting the following motion was adopted.

> "Motion…to approve the recommendation from the Quality of Life Committee to revise the Ombudsman job description to become a National Ombudsman and to include adjustments if needed within the FY2015 budgeting process[.]"

The current Oneida Business Committee has determined that it will not implement this change from an Ombudsman focused on the health care area to a more organization-wide responsibility.

A review of the quarterly reports for 2015 identify that the office receives the majority of interaction from the health care area, however there are contacts from or about departments across the organization. These reports identify "contacts" made to the Ombudsman by Tribal members. There is no indication that an employee has not, or cannot, sufficiently address health care issues brought to the Ombudsman. These matters are in addition to the health care matters being addressed. It appears that these contacts, other than health care contacts, have been occurring since at least 2012 based on the initial quarterly report submitted on January 11, 2012.

Internal Services Division Director

The organization of the Tribe has been modified many times.[6] In some circumstances that has occurred as a result of direction by the General Tribal Council. A primary example of that is

[6] This includes organizational structures before and after adoption of the Constitution. A thorough history of the Tribe's employment and organizational structure can be found on the Tribe's website at http://www.oneidanation.org/HumanResources/page.aspx?id=20080, accessed on November 19, 2015.

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resolution # GTC-2-25-82 directing the creation of a General Manager position to manage employment.

The organization of programs under the General Manager has changed several times since 1982 actions. The current structure of the Tribe was developed and implemented in 1994. The structure is based on logical groups of related activities. However, regardless of how the activities (programs, services, and business) of the Tribe are organized, some are unique such that they support the entire organization. This resulted in the development of the Internal Services Department. The department is made up of Grants, Kaliwhisaks, Management Information Systems, Print Shop and Mail Center, Tsyunhehkwa (the educational farm), Tourism, and Legal Resources.

The structure was consistent with the 1982 action of the General Tribal Council to have the organization of the Tribe managed through a General Manager. There was no General Tribal Council action which created or approved the 1994 reorganization of the Tribe or the changes that have occurred since that date.

In 2000, the General Tribal Council reviewed a petition presented regarding the organizational structure, including at least two options presented by the Oneida Business Committee. After a series of meetings the General Tribal Council adopted "Plan B." During that meeting the Chairman identified that the motion was out of order because "Plan B" was not presented and the information was not delivered to the membership in accordance with the Ten Day Notice Policy. However, the motion was eventually acted upon and approved by a majority vote. Following this meeting, the Oneida Business Committee adopted resolution # BC-08-02-00-B which declared that the action of the General Tribal Council was in violation of the rules and processes of that body and could not be carried out by the Oneida Business Committee without violating their oath of office and responsibilities. In 2011, the Oneida Business Committee adopted resolution # BC-09-28-11-D which rescinded the prior resolution and began implementing the 2000 directive of the General Tribal Council regarding "Plan B."

However, the Oneida Business Committee stated that after the passage of 11 years, "Plan B" was no longer effective and given the changes in the organization could not be implemented. The Oneida Business Committee reported to the General Tribal Council on at least three occasions their efforts to finalize a reorganization of the Tribal operations which was not completed during that term of office. The current Oneida Business Committee has committed to reviewing and completing a reorganization of the Tribal operations to present to the General Tribal Council and has assigned personnel to complete this project.

Analysis

The proposed resolution requests the General Tribal Council to consider directing the Open Records and Open Meetings law to be approved by the General Tribal Council. In support of this request, the resolution presents seven Whereas sections.

As identified above, some of those Whereas sections are correct, however they do not support the request regarding the Open Records and Open Meetings law. For example, yes, the Records

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Management Office denied research requests presented by Yvonne Metivier for lacking specificity on which records were being requested. However, where information was given such that specific records could be identified, the requests have been fulfilled. In light of the number of requests for research and not specific documents and the increasing availability of records on-line and at the Oneida Community Library, the Records Management Office is no longer providing research services. Further, the office has not had a responsibility to conduct research services, but to manage the records of the Tribe and has begun focusing on that responsibility with its limited staffing.

It is also true in some respects that a request for "General Manager boxes" was denied. As identified above, the documents requested from those boxes did not exist. Further. A general request to review documents is insufficient to make documents available. Finally, the response on file indicated that some of the "General Manager boxes" had been transferred to the Internal Services Division Director to review. As identified above, that request was regarding economic development projects. The response to the requestor the did not identify that "she was told that Internal Services Director could have access to those boxes but tribal members could not[.]" It appears that she was told the boxes had been transferred, that the Records Management Office would not be receiving the boxes back, and that there were no records of the type she had requested in the content lists for those boxes.

Finally, the Whereas sections in the proposed resolution identifies that the Ombudsman position "has been radically changed[.]" Based on the research, it appears that in late 2013 and early 2014, the Oneida Business Committee began exploring expansion of the Ombudsman position to provide services across the entire Tribal organization. The current Oneida Business Committee has not approved such expansion of duties. However, as identified by the motion creating the Ombudsman position, that position does "listen to the concerns of…tribal community members." It appears that members have brought concerns to the Ombudsman position and since the quarterly reporting to the Oneida Business Committee has occurred, the Ombudsman has routinely reported contacts with members who brought issues forward outside of the Health Center area.

The Open Records and Open Meetings law was adopted in 2005 and has been substantially similar since that date. The amendments in 2014 were made to remove "Oneida Appeals Commission" and replace that with "the Judiciary." No other amendments were made at that time. All amendments to the law were subject to either Public Comment periods under the Administrative Procedures Act, and any new amendments will be subject to Public Meetings under the Legislative Procedures Act.

The Resolve section asks that the Open Records and Open Meetings law be adopted by the General Tribal Council. There are no pending amendments to the law, and the law has already been properly processed and adopted through the authority set forth in the Administrative Procedures Act and, as applicable, the Legislative Procedures Act. No further approvals are necessary.

However, it is consistent with past practices of the General Tribal Council, to ratify actions properly taken by the Oneida Business Committee. For example, the Administrative Procedures

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DRAFT - August 10, 2016 special GTC meeting packet - DRAFT Page 98 of 193

Act was one such law that was originally adopted by the Oneida Business Committee and then ratified by the General Tribal Council.

Conclusion

There are no prohibitions regarding the General Tribal Council ratifying the adoption of the Open Records and Open Meetings law which has been adopted in conformance and under authority delegated in the Administrative Procedures Act and under the Legislative Procedures Act. It is recommended that the resolution be changed to reflect such ratification and restricting future action to be taken only by the General Tribal Council.

> Now Therefore Be It Resolved that the General Tribal Council does ratify the adoption of the Open Records and Open Meetings law and restricts amendment to this law by the General Tribal Council only.

If amended, the resolution would require only a simple majority vote as it does not change or amend any prior action of the General Tribal Council.

As presented, the intent of the resolution is not clear. Some of the interpretations, such as the law is invalid until such approval, would be in violation of existing actions and delegated authority by the General Tribal Council. As a result, the proposed language must be interpreted to\be forward acting, I.e., that any changes to the law must be approved by the General Tribal Council. If this is the intent, it would be a simple majority vote to adopt.

The Whereas sections of this resolution contain some errors which should be addressed prior to adoption. Specifically, Whereas sections 6 and 7 should be deleted as they contain erroneous information. In addition, Whereas sections 1-3 should be amended to reflect that a "research" request was made, not a request for specific records.

If you have further questions, please contact me.

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Oneida Tribe of Indians of Wisconsin
Legislative Reference Office

Lynn A. Franzmeier, Staff Attorney
Taniquelle J. Thurner, Legislative Analyst
Candice E. Skenandore, Legislative Analyst

P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214
https://oneida-nsn.gov/Laws

Statement of Effect
Petition Resolution 3: Open Records Law

Summary

On March 30, 2015, the Tribal Secretary's Office received a petition which states "we the under signed General Tribal Council members request a special GTC meeting to review and consider the attached resolutions. In the event that public hearings are required we direct the Business Committee to hold the required Public hearings and bring these resolutions to the GTC intact." The petition further requests that the OBC coordinate with the petitioner on the time of the meeting.

The Petition was verified by the Enrollment Project Specialist on March 31, 2015, and on April 22, 2015, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on the petition. This Statement of Effect focuses on Resolution 3, pertaining to the Open Records Open Meetings Law.

Submitted by: Candice E. Skenandore, Legislative Analyst, Legislative Reference Office

Legislative Analysis

This Resolution claims that a Tribal member made a request to the Oneida Records Management Department on March 25, 2015 to research 1) minutes and audio for General Tribal Council meetings where by a motion was made to create the Ombudsperson position; and 2) General Tribal Council action to create the Internal Services position. According to this Resolution, this request was refused citing section 7.7-7 of the Open Records Open Meetings Law which requires a request to be sufficient in that it "reasonably describes the record or the information sought." This section goes on to state that "a request for a record without reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request" *[See Open Records Open Meetings Law 7.7-7]*.

The Resolution states that past requests have been approved and that members of the General Tribal Council need to access Tribal records in order to hold the OBC and management accountable. In addition, the Resolution claims that a Tribal member requested information regarding the General Manager's content; however, was told that Tribal members did not have access to this information.

This Resolution is ordering that the General Tribal Council approve the Open Records and Open Meetings Law. The Open Records and Open Meetings Law (Law) was adopted and amended by the OBC pursuant to the following resolutions: BC 1-12-05-B, BC 04-12-06-KK and BC 10-14-09-B. This Law gives either the OBC or the General Tribal Council the authority to amend the Law *[See 7.2-2]*. If the intent of the Resolution is to only allow the General Tribal Council to amend this Law or to adopt laws pertaining to open records and open meetings, then the current

Law will need to be amended or repealed pursuant to the Legislative Procedures Act. The Resolution itself, if adopted, would not result in any amendments to the Law.

Please consult the legal and fiscal analyses to determine if this Resolution has any legal or fiscal impacts.

Conclusion

Adoption of this Resolution would require future amendments to or the repeal of the Open Records and Open Meetings Law.

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ONEIDA TRIBE OF INDIANS
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Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

ONEIDA FINANCE OFFICE
Office: (920) 869-4325 η Toll Free: 1-800-236-2214
FAX # (920) 869-4024

MEMORANDUM

DATE: January 20, 2016

FROM: Larry Barton, Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: **Financial Impact of Resolution– Open Records Law**

I. Background

Under consideration is a petition which contains a proposed Resolution titled, "Resolution Regarding the Open Records Law." There are seven "whereas" paragraphs in this resolution that address several citations or instances of requests for records, as well as addressing the Ombudsman position within the Tribe and addressing research into audio and minutes of past General Tribal Council meetings. There is one resolved section that states "the General Tribal Council orders that the General Tribal Council must approve the Open Records and Open Meetings Law in its entirety."

II. Executive Summary of Findings

The Tribe already has an Open Records and Open Meetings Law. This Law was approved and amended by various BC resolutions, as cited in both the Legislative Review and the Legal Analysis. The proposed Resolution is unclear if any changes to the Law are being recommended. But, it is clear that the proposed Resolution calls for an approval of this Law by the General Tribal Council.

III. Financial Impact

There is no direct financial impact of adopting the draft resolution as it is written. However, since it is clear the proposed Resolution calls for an approval by the General Tribal Council, it can be inferred that a meeting to consider must be convened. For the time frame January 19, 2015 to January 6, 2016 we held ten (10) General Tribal Council meetings. The average cost of these meetings was $191,264.

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TOTAL ESTIMATED FINANCIAL IMPACT: $191,264 per meeting held to consider Resolution

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

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To: General Tribal Council
From: Madelyn (Cornelius) Genskow

Madelyn Genskow

May 2, 2016
Re: Resolution Open Records Law

1) Under the open records law section 7.4 Limitations upon access and **exceptions and 7.4.1 sub B: Contracts or other agreements which specifically prohibit disclosure of the content of the contract or agreement to third parties.**

   The General Tribal Council would be the "third party."

2) Section 7.18 Enforcement
   "The Judiciary shall have the power, in it's discretion and upon good cause shown, **to issue** an appropriate order, injunction, **or prohibition and to declare any action taken in violation of this law void in whole or in part." This statement gives the Judiciary TOTAL POWER and the tribal member is left with no recourse.**

3) After I requested information on the sale of the King Dome to the Oneida tribe. Records Management told me that **they would no longer do any research of any records for any tribal members other that management or the Business Committee. This prevents individual members of the tribe, who are attempting to investigate how tribal funds are spent or whether tribal laws are followed, from access to contracts or previous General Tribal Council and Business Committee directives.**

See attachments.

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Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Oneida Tribe of Indians of Wisconsin
BUSINESS COMMITTEE

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(General Tribal Council Resolution 11-15-08-C)

Treasurer's Report to include all Receipts and Expenditures and the Amount and Nature of all Funds in the Treasurer's Possession and Custody

Whereas, the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin, and

Whereas, the Oneida General Tribal Council has been delegated the authority of Article IV, Section I of the Oneida Tribal Constitution, and

Whereas, the Oneida Business Committee may be delegated duties and responsibilities by the Oneida General Tribal Council and is at all times subject to the review powers of the Oneida General Tribal Council, and

Whereas, Article I, Section 4 of the bylaws of the Tribe establishes that the Treasurer of the Oneida General Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Oneida General Tribal Council, whether such funds be Tribal funds or special funds for which the Oneida General Tribal Council is acting as trustee or custodian, and

Whereas, aforementioned article and section of the bylaws of the Tribe further establishes that the Treasurer of the Oneida General Tribal Council shall deposit all funds in such depository as the Oneida General Tribal Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his or her possession and custody at each regular meeting of the Oneida General Tribal Council and at such other times as requested by the Oneida General Tribal Council or the Oneida Business Committee, and

Whereas, while in session, the Oneida General Tribal Council in the past has been denied information regarding all receipts and expenditures of the Tribe including receipts and expenditures of all and including, but not limited to, component units (tribally chartered corporations and autonomous entities, limited liability companies, state chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) in the semi-annual and

(FLIP PAGE TO SEE THE FULL DISCLOSURE RESOLVE.)

annual reports provided to the Oneida General Tribal Council at regularly scheduled Oneida General Tribal Council meetings, and

Now Therefore Be It Resolved, that the Oneida General Tribal Council hereby directs that all Treasurer reports hereinafter include an independently audited annual statement that provides the status or conclusion of all the receipts and debits in possession of the Treasurer of the Tribe including, but not limited to, all corporations owned in full or in part by the Tribe, and

Be It Further Resolved, that the Oneida General Tribal Council hereby directs that all Treasurer's reports to the Oneida General Tribal Council at the semi- annual and annual Oneida General Tribal Council meetings hereinafter include an independently audited annual financial statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer of the Tribe and including, but not limited to component units (Tribally chartered corporations and autonomous entities, limited liability companies, state chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) owned in full or in part by the Tribe, and

Be It Further Resolved, that no "agent" of the Tribe shall enter into any agreement with any corporation that prohibits full disclosure of all transactions (receipts and expenditures and the nature of such funds) and that such an agreement is not binding to the Tribe, and

Be It Finally Resolved, that the Oneida General Tribal Council hereby directs implementation of this resolution at the next regular Oneida General Tribal Council meeting or at such special meeting of the Oneida General Tribal Council whereby a Treasurer's report is requested.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council in session with a quorum of 1,254 members present at a meeting duly called, noticed and held on the 15th day of November 2008, that the foregoing resolution was duly adopted at such meeting by a unanimous vote of those present and that said resolution has not been rescinded or amended in any way.

Patricia Hoeft, Tribal Secretary
ONEIDA BUSINESS COMMITTEE

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Oneida Tribe of Indians of Wisconsin

BUSINESS COMMITTEE

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UGWA DEMOLUM YATE
Because of the help o
this Oneida Chief in
cementing a friendshi
between the six nation
and the colony of
Pennsylvania, a new
nation, the United Stat
was made possible.

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General Tribal Council Meeting
November 15, 2008
Nine Resolutions
10:00 a.m.

Present: Rick Hill – Chair, Kathy Hughes – Vice Chair, Tina Danforth – Treasurer, Patty Hoeft – Secretary, Ed Delgado, Trish King, Melinda J. Danforth, Brandon Stevens, Tehassi Hill

Opening: Tehassi Hill

Quorum: 1,280

Agenda: Motion by Madelyn Genskow to adopt the agenda with one amendment that the Business Committee gave a five minute presentation followed by Madelyn Genskow's five minute presentation and go into Robert's Rules of Order after each set of presentations for each resolution and all voting will be by hand vote, seconded by Corrine Zhuckkahosee. Motion carried.

Motion by Brandon Stevens to amend the main motion to allow Seven Generation's ten minutes and a short video, seconded by Loretta V. Metoxen. Motion carried.

1. Non-confidentiality Information

Ed Delgado: The current practice allows mandates that members of boards, committees and commissions have to swear that they don't provide almost any information. It's overdrawn and subjects people to removal. The Business Committee agrees that it is overdrawn. There is no problem passing this resolution.

Madelyn Genskow: Read the non-confidentiality resolution. Stated General Tribal Council (GTC) could work to make things better for ourselves. The Business Committee has agreed that some things need to be changed. We need to make sure nobody can take away our freedom of speech in the future. Please vote to adopt the freedom of speech resolution.

This is page 1 of GTC Nov. 15, 2008. FLIP PAGE OVER
This is page page 12. SEE THE BUSINESS COMMITTEE ATTEMPT TO BLOCK FULL DISCLOSURE . PAGE 14, GTC MADELYN GENSKOW'S RESOLUTION FOR FULL DISCLOSURE APPROVED.

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DATE: 2-2-2016
TIME: 3:30
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Vote: Motion by Loretta V. Metoxen to support resolution 10-08-08-A recommended by the Business Committee on page 114, seconded by Christine Klimmek. Motion carried.

8. Treasurer's Report Requirements

Kathy Hughes: Business Committee recommends not adopting the petitioner's resolution, but rather the alternate resolution located on page 139. The petitioner is asking for two audits. The cost would be doubled for two annual audits. The alternate resolution meets the goal of reporting out to GTC. There are past actions that needed to be removed for the Treasurer to come forward to report to GTC.

Madelyn Genskow: The intention wasn't to request a second audit, but for audits to be reported to GTC. The constitution requires the Treasurer give a report on all receipts and debits at the annual and semi-annual meetings. All receipts and debits could be requested by GTC on who spent those funds, who received those funds. Currently, information on our money is not reported out according to the constitution. This resolution will make the work of GTC possible for the benefit of our people. It will mean that you will never again be told that the Business Committee cannot tell you.

Motion by Kathy Hughes to adopt resolution on page 139 clarifying confidentiality regarding Tribal finances, setting the Treasurer's reporting minimum requirements and directing amendments to the Audit Law to allow audits to be presented, seconded Loretta Webster.

Discussion:

Ed Delgado: Stated he didn't support the Business Committee recommendation.

Sandy Dennet: Supported Madelyn Genskow's resolution. The information we receive isn't clear nor provides justification. Felt the Business Committee resolution doesn't increase communication.

Hugh Danforth: Supported the Business Committer resolution because it publishes more information, not prohibits more information being published to our membership.

Trish King: Supports the Business Committee resolution. The petitioner's resolution doesn't clearly identify a process where changes would have to be made. The resolution would have to go back through the LRO process, etc. The Business Committee identifies the process, utilizing our procedures; we would be able to amend that law.

Motion by Kathy Hughes to adopt resolution on page 139 clarifying confidentiality regarding Tribal finances, setting the Treasurer's reporting minimum requirements and directing amendments to the Audit Law to allow audits to be presented, seconded Loretta Webster. Total Vote: 729 2/3 needed: Hand count: For: 275 Opposed: 454 Abstained: 8 Motion failed.

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Motion by Madelyn Genskow to adopt resolution 11-15-08-C on page 126, seconded by Linda Dallas.

Discussion:

Trish King: Questioned the legality of the resolution that calls for documents to be open and public. There is an audit law that would have to be changed first. Asked if it was appropriate to adopt this resolution understanding that there are tribal laws in place?

Parliamentarian ruling: The resolution doesn't require an audit to be conducted outside of existing audit processes as clarified in discussion on the floor and as a result does not violate existing tribal law.

Motion by Madelyn Genskow to adopt resolution 11-15-08-C on page 126, seconded by Linda Dallas. Total vote: 782 2/3 needed: For: 660 Opposed: 123 Abstained: 2 Motion carried.

General Tribal Council Resolution 11-15-08-C
Treasurer's Report to include all Receipts and Expenditures and the Amount and Nature of all Funds in the Treasurer's Possession and Custody

Whereas, the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin, and

Whereas, the Oneida General Tribal Council has been delegated the authority of Article IV, Section I of the Oneida Tribal Constitution, and

Whereas, the Oneida Business Committee may be delegated duties and responsibilities by the Oneida General Tribal Council and is at all times subject to the review powers of the Oneida General Tribal Council, and

Whereas, Article I, Section 4 of the bylaws of the Tribe establishes that the Treasurer of the Oneida General Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Oneida General Tribal Council, whether such funds be Tribal funds or special funds for which the Oneida General Tribal Council is acting as trustee or custodian, and

Whereas, aforementioned article and section of the bylaws of the Tribe further establishes that the Treasurer of the Oneida General Tribal Council shall deposit all funds in such depository as the Oneida General Tribal Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his or her possession and custody at each regular meeting of the Oneida General Tribal Council and at such other times as requested by

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the Oneida General Tribal Council or the Oneida Business Committee, and

Whereas, while in session, the Oneida General Tribal Council in the past has been denied information regarding all receipts and expenditures of the Tribe including receipts and expenditures of all and including, but not limited to, component units (tribally chartered corporations and autonomous entities, limited liability companies, state chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) in the semi-annual and annual reports provided to the Oneida General Tribal Council at regularly scheduled Oneida General Tribal Council meetings, and

Now Therefore Be It Resolved, that the Oneida General Tribal Council hereby directs that all Treasurer reports hereinafter include an independently audited annual statement that provides the status or conclusion of all the receipts and debits in possession of the Treasurer of the Tribe including, but not limited to, all corporations owned in full or in part by the Tribe, and

Be It Further Resolved, that the Oneida General Tribal Council hereby directs that all Treasurer's reports to the Oneida General Tribal Council at the semi- annual and annual Oneida General Tribal Council meetings hereinafter include an independently audited annual financial statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer of the Tribe and including, but not limited to component units (Tribally chartered corporations and autonomous entities, limited liability companies, state chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) owned in full or in part by the Tribe, and

Be It Further Resolved, that no "agent" of the Tribe shall enter into any agreement with any corporation that prohibits full disclosure of all transactions (receipts and expenditures and the nature of such funds) and that such an agreement is not binding to the Tribe, and

Be It Finally Resolved, that the Oneida General Tribal Council hereby directs implementation of this resolution at the next regular Oneida General Tribal Council meeting or at such special meeting of the Oneida General Tribal Council whereby a Treasurer's report is requested.

9. Prior GTC Directives

Patty Hoeft: Felt this was a good item put in front of us. It results in formal reporting to the GTC and the Business Committee. This will start in the Annual with a listing similar to what is in the book. The Business Committee recommends not adopting the resolution.

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Oneida Nation
BUSINESS COMMITTEE

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Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

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MEMORANDUM

To: General Tribal Council

From: Oneida Business Committee

Date: May 11, 2016

RE: Oneida Business Committee Recommended Action
Genskow Resolution – Open Records and Open Meetings Law

We have received and reviewed the petition, legislative analysis, legal analysis and financial analysis, and the petitioner's statements regarding the above resolution.

The petition calls for the General Tribal Council to act on something that was adopted in accordance with the laws of the Nation and has been in effect since 2005. The purpose of the law is to give access to Tribal records to provide for an open and transparent government. The Records Management Office was created as a central location for records of the Nation. It has a document management and storage responsibilities.

As a part of those document management responsibilities, the Records Management Office is making records more available through on-line resources available on the Member's-Only website as well as a public research computer set up in the program offices. The large quantity of records limits the program services to provide records that are requested and not available on-line or through the accessible public research computer. There are insufficient resources for the department to act as a research tool under the Open Records and Open Meetings law.

The Open Records and Open Meetings law balances the needs of the members to know the actions of their government with the need of government officials to be able to act in confidence when needed. The law recognizes that Oneida Business Committee members and government employees must have a way to protect the assets and resources of the Tribe as required under the Constitution and the Nation's laws. This

law recognizes the historical directives of the General Tribal Council regarding certain records such as finances (directives in July 1983 and 1993), participation in meetings (motions required to allow non-members to attend), and personnel records (Oneida Personnel Policies and Procedures).

Adoption of this resolution would result on no additional actions, no amendments to existing laws, and no changes to the requirements of Public Meetings to accept comments on proposed amendments to the law.

Recommended Action: Motion to reject the resolution.

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RE: OPEN RECORDS AND OPEN MEETINGS LAW
BUSINESS COMMITTEE RECOMMENDATION

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(MULTIMEDIA PRESENTATION)

RESOLUTION

REPEAL JUDICIARY LAW

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Resolution to Repeal the Judiciary Law, GTC Resolution 01-07-13-B, and GTC Resolution 07-01-13-A titled Adoption of Corrective Amendments to the Oneida Code of Laws and Oneida Tribal Policies regarding references to the Oneida Appeals Commission and/or Oneida Tribal Judicial System, and Business Committee Resolution 06-25-14-B.

Whereas, the **Oneida General Tribal Council** always has been and always shall be **the Supreme power of the Oneida Indian Tribe of Wisconsin.**

Whereas, in 2008 there was a **StrateGlobe contract** signed by officers of the Oneida Business Committee of $575,500.00 without the knowledge of all the Business Committee and

Whereas, the fact that the **StrateGlobe contract** for $575,500.00 is documented in Business Committee minutes dated **May 14, 2008 page 12**, and there is more discussion regarding **StrateGlobe contract** on **May 28, 2008 minutes pages 8 and 9**, and Business Committee minutes of **June 11, 2008 page 6** document that Councilman Ed Delgado request the Oneida Business Committee have access to the **StrateGlobe contract** for information, and that a motion was made by a Business Committee member which was approved for the Business Committee to view the contract and

Whereas, this documents that the Oneida Tribal Attorneys allowed a situation where even the Oneida Business Committee did not have access to see the contract without a motion being made and

Whereas, Business Committee minutes dated **June 11, 2008 page 9** document that after the Business Committee came out of Executive Session, the **StrateGlobe contract** was terminated and

Whereas, on November 15, 2008 the General Tribal Council approved a resolution submitted by Madelyn Genskow, **Resolution 11-15-08-C**, which read in part "**no agent of the Tribe shall enter into any agreement with any corporation that prohibits full disclosure of all transactions (receipts and expenditures, and the nature of such funds) and that such an agreement is not binding to the Tribe** and

Whereas, on January 7, 2013 the General Tribal Council adopted the **Judiciary Act by Resolution 01-07-13-B** and

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Whereas, on July 1, 2013 the Business Committee presented **Resolution 07-01-13-A titled Adoption of Corrective Amendments to the Oneida Code of Laws and Oneida Tribal Policies Regarding References to the Oneida Appeals Commission and/or Oneida Judicial System**, to the General Tribal Council, and the General Tribal Council adopted it and

Whereas, the Oneida Business Committee used **GTC Resolution 07-01-13-A** as authority to pass **Business Committee Resolution 06-25-14-B** and

Whereas, in **Resolution 06-25-14-B**, which included the following words: **now therefore let it be resolved that the attached amendments to the Garnishment Law, Oneida Nation Gaming Ordinance, Open Records and Open Meeting Law, Oneida Worker's Compensation Law, and Zoning and Shoreland Protection Law were adopted by the B.C. effective November 1, 2014** and

Whereas, the **Open Records and Open Meetings Law** under **7.4 titled "Limitations Upon Access and Exceptions"** the following is stated: The following shall be exempt from inspection and copying, Item (b) states: **Contracts or other agreements which specifically prohibit disclosure of the content of the contract or agreement to third parties** and

Whereas, this law under 7.18 titled **Enforcement** states **"The Judiciary shall have the power, in its discretion and upon good cause shown, to issue an appropriate order, injunction or prohibition to declare any action taken in violation of this law void in whole or in part"** and

Whereas, the Business Committee has misled the Oneida General Tribal Council and now the contracts and how the Oneida tribal money is spent is once again kept secret from the Oneida people.

Now therefore be it resolved, the General Tribal Council will regain its authority as the **supreme power of the Oneida Tribe.**

Be it further resolved, the **GTC Resolution 01-07-13B** that approved the **Judiciary Act** is repealed effective immediately.

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Be it further resolved, that **GTC Resolution 07-01-13A which the Business Committee used abusively** is repealed effective immediately.

Be it further resolved, that **GTC Resolution 11-15-08C** is restored, which will provide full disclosure to the Oneida people regarding how their money is spent.

Be it finally resolved, this resolution will provide **full disclosure** to all contracts, not just corporate.

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RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE
MAR 30 2015
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS

Oneida Tribe of Indians of Wisconsin
BUSINESS COMMITTEE

Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

RECEIVED BY THE OFFICE OF TRIBAL SECRETARY. ONEIDA BUSINESS COMMITTEE
MAR 30 2015
ONEIDA TRIBE OF INDIANS OF WISCONSIN
INITIALS

UGWA DEMOLUM YATEHE Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040

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(General Tribal Council Resolution 11-15-08-C)

Treasurer's Report to include all Receipts and Expenditures and the Amount and Nature of all Funds in the Treasurer's Possession and Custody

Whereas, the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin, and

Whereas, the Oneida General Tribal Council has been delegated the authority of Article IV, Section I of the Oneida Tribal Constitution, and

Whereas, the Oneida Business Committee may be delegated duties and responsibilities by the Oneida General Tribal Council and is at all times subject to the review powers of the Oneida General Tribal Council, and

Whereas, Article I, Section 4 of the bylaws of the Tribe establishes that the Treasurer of the Oneida General Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Oneida General Tribal Council, whether such funds be Tribal funds or special funds for which the Oneida General Tribal Council is acting as trustee or custodian, and

Whereas, aforementioned article and section of the bylaws of the Tribe further establishes that the Treasurer of the Oneida General Tribal Council shall deposit all funds in such depository as the Oneida General Tribal Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his or her possession and custody at each regular meeting of the Oneida General Tribal Council and at such other times as requested by the Oneida General Tribal Council or the Oneida Business Committee, and

Whereas, while in session, the Oneida General Tribal Council in the past has been denied information regarding all receipts and expenditures of the Tribe including receipts and expenditures of all and including, but not limited to, component units (tribally chartered corporations and autonomous entities, limited liability companies, state chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) in the semi-annual and

(PAGE TO SEE THE FULL DISCLOSURE RESOLVE.) page 2

annual reports provided to the Oneida General Tribal Council at regularly scheduled Oneida General Tribal Council meetings, and

Now Therefore Be It Resolved, that the Oneida General Tribal Council hereby directs that all Treasurer reports hereinafter include an independently audited annual statement that provides the status or conclusion of all the receipts and debits in possession of the Treasurer of the Tribe including, but not limited to, all corporations owned in full or in part by the Tribe, and

Be It Further Resolved, that the Oneida General Tribal Council hereby directs that all Treasurer's reports to the Oneida General Tribal Council at the semi- annual and annual Oneida General Tribal Council meetings hereinafter include an independently audited annual financial statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer of the Tribe and including, but not limited to component units (Tribally chartered corporations and autonomous entities, limited liability companies, state chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants) owned in full or in part by the Tribe, and

Be It Further Resolved, that no "agent" of the Tribe shall enter into any agreement with any corporation that prohibits full disclosure of all transactions (receipts and expenditures and the nature of such funds) and that such an agreement is not binding to the Tribe, and

Be It Finally Resolved, that the Oneida General Tribal Council hereby directs implementation of this resolution at the next regular Oneida General Tribal Council meeting or at such special meeting of the Oneida General Tribal Council whereby a Treasurer's report is requested.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council in session with a quorum of 1,254 members present at a meeting duly called, noticed and held on the 15th day of November 2008, that the foregoing resolution was duly adopted at such meeting by a unanimous vote of those present and that said resolution has not been rescinded or amended in any way.

Patricia Hoeft, Tribal Secretary
ONEIDA BUSINESS COMMITTEE

RECEIVED BY THE OFFICE OF TRIBAL SECRETARY ONEIDA BUSINESS COMMITTEE
MAR 30 2015
ONEIDA TRIBE OF INDIANS OF WISCONSIN
INITIALS

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(920) 869-4327 FAX (920) 869-4065

MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: October 14, 2015

SUBJECT: Petition – Genskow – Repeal of Judiciary

You have requested a legal review regarding a petition submitted by Madelyn Genskow. The petition contains three resolutions. The legal opinion will review only the resolution identified above. The Enrollment Department has verified a sufficient number of signatures on the petition.

The resolution contains 13 Whereas sections.

- "…the Oneida General Tribal Council always has been and always shall be the Supreme power of the Oneida Tribe of Indians of Wisconsin."
- "…in 2008 there was a StrateGlobe contract signed by the officers of the Oneida Business Committee of $575,000.00 without the knowledge of all the Business Committee[.]"
- "…the fact that the StrateGlobe contract for $575,000.00 is documented in Business Committee minutes dated May 13, 2009 page 12, and there is more discussion regarding StrateGlobe contract on May 28, 2008 minutes page 8 and 9, and Business Committee minutes of June 11, 2008 page 6 document that Councilman Ed Delgado request the Oneida Business Committee have access to the StrateGlobe contract for information, and that a motion was made by a Business Committee member which was approved for the Business Committee to view the contract[.]"
- "…this documents that the Oneida Tribal Attorneys allowed a situation where even the Oneida Business Committee did not have access to see the document without a motion being made[.]"
- "…Business Committee minutes dated June 11, 2008 page 9 document that after the Business Committee came out of Executive Session, the StrateGlobe contract was terminated[.]"
- "…on November 15, 2008 the General Tribal Council approved a resolution submitted by Madelyn Genskow, Resolution 11-15-08-C, which read in part "no agent of the Tribe shall enter into any agreement with any corporation that prohibits full disclosure of all transactions (receipts and expenditures, and the nature of such funds) and that such an agreement is not binding to the Tribe[.]"
- "…on January 7, 2013 the General Tribal Council adopted the Judiciary Act by Resolution 01-07-13-B[.]"
- "…on July 1, 2013 the Business Committee presented Resolution 07-01-13-A titled Adoption of Corrective Amendments to the Oneida Code of Laws and Oneida Tribal Policies Regarding References to the Oneida Appeals Commission and/or Oneida Judicial System, to the General Tribal Council, and the General Tribal Council adopted it[.]"
- "…the Oneida Business Committee used GTC Resolution 07-01-13-A as authority to pass Business Committee Resolution 06-25-14-B[.]"

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- "…in Resolution 06-25-14-B, which included the following words: now therefore be it resolved that the attached amendments to the Garnishment Law, Oneida Nation Gaming Ordinance, Open Records and Open Meeting Law, Oneida Worker's Compensation Law, and Zoning and Shoreland Protection law were adopted by the B.C. effective November 1, 2014[.]"
- "…the Open Records and Open Meetings Law under 7.4 titled "Limitations Upon Access and Exceptions" the following is stated: the following shall be exempt from inspection and copying, Item (b) states: Contracts or other agreements which specifically prohibit disclosure of the content of the contract or agreement to third parties[.]"
- "…this law under 7.18 titled Enforcement states "The Judiciary shall have the power, in its discretion and upon good cause shown, to issue an appropriate order, injunction ir prohibition to declare any action taken in violation of this law void in whole or in part[.]"
- "…the Business Committee has misled the Oneida General Tribal Council and now the contracts and how the Oneida tribal money is spent once again kept secret from the Oneida people[.]"

Whereas sections are intended to provide legislative history and background regarding why the resolution is brought forward. Whereas sections are not enforceable.

The resolution contains five Resolve sections.

- "…the General Tribal Council will regain its authority as the supreme power of the Tribe.
- "…the GTC Resolution 01-07-13B that approved the Judiciary Act is repealed effective immediately."
- "…GTC Resolution 07-01-13A which the Business Committee used abusively is repealed effective immediately."
- "…GTC Resolution 11-15-08C is restored, which will provide full disclosure to the Oneida people regarding how their money is spent."
- "…this resolution will provide full disclosure to all contracts, not just corporate."

To draft this opinion, I have reviewed prior actions of the General Tribal Council, Tribal law, policies and procedures, and various other resources. This opinion is broken into sections to address the issues raised in the resolution – StrateGlobe contract, authority of the General Tribal Council, Judiciary transition, and Open Records and Open Meetings Law.

Contract - StrateGlobe

The proposed resolution identifies as series of actions regarding a contract with StrateGlobe appearing in the Oneida Business Committee meeting minutes. The resolution alleges that a contract was signed by the officers of the Oneida Business Committee, that the Oneida Business Committee was not allowed to see the contract, and that legal counsel was prohibiting the Oneida Business Committee from seeing the contract. Please see the legal opinion dated August 3, 2015, *Genskow – Petition – Recording Subcommittees*, for a complete review of this matter.

In summary, a contract was entered into between StrateGlobe and the Human Resources Department. Some officers of the Oneida Business Committee signed on the purchase requisition form that authorizes payment within the Tribe's accounting systems, no officers signed the contract. The contract was brought to the attention of the Oneida Business Committee by the Oneida Law Office under the contract reporting policy because it appeared to have been fully executed prior to legal review. The Oneida Business Committee requested a report and the contract was discussed at several meetings. Ultimately, the Oneida Business Committee accepted a report from the General Manager regarding the contract having been terminated. Councilman

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Delgado had placed an item on the Oneida Business Committee agenda to request a copy of the contract as that was how requests were made during that period. The contract was presented to the Oneida Business Committee to review. The contract was terminated by the General Manager, not the Oneida Business Committee.

The proposed resolution alleges that the actions described in the resolution show that the "Oneida Tribal Attorneys" allowed a situation where even the Oneida Business Committee did not have access to see the document without a motion being made." A review of the records identifies that the Oneida Law Office brought the contract to the attention of the Oneida Business Committee and that the Oneida Business Committee first asked for a report and then a copy of the contract. What the records show is that the process actually worked properly and the contract activity was reviewed and addressed by the appropriate parties.

Authority of General Tribal Council

The General Tribal Council was created by the membership in the 1930s when the members adopted the Constitution of the Oneida Tribe of Indians of Wisconsin. The Constitution identifies delegated authority and restrictions on authority of the General Tribal Council. As such, the General Tribal Council has significant, but not unlimited authority.

Between the 1930s and the 1940s, the members were called into session to carry out the day-to-day activities of the Tribe. Examples of those actions include adoption of a Membership Ordinance, review of the finances of the Tribe, and authorizations to cut firewood. Many times during this period, the General Tribal Council was unable to obtain the necessary quorum to take action.

As a result of this difficulty in obtaining a quorum, the General Tribal Council adopted resolution # GTC-2-20-49. This resolution created an Executive Committee and "such powers as are enumerated in Article IV of the [1939] Constitution of the Oneida Tribe of Indians of Wisconsin are hereby delegated to the Executive Committee." *Resolve #1.*

This Executive Committee, made up of an elected Chairperson, Vice-Chairperson, Secretary and Treasurer were responsible for carrying out the daily activities of the Tribe. This responsibility included applying for grants and loans, hiring and disciplining employees, creating a budget and managing the governmental relations at a local, state and federal level.

By the 1960s, the members and the Executive Committee had begun the process of review of the Constitution. There were four amendments presented. These amendments included amendments to the Constitution which replaced the Executive Committee with the Oneida Business Committee. The General Tribal Council accepted the amendments in August 1969. In addition, the General Tribal Council delegated the Article IV powers to the new Oneida Business Committee.

However, this did not disturb the previously delegated powers. Examples of those delegated powers are as follows.

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- Credit Committee – recommendations on loans obtained by the Tribe. The committee existed prior to the adoption of the Constitution.[1]
- Membership Committee - membership decisions delegated in 1938 in the Membership Ordinance.[2]
- Election Committee(s) – created for each election of the Executive Committee since 1939.[3]
- Land Committee – approved land assignments under Ordinance #1, Land adopted February 28, 1941.[4]
- Oneida Housing Authority – created April 20, 1963.[5]
- Personnel Selection Committee – delegated authority within the Tribal Management System adopted on February 8, 1977.[6]

In 1982, the General Tribal Council adopted resolution # GTC-2-28-82. This resolution is generally referred to as the "day-to-day" resolution. This resolution clarifies the responsibilities of the Oneida Business Committee to "become actively involved in the legislative areas" and gave examples of legislative activities. In addition, the resolution directs that a General Manager be hired "to be directly responsible for the programs and enterprises of the Tribe along with the Personnel Office and the Accounting Office.

In 1990, the General Tribal Council adopted 'job descriptions' for the Oneida Business Committee which set forth the duties and responsibilities of members of the Oneida Business Committee. This compliments the delegated authority in the Constitution and in the 1969 actions of the General Tribal Council.

On March 4, 1991, the General Tribal Council adopted the Ten Day Notice Policy. The goal of the Ten Day Notice Policy was to require notice of meetings and information regarding the subject matters to be presented. Over the years, the procedures and expectations regarding this policy have evolved. This included sufficient time to schedule the room and make materials available.

The General Tribal Council adopted the Administrative Procedures Act and created the Oneida Appeals Commission by resolution # GTC-8-19-91-A. The Administrative Procedures Act identifies how legislation is developed and presented for adoption by the Oneida Business Committee. This delegated authority is now specifically identified in the Legislative Procedures Act.

In addition, the 1991 action delegated judicial authority to the Oneida Appeals Commission. This delegation has subsequently been transferred to the Judiciary. The Judiciary is delegated judicial authority through the Judiciary law.

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[1] The responsibilities of this entity have been transferred to the Treasurer and the supporting personnel in the Finance Department.
[2] This entity is now the Trust and Enrollment Committee delegated responsibility for enrollments and the trust funds.
[3] This entity is now the Election Board created under the Election Law.
[4] This entity is now the Land Commission delegated authority under the Real Property Law.
[5] This entity has been dissolved and is now a program of the Tribe.
[6] This entity is now the Personnel Commission which acts under the Tribe's Personnel Policies and Procedures.

As identified above, there have been numerous delegations of authority since adoption of the Constitution which created the General Tribal Council. As a result, although the General Tribal Council does retain the authority given to it in the Constitution, it must also comply with the previous actions of that body, the laws adopted in accordance with delegated authority, and the recognized rules of procedure for its meetings. This is necessary to allow elected and appointed officials and employees to take action in their day-to-day activities.

The members are the "supreme power of the Oneida Tribe of Indians of Wisconsin" since it is those individuals which adopted the Constitution and delegated authority to the General Tribal Council. However, under that delegated authority by the members, the General Tribal Council is the governing body when a quorum exists at a duly called and noticed meeting. And, in accordance with the Constitution, By-laws and adopted job descriptions, the Oneida Business Committee acts under the delegated authority of the General Tribal Council when that body is not in session. Finally, employees of the Tribe take actions under the delegated authority given to them in their programming activities.

Transition from Oneida Appeals Commission to Judiciary

In 1991, the Oneida Business Committee adopted a resolution creating the Oneida Appeals Commission. Several months later the General Tribal Council ratified that action by adopting resolution # GTC-8-19-91-A (Addendum). The Oneida Appeals Commission was not the first judicial entity of the Tribe. Prior to this body the General Tribal Council and Oneida Business Committee had created other specialty administrative courts, such as those for membership decisions. The Oneida Appeals Commission operated continuously until March of 2015. At that time, all cases of the Oneida Appeals Commission were either transferred to the Judiciary or dismissed.

In addition to the transition from the Oneida Appeals Commission to the Judiciary, the Oneida Business Committee also adopted the Family Court law. This law transferred all family law cases from the Oneida Appeals Commission to the Family Court. When the Judiciary law was adopted, this court was incorporated into the new tribal court system.

After much discussion by the General Tribal Council at meetings spanning a period of over two years, the General Tribal Council adopted two resolutions on January 7, 2013. The first resolution, # GTC-01-07-13-A, *Adoption of the Administrative Procedures Act Amendments and the Legislative Procedures Act*, deleted references to legislative processes in the Administrative Procedures Act and adopted the Legislative Procedures Act. This new law, identifies how laws may be adopted by the Oneida Business Committee or the General Tribal Council

The General Tribal Council also adopted resolution # GTC-01-07-13-B, *Adoption of the Judiciary Law*. This resolution was much more comprehensive in that it adopted a law, identified a transition process, repealed sections of other laws, and directed further action to adopt supporting laws for the Judiciary.

The Judiciary law creates the tribal court system and identifies delegated authority. In addition, the law identifies the number and qualifications for judicial officers, as well as how they are

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selected. The Judiciary law is the primary law governing the tribal court system and is supported by other laws adopted independently.

- Judiciary Canons of Conduct, resolution # BC-06-11-14-B
- Judiciary Rules of Appellate Procedure, resolution # BC-3-25-15-C
- Judiciary Rules of Civil Procedure, resolution # BC-04-25-14-A
- Judiciary Rules of Evidence, resolution # BC-04-23-14-A

The transition period identified that individuals with cases before the Oneida Appeals Commission, whether as an original hearing body or an appeal, could choose to remain in the Oneida Appeals Commission or transfer to the Judiciary. If individuals chose to remain in the Oneida Appeals Commission, their cases had to be concluded by March 1, 2015. This gave plaintiffs, defendants, appellants and appellees approximately one and a half years to conclude cases already in the process. Cases could still be brought in the Oneida Appeals Commission up until its dissolution, however if they were not completed they were dismissed without prejudice and the case would need to be filed in the Judiciary from the beginning process, not as a transfer case.

The Judiciary is made up of a Trial court, a Family court and an Appellate court. The court's docket, from all three groups, is primarily made up of child support cases being heard in the Family court. However, the Trial Court does hear a significant number of garnishments under the Tribe's Per Capita law. Finally, there are appeals from the Trust Committee regarding appeals of General Tribal Council meeting stipend eligibility and trust fund disbursements, the Environmental Resources Board regarding appeals of hunting citations, Land Commission regarding foreclosures and evictions, Oneida Housing Authority regarding foreclosures and evictions, Personnel Commission regarding employment matters, as well as other areas of the Tribe from which an appeal is possible.

Open Records and Open Meetings Law

The Oneida Business Committee adopted the Open Records and Open Meetings Law by resolution # BC-01-12-05-B. The law was last amended in 2014 by the Oneida Business Committee in accordance with resolution # GTC-07-01-13-A to change references to the Oneida Appeals Commission to the Judiciary. This resulted in amendment to section 7.2-1 by adding a definition of "Judiciary" and replacing "Oneida Appeals Commission" with "Judiciary" in sections 7.11-1, 7.11-3, 7.13-1(a) and 7.18-1. This was consistent with amendments made under that same resolution to the Garnishment Ordinance, Oneida Nation Gaming Ordinance, Worker's Compensation Law and Zoning and Shoreland Protection Law.

The Open Records and Open Meetings Law was adopted with the intent to provide access to information. The law allows members and employees to request copies of records held by the record "owner" in the normal course of business. It does not require that records, reports or other documents be created, and it does not authorize an employee of the Tribe to grant access to records for which the employee is not the owner or holds no responsibility for managing. For example, the Law Office maintains an electronic database of contracts reviewed, however only the owner of the contract has authority to release that document.

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The law does contain exceptions to the release of records in section 7.4 which states the following.

> While the law addresses records produced in the course of governmental business, it is recognized that Tribal governmental business often includes matters relating to Tribal business enterprises and other generally non-governmental duties,. This section is intended to address records of a sensitive nature, where the public's right to a document is outweighed by the public interest in keeping such documents confidential.

The law identifies 16 groups of exceptions. These range from draft documents prior to public submission, personnel matters, trade secrets and financial information, criminal investigation records, medical information, attorney-client privileged, personal information, student records, and internal audit reports unless released for viewing. These exceptions have been identified since adoption of the law in 2005. The limited number of exceptions is intended to protect three types of information – personal information, the business processes of third parties generally kept confidential, and drafts of work product until such time as presented in a public manner.

The law also contains several sections regarding enforcement. For example, section 7.11-1 allows a requesting party to appeal a denial to an Area Manager. Ultimately, the requesting party may file with the Judiciary a request for an order releasing a record. *See sec. 7.11-3.* This process has been in the law since its adoption. It provides third party review of a request and the denial in order to determine whether a record is open or confidential.

Analysis

If this proposed resolution is adopted, resolution # GTC-01-07-13-B and resolution # GTC-07-01-13-A are repealed. The former resolution created the Judiciary, repealed parts of the Administrative Procedures Act, and dissolved the Oneida Appeals Commission. The proposed resolution does not create another court system or identify what, if anything is done with existing cases within the Judiciary. Further, it is not clear if this action also dissolves the Family court. As a result, all cases before the Judiciary would also be immediately dismissed with no further action and all personnel would be laid off.

Financially, there are actions with the dissolution of the Judiciary which would need to be addressed. A review would need to be conducted to determine if any grant funds were involved and would need to be re-paid to the granting agency. All existing contracts would need to be terminated and paid out in accordance with their termination clauses. And, current personnel of the Judiciary would need to have existing personal/vacation time paid out and placed in layoff status.

Based on the above, "immediate" dissolution of the Judiciary is likely to result in harm to individuals with cases in the court system. Further, it is not possible to have an immediate dissolution given the need to address those cases and allow for transfer back to various courts from which they arrived unless the court simply sends notice of dismissal of all matters. In addition, where personnel are involved, immediate dissolution would be required to be delayed to address personnel issues. Finally, immediate dissolution would need to take into account existing grant and contract related issues.

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In addition, since the Judiciary is inter-connected with other programs of the Tribe immediate dissolution of the Judiciary may have a much wider impact. For example, as identified above, the Judiciary hearings child support cases, foreclosures and evictions from the Division of Land Management and the Housing Authority, citations from the Environmental Resources Board, and various other entities. Alternative hearing bodies or processes would need to be developed to address the gap created by dissolution of the Judiciary.

Conclusion

The proposed resolution erroneously describes a 2008 contracting activity as well as erroneously describes the process by which existing laws of the Tribe were amended to conform to the new Judiciary. These Whereas sections should either be corrected or deleted.

The proposed resolution contains five Resolves which repeal certain laws and proposes expansion of the application of an existing resolution. As stated, the proposed Resolves are problematic since immediate dissolution is not possible. Further, even if such an action were possible, it will more likely than not cause irreparable harm to those parties with cases in the Judiciary. It is recommended that if this resolution is considered, that the Resolves be deleted and the Oneida Business Committee be directed to adopt a dissolution transition plan for implementation. Any action regarding this resolution would require a two-thirds vote in accordance with the Ten Day Notice Policy affecting a prior action of the General Tribal Council.

If you have further questions, please contact me.

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Oneida Tribe of Indians of Wisconsin
Legislative Reference Office

Lynn A. Franzmeier, Staff Attorney
Taniquelle J. Thurner, Legislative Analyst
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Statement of Effect
Petition Resolution 2: Repeal Judiciary

Summary

On March 30, 2015, the Tribal Secretary's Office received a petition which states "we the under signed General Tribal Council members request a special GTC meeting to review and consider the attached resolutions. In the event that public hearings are required we direct the Business Committee to hold the required Public hearings and bring these resolutions to the GTC intact." The petition further requests that the OBC coordinate with the petitioner on the time of the meeting.

The Petition was verified by the Enrollment Project Specialist on March 31, 2015, and on April 22, 2015, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on the petition. This Statement of Effect focuses on Resolution 2, pertaining to the repeal of GTC Resolution 01-07-13-B, which adopted the Judiciary Law; the repeal of GTC Resolution 01-07-13-B, which, according to the Resolution, has been used abusively by the OBC; restores Resolution GTC-11-15-08-C to provide full disclosure to the Oneida people regarding how their money is spent; and requires full disclosure to all contracts, not just corporate.

Submitted by: Lynn A. Franzmeier, Staff Attorney; and Candice E. Skenandore, Legislative Analyst; Legislative Reference Office

Legislative Analysis

The "Whereas" section of the Resolution states that after the General Tribal Council (GTC) adopted Resolution GTC-01-07-13-B: Adoption of the Judiciary Law, GTC then adopted Resolution GTC-07-01-13-A: Adoption of Corrective Amendments to the Oneida Code of Laws and Oneida Tribal Policies Regarding References to the Oneida Appeals Commission and/or Oneida Judicial System. According to the Resolution, GTC-07-01-13-A was used by the OBC as authority to pass Resolution BC-06-25-14-B which, in part, adopted amendments to the Open Records and Open Meetings Law.

The Resolution points out two sections of the Open Records and Open Meetings Law: 7.4(b) which states "Contracts or other agreements which specifically prohibit disclosure of the content of the contract or agreement to third parties"; and 7.18 which states "The Judiciary shall have the power, in its discretion and upon good cause shown, to issue an appropriate order, injunction or prohibition to declare any action taken in violation of this law void in whole or in part." The Resolution states the Business Committee has misled GTC and "now the contracts and how the Oneida tribal money is spent is once again kept secret from the Oneida people." According to the Resolution, GTC Resolution 11-15-08-C states "no agent of the Tribe shall enter into any

agreement with any corporation that prohibits full disclosure of all transactions (receipts and expenditures, and the nature of such funds) and that such an agreement is not binding to the Tribe…"

The Resolution declares GTC will regain its authority as the supreme power of the Oneida Tribe and also repeals GTC Resolution 01-07-13-B.

Repealing the Judiciary Law may have a legislative impact on additional Tribal laws that were adopted based, at least in part, on the Judiciary Law, including:

- Rules of Civil Procedure
- Rules of Evidence
- Rules of Appellate Procedure
- Family Court
- Family Court Rules
- Judicial Canons of Ethics

In addition, approximately 25 additional Tribal laws were amended to remove references to the Oneida Appeals Commission and add the Judiciary. If GTC-01-07-13-B is repealed, Tribal laws that reference the Judiciary based on that Resolution may need to be updated to reflect the proper judicial system of the Tribe, if any.

This Resolution also repeals GTC Resolution 07-01-13-A which allowed the OBC to make corrective amendments to the Oneida Code of Laws and Oneida Tribal Polices regarding references to the Oneida Appeals Commission and/or the Oneida Tribal Judicial System. There is no legislative impact associated with this portion of the Resolution.

This Resolution also "restores" GTC Resolution 11-15-08-C, implying that GTC Resolution 11-15-08-C is not being followed. GTC Resolution 11-15-08-C is still in effect and, among other things, requires that 1) all Treasurer reports include an independently audited annual statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer, including but not limited to all corporations owned in full or in part by the Tribe; 2) all Treasurer's reports to the GTC at annual and semi-annual GTC meetings include independently audited annual financial statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer including, but not limited to component units (Tribally chartered corporations, and autonomous entities, limited liability companies, states chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants owned in full in party by the Tribe; and 3) no agent of the Tribe can enter into any agreement with any corporation that prohibits full disclosure of all transactions and that such agreement is not binding to the Tribe.

This Resolution states that restoring GTC Resolution 11-15-08-C will provide full disclosure to the Oneida people regarding how their money is spent. In addition, this Resolution claims to provide full disclosure to all contracts, not just corporate contracts; however, the Open Records Open Meetings Law exempts inspection and copying contracts which specifically prohibit disclosure of the content of the contract to third parties from inspection and copying *[See Open Records Open Meetings 7.4-1 (b)]*.

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Please consult the legal and fiscal analyses to determine if this Resolution has any legal or fiscal impacts. A two-thirds vote by GTC is required in order to adopt this Resolution *[See Oneida Tribal Council Ten Day Notice Policy, III.1.a.3].*

Conclusion

Adoption of this Resolution would repeal the Judiciary Law and may result in a need to amend the Open Records and Open Meetings law and various laws that (1) were adopted to compliment the Judiciary Law; and (2) reference the Judiciary.

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Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

ONEIDA TRIBE OF INDIANS OF WISCONSIN

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

ONEIDA FINANCE OFFICE
Office: (920) 869-4325 η Toll Free: 1-800-236-2214
FAX # (920) 869-4024

MEMORANDUM

DATE: January 22, 2016

FROM: Larry Barton, Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: **Financial Impact of Resolution– Repeal Judiciary Law**

I. Background

Under consideration is a submitted petition which contains thirteen (13) "whereas" sections and five (5) "resolved" sections. As indicated by the Legal Analysis, the "whereas" sections may not be enforceable, so we will not assess. The main focus of the five (5) "resolved" sections is to seek the immediate repeal of GTC Resolution #01-07-13-B, which approved establishment of the Oneida Judiciary Law and the establishment of a Trial Court and a Court of Appeals. The proposed Resolution also seeks to repeal GTC Resolution #07-01-13-A, which allowed the Oneida Business Committee to make amendments to the Oneida Code of Laws and to Tribal Policies. Lastly, the proposed Resolution seeks to "restore" GTC Resolution #11-15-08-C, which implies it has not been followed.

II. Executive Summary of Findings

GTC Resolution #01-07-13-B, if it were "immediately repealed," would dissolve the Oneida Judiciary (Trial Court and Court of Appeals). What is not clear is what would happen with the Family Court. This Court was established as a distinct function of the Oneida Judiciary, via BC Resolution # 05-08-13-A.

The proposed Resolution is silent on what framework would be left behind or established to handle the legal processes and services provided by the Oneida Judiciary, if the Judiciary Law were to be repealed. According to the Legal Analysis, the bulk of cases being heard are child support cases in Family Court. However, there are also issues that arise pertaining to garnishments under the Tribe's Per Capita Law, as well as appeals of items regarding GTC meeting stipend eligibility, Trust Fund disbursements, hunting citations and various foreclosure or eviction proceedings.

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III. Financial Impact

In the approved FY 2016 Budget, the total estimated cost of the Oneida Judiciary is $1,046,506. Currently, there are no grant funds that were included in FY 2016. The budget is mainly Tribal Contribution, with a small amount listed as External Sales. In addition, the Family Court budget for FY 2016 is $243,641. Again, a very small amount of this cost is External Sales. The bulk is Tribal Contribution, with no grant funds listed.

Theoretically, the financial impact of adopting the proposed Resolution would be an annual budgetary savings of at least $1,046,506 – and possibly as much as $1,290,147 if the Family Court were also dissolved. However, the proposed Resolution does not speak to how the services provided by the Oneida Judiciary would be addressed. At minimum some form of alternative hearing bodies would have to be established. As we cannot predict what format these bodies would take to handle hearing all the cases before the Court System, we cannot offer a definitive potential financial impact of the Resolution.

TOTAL ESTIMATED FINANCIAL IMPACT: Indeterminable

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

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To: General Tribal Council
From: Madelyn (Cornelius) Genskow

Madelyn Genskow

May 3rd, 2016

Re: Resolution to Repeal the Judiciary

I have submitted this resolution for the following reasons:

1) Judges are not recusing themselves when they have had adverse actions or opinions against Oneida People that have a case brought to the Judiciary.

2) Some of the judges have violated the law themselves and now are judging the Oneida people.

3) Under section 7.18 of the open records law – enforcement. The Judiciary shall have the power, in its discretion and upon good cause shown, to issue and appropriate order, injunction or prohibition and to declare any action taken in violation of this law void in whole or in part. This statement gives the Judiciary TOTAL POWER and the tribal member is left with no recourse.

4) According to the financial impact statement the Judiciary is currently costing the tribe $1,046,506.00 and will cost an additional and possibly as much as $1,290.147.00 if the family court carries on – All this for a court that has some judges who have violated laws themselves and who don't know enough to recuse (to remove themselves from the case) when they should. Some examples for a judge to recuse themselves are: friends, prior financial business, relatives (father, mother, brother, sister, cousins, aunts, uncles etc), prior disagreement/problems with the parties in the case before them.

5) The Oneida Business Committee has changed the administrative procedures act. Previously that law had been decided by the General Tribal Council and now the Business Committee is saying that because of the Judiciary law, the Business Committee now has the power to change these important laws without consent of the General Tribal Council.

6) The resolution for full disclosure will now cover corporate contracts and **all contracts including the tribal attorneys and management. We have a right to know how much they are being paid. All cities and municipalities in the USA have a requirement that the residents have a right to know what is being paid to the city or municipality employees.**

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B.C. minutes regarding StrateGlobe Contract

IT has been reported that members of the B.C. signed, without the other B.C. Do not be mislead by some of the B.C. who make the motions. The GTC members are not allowed to see the StrateGlobe Contract to document which members of the B.C. if any signed the contract. M. Danforth Members

Action: Motion Patty Hoeft to accept the Seven Generations Corporation quarterly report as FYI, seconded by Ed Delgado. Motion carried unanimously.

d. Legislative Affairs Update

1. Tana Aguirre — RE: Town of Oneida address/fire signs reconsideration

Action: Motion by Mercie Danforth to table the town of Oneida address/ fire signs reconsideration, seconded by Ed Delgado. Motion carried unanimously.

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e. Attorney Brief

a. Attorney Contract - Patricia M. Garvey

Action: Motion by Mercie Danforth to approve the Patricia M. Garvey attorney contract, seconded by Ed Delgado. Motion carried unanimously.

b. Attorney Contract - Brian T. Stevens

Action: Motion by Mercie Danforth to approve the Brian T. Stevens attorney contract, seconded by Ed Delgado. Motion carried unanimously.

Action: Motion by Mercie Danforth to extend the attorney contract report to the Executive Staff meeting, seconded by Patty Hoeft. Motion carried unanimously.

Action: Motion by Patty Hoeft to direct the General Manager to bring back an explanation of the StrateGlobe contract of $575,500 to the May 28 Business Committee meeting and the explanation should include reasons for using sole source, seconded by Ed Delgado. Motion carried unanimously.

Action: Motion by Patty Hoeft to direct the Treasurer to explain to the Business Committee at the May 28 Business Committee meeting how the purchasing procedures work and to identify sign-off authority procedures and to identify the positions of management and Business Committee members and their sign-off authority,

May 14, 2008 B.C. Date page 12

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B.C. meeting minutes regarding StrateGlobe Contract

meeting agenda the Oneida Housing Authority rent calculations and that we add the draft ordinance to restructure the Oneida Housing Authority program starting May 30, seconded by Trish King. Motion carried unanimously.

Action: Motion by Patty Hoeft to direct the General Manager to give the Business Committee a status report on May 30, seconded by Melinda J. Danforth. Motion carried unanimously.

Action: Motion by Patty Hoeft to recess until 1:30 p.m., seconded by Mercie Danforth. Motion carried unanimously.

Back in Regular Session at 1:32 p.m.

3. Debbie Thundercloud — RE: Food Distribution/Pantry Transfer from Development Division to GSD

Action: Motion by Ed Delgado to accept the Food Distribution/Pantry transfer from the Development Division to Governmental Service Division as FYI, seconded by Vince DelaRosa. Motion carried unanimously.

4. Debbie Thundercloud, Fred Muscavich — RE: Duck Creek Trail (CIP #06-004) development - FYI

Action: Motion by Paul Ninham to accept the Duck Creek Trail (CIP #06-004) Development as FYI, seconded by Kathy Hughes. For: Patty Hoeft, Ed Delgado, Mercie Danforth, Kathy Hughes, Vince DelaRosa, Melinda J. Danforth, Paul Ninham. Abstained: Trish King. Motion carried.

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5. Debbie Thundercloud — RE: StrateGlobe Contract

Action: Motion by Patty Hoeft to direct the Treasurer to provide a report on a monthly basis to the Business Committee listing all contracts and purchases that are $250,000 or more starting June 25, seconded by Vince DelaRosa. Motion carried unanimously.

6. Mercie Danforth — RE: Purchasing and Sign Off Authority Procedures

Excerpt from May 14, 2008: Motion by Patty Hoeft to direct the Treasurer to explain to the Business Committee at the May 28 Business Committee meeting how the purchasing procedures work and to identify sign off authority procedures and to identify the positions of management and Business Committee members and their sign off authority, seconded by Vince DelaRosa. For: Patty Hoeft, Ed Delgado, Kathy Hughes, Vince DelaRosa, Abstained: Mercie Danforth. Motion carried.

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B. C. meeting minutes Regarding State Globe Contracts

Action: Motion by Patty Hoeft to defer the request to explain the purchasing and sign off authority procedures to the June 11 Business Committee meeting, seconded by Vince DelaRosa. Motion carried unanimously.

7. Patty Hoeft — RE: Request to add Audit Committee final OHA report to the Special Business Committee agenda on May 30

Action: Motion by Vince DelaRosa to approve adding the Audit Committee final OHA report to the Special Business Committee agenda on May 30, seconded by Patty Hoeft. For: Patty Hoeft, Ed Delgado, Kathy Hughes, Melinda J. Danforth, Trish King, Paul Ninham, Vince DelaRosa. Abstained: Mercie Danforth. Motion carried.

8. Gerald Danforth — RE: Environmental Resource Board Recommendations

Action: Motion by Kathy Hughes to approve the appointments of Richard Baird, Nicole Morrain, Tom Oudenhoven and Jennifer Jourdan to the Environmental Resource Board, seconded by Paul Ninham. Motion carried unanimously.

9. Gerald Danforth — RE: Brown County Service Agreement

Action: Motion by Vince DelaRosa to approve the Brown County Service Agreement, seconded by Paul Ninham. Motion carried unanimously.

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c. **Travel Requests**

1. Debbie Danforth — RE: Request procedural exception for travel policy to allow 4 school system staff to attend BIE Summer Reading Institute in Bloomington, MN June 9-12, 2008

Action: Motion by Ed Delgado to approve the procedural exception to allow for four school system staff to attend the BIE summer reading institute in Bloomington, MN, June 9 through 12, 2008, seconded by Melinda J. Danforth. Motion carried unanimously.

10. **Finance Committee - none**

11. **Legislative Operating Committee (LOC)**

1. Vince DelaRosa — RE: Approval of LOC meeting minutes of May 5, 2008

May 28, 2008 B.C Date

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B.C. meeting minutes regarding StrateGlobe Contract

Human Services' Indian Health Service, seconded by Melinda J. Danforth. Motion carried unanimously.

b. Requests

1 Debbie Thundercloud — RE: Approval of the Indian Housing Plans (IHP) for the years 2003-2007

Action: Motion by Patty Hoeft to direct the General Manager to start reviewing the amendments of the Indian Housing Plans for the years 2003-2007 with the Business Committee starting on June 13, seconded by Vince DelaRosa. For: Patty Hoeft, Ed Delgado, Kathy Hughes, Vince DelaRosa, Melinda J. Danforth, Paul Ninham. Opposed: Trish King. Motion carried.

2. Debbie Thundercloud — RE: Approval of the Indian Housing Plans (IHP) for the year 2008

Action: Motion by Patty Hoeft to direct the General Manager to start reviewing the new Indian Housing Plans for the year 2008 with the Business Committee starting on June 13, seconded by Vince DelaRosa. For: Patty Hoeft, Ed Delgado, Kathy Hughes, Vince DelaRosa, Melinda J. Danforth, Paul Ninham. Opposed: Trish King. Motion carried.

3. Eric Krawczyk — RE: Approval of Pandemic Influenza and Community Containment Plan

Action: Motion by Kathy Hughes to defer the approval of pandemic influenza and community containment plan to the June 25 Business Committee meeting to bring back a cover page and to include all 38 pages of the document, seconded by Vince DelaRosa. Motion carried unanimously.

4. Melinda J. Danforth — RE: Approval of Joint Oneida Business Committee and Oneida Gaming Commission Quarterly minutes

Action: Motion by Kathy Hughes to approve the joint Oneida Business Committee and Oneida Gaming Commission quarterly minutes, seconded by Vince DelaRosa. Motion carried unanimously.

5. Ed Delgado → RE: Request the Oneida Business Committee have access to the StrateGlobe LLC contract for information

Action: Motion by Kathy Hughes to approve the request that the Oneida Business Committee have access to the StateGlobe LLC contract for information, seconded by Vince DelaRosa. Motion carried unanimously.

Documents that Things were set up in such a way - That even The Business Committee could not see the StrateGlobe Contract! The motion had to be made. Do not be mislead into thinking that the person making the motion was not one who had signed the Contract. Madelyn Genetopo

June 11, 2008 B.C. Date page 10

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15. Legislative Affairs Update

1. Seminary Road
   a. Land Commission position
   b. Letter from Environmental
   c. Letter of request from Town of Oneida

Action: Motion by Patty Hoeft to approve the recommendation of option 2 to use Oneida trust land for road construction for Seminary Road, seconded by Kathy Hughes Motion carried unanimously.

2. Farm Bill update

Action: Motion by Melinda J. Danforth to accept the Farm Bill as FYI, seconded by Paul Ninham. Motion carried unanimously.

16. Executive Session

Action: Motion by Vince DelaRosa to go back into regular session at 2:40 p.m., seconded by Ed Delgado. Motion carried unanimously.

a. Tabled Business - none

b. Old Business - none

c. New Business

1. Debbie Thundercloud RE: Strateglobe Contract update

Action: Motion by Kathy Hughes to accept the StrateGlobe contract update as FYI with the contract terminated as of June 13, 2008, seconded Paul Ninham. Motion carried unanimously.

d. Legislative Affairs Update

1. Congressional Quarterly Contract

Action: Motion by Trish King to approve the Congressional Quarterly contract, seconded by Paul Ninham. Motion carried unanimously.

e. Attorney Brief

1. Subrogated claims, Cornelius v. K-Mart Corp., et al.
2. Subrogated claims, Gonzalez v. MSI Preferred Insurance Co., et al.
3. Subrogated claims, McClure, et al.

Do not be mislead by the name of the person who made the motion. Modify Jennifer

June 11, 2008 B.C. Date page 9

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Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Oneida Nation
BUSINESS COMMITTEE

P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

MEMORANDUM

To: General Tribal Council

From: Oneida Business Committee

Date: May 11, 2016

RE: Oneida Business Committee Recommended Action
Genskow Resolution – Repeal Judiciary Law

We have received and reviewed the petition, legislative analysis, legal analysis and financial analysis, and the petitioner's statements regarding the above resolution. We have also made note of the constitutional amendments and the requirements within the Constitution.

After reviewing the submitted materials, we agree that the information presented by the petitioner is inaccurate and for that reason, should not be acted upon by the General Tribal Council. While the petitioner has submitted accurate excerpts from documents, the information has incorrectly interpreted the actions in those documents.

For example:

- The Oneida Business Committee did not approve the Stratglobe contract and did not terminate the Stratglobe contract. The explanation provided in the legal analysis presents a clear picture of these events,
- The General Tribal Council adopted a resolution which authorized the Oneida Business Committee to change "Oneida Appeals Commission" to "Judiciary" to reflect the changes made when the Judiciary Act was adopted earlier that year. The Oneida Business Committee then changed "Oneida Appeals Commission" to "Judiciary" in several laws of the Tribe, one of which was the Open Records and Open Meetings law. The Oneida Business Committee did not make any other changes to any law without first going to a Public Meeting as required by the Legislative Procedures Act adopted by the General Tribal Council.

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We also believe that taking the action in the proposed resolution may be unconstitutional. As a result of the amendments to the Constitution adopted by the members and approved by the Secretary of the Interior and the Interior Board of Indian Appeals, a Judiciary is a constitutional requirement. See Article V, section 1. Based on these amendments, the judicial powers are delegated to a “Judiciary” and any existing body continues to exist until such time as the General Tribal Council delegates that authority to another body.

Recommended Action: Motion to reject the resolution.

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RE: REPEAL JUDICIARY LAW
BUSINESS COMMITTEE RECOMMENDATION

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(MULTIMEDIA PRESENTATION)

TOPIC:
PETITIONER GINA D. POWLESS

CREATE A SUPPORT SYSTEM FOR TRIBAL MEMBERS ENGAGED WITH THE ONEIDA JUDICIARY
PETITIONER PRESENTATION

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Melinda Danforth: Thank you for your comment, Sheena. I'm going to recognize the call for the question. The motion on the floor is to deny the petition and direct the Business Committee to address the transportation concerns and to continue monitoring access to health care in the event action is needed. Again, I need to make it clear that the petition is asking us to take immediate action to build a facility. The other motions, the amendments that were passed earlier about doing a study would still stand if this motion passes. I'm going to try a hand raising count first. All those in favor to deny the petition and direct the BC to address the transportation concerns and to continue monitoring access to health care, in the event action is needed, please raise your hand. All those opposed, please raise your hand. All those abstaining, please raise your hand. I'm going to call the motion as carried by majority. Lisa.

Lisa Summers: I'd like to make a follow up motion, Madam Chair. I'm going to make a motion to direct the Oneida Business Committee to bring back a recommendation on a concept for future dialysis program at the Oneida annual meeting 2016 for GTC consideration.

Melinda Danforth: Motion by Lisa Summers and seconded by Corinne Robelia-Zhuckkahosee to direct the Oneida Business Committee to bring back a recommendation on a concept for a future dialysis center and that recommendation be brought back to the General Tribal Council at the January 2016 annual meeting for future dialysis program. Joey, I'd ask you to be patient with us please. I understand your concerns and I appreciate them very much but we're in the voting process or actually, we are waiting for the motion to come up and if you don't agree, please vote no. There is a motion made by Lisa Summers seconded by Corinne Robelia-Zhuckkahosee to direct the Business Committee to bring back a recommendation on a concept for a future dialysis program and that the recommendation to be brought back for consideration by the General Tribal Council at the annual GTC meeting in January 2016. Comments on the motion made? Sherrole.

Sherrole Benton: Thank you, Madam Chair. I call for the question.

Melinda Danforth: There is a call for the question. All those in favor of the motion that is pending before you, again, I just read it, direct the BC to bring back a recommendation at the annual GTC meeting in January 2016, please raise your hand. Thank you. All those opposed, please raise your hand. Thank you. All those abstaining, please raise your hand. Thank you. Motion carries. Thank you, I appreciate the discussion on this issue as it is very important and thank you, John for bringing this issue forward.

B. Petitioner Gina D. Powless – to create a support system of paralegals, advocates and attorneys to assist and advocate for Oneida enrolled Tribal members that are engaged in any case with the Oneida Judiciary (Petition submitted September 8, 2014)

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1. Petitioner Presentation

Melinda Danforth: The next item on the agenda is the petitioner, Gina Powless who requests to the General Tribal Council to create a support system of paralegals, advocates and attorneys to assist and advocate for Oneida enrolled Tribal members that are engaged in any case with the Oneida Judiciary. Gina, did you want to come forward and make a presentation?

Gina Powless: Thank you. Want to say good evening to each and every one of you here tonight. My name is Gina Powless, a tribal enrolled member. I do work for the tribe and I do live on the reservation. The reason I am here and the reason why I started the petition was due to the fact that with our new judiciary the new rules of procedures that they have adopted in their court system are extremely complex. They are difficult; they are very difficult. It is my understanding they adopted the Rules of Civil Procedure from federal court. So it was like a template and they took it and applied it to ours. I'll give you a little background. I have been an advocate in the past, back in 1995. I worked as an employee representative and I stopped that work in the year 2000. Since then, I have done advocacy on my own for employees in different matters, employment issues, housing issues and most recently family court issues. I do believe that our tribal membership, our tribal enrolled members are deserving of having someone represent them when they go into court. Most people that go into court don't know the rules and the protocols when you step into court. You have a very difficult time navigating through that system. Sometimes you might be waiving your own rights. If you have an attorney, a paralegal, or an advocate, that is not going to happen. They have to look out for your best interest. Again, I want to emphasize this is specifically for enrolled tribal members whether you are an employee, whether you live in housing and you have housing issues, if it is something that has to be litigated at the judiciary, I would really like to see personally that our tribal membership have that representation. We do have trained staff within our tribe that can provide that. We have the legal resource center, the paralegals, we have the employee relations representatives and they provide that service to employees. We have a gaming management representative. That is on the employee relations reps and the gaming management rep that is on the gaming side of the house. On the non-gaming side of the house you have one paralegal and no one for management that represents management. That is just from my experience. Some of the suggestions that I had when I was thinking about this was that we could combine those areas so we could minimize the cost of bringing on all new people. Since we already have the resources, let's take it to another level and instead of just litigating possibly employment issues, let's bump it up a little bit higher and maybe they could advocate. The area that I do find that just rises me really is the family court. We have tribal members that are going in there, fighting for either custody of their children or placement of their children. To me that is very high on the list of priorities. Just like our elders are high on the list, so are our children, so are our babies. I really think when we have moms and dads that have to go out there and spend money on attorneys, thousands of dollars while we're the ones who set up the court system--the tribe took that stand to set up this judiciary. So, let's take the stand to make sure that our people have representation when they walk into that court. I don't have a presentation, a power point, anything all big and fancy, I don't have all these numbers but I do know the need is out there. I also know that we have the staff within our tribe to do it. We have an

office full of attorneys; we have one attorney that litigates for management when they have cases at the judiciary. She takes on all those cases. I don't know if they can share her or use her to actually supervise this area but we have the resources within our area already. I don't have a power point presentation. I don't have anything to hand out as this was my idea that we do this for our own people. I'm not trying to get up here and whine and cry around and say oh we need everything, but if we have it already, let's make the best use of it if we already have it and build on it. I do have a motion that I would like on the record and that motion is to establish a fully funded and staffed office of public defender by fiscal year 2016 to be composed of Oneida Tribal members, lay advocates, employee representation reps, paralegals, equal employment officer department and a staff attorney who have previously worked on cases before the Oneida Appeals Commission and Oneida Judiciary.

Melinda Danforth: Gina, can you bring the motion over to Lisa so she can get it up on the board, please. There is a motion by Gina Powless and there was a second by, who was the second by? Judy Cornelius. Thank you, Judy. While she's getting the motion on, the Business Committee did have a recommendation in the packet and it is my understanding that there was not a presentation that was going to be given but rather information. At the time the Business Committee received this petition in September of 2014, the Oneida Judiciary had not been up and running at that point. One of the goals of the Oneida Judiciary, once the Oneida Appeals Commission was disestablished for the allowance for lay persons to be able to represent themselves within the tribal court system rather than have to hire attorneys, or advocates. A person would be able to go and be able to advocate for themselves in front of the family court judge. Prior to the judiciary coming into effect, that is one of the discussions that we did have with the family court. When we hired the family court judge, we indicate to him that we wanted to be able to have people represent themselves in court. We also did tell the judiciary when they were elected into office that that was one of our goals. Even though the rules of civil procedure may be complex, that is one of the goals of the judiciary; to be able to put pamphlets together. Put simple handouts, simple rules into a pamphlet that were understandable for the lay person to be able to enter into the court system. The court has only been up and running for about 8 or 9 months or so, so far. We have no indication of how things are running at this point. Unfortunately or fortunately, the judges cannot attend General Tribal Council meetings so their opinion is not reflected in the documents you have before you. I just wanted to basically state that the Business Committee's recommendation was that at that time there was no indication coming out of the court system about how people could represent themselves and there was no indication the court wouldn't be issuing out documents that the lay person could read in order to comply with the rules of civil procedure. Again, we also told the court system that we wanted to be able to not have people go in there without having representation and feel comfortable in that atmosphere. Again, the court has only been open for 8 or 9 months. The recommended motion by the Business Committee was to direct the judiciary processes to ensure the processes and procedures are implemented in a manner that is understandable to unrepresented tribal members. Again, I'm sure there are individuals out there with stories about cases that they've been through the judiciary and the family court and so I guess we encourage you to share those at this time. The motion on the floor is to establish a fully funded and staffed office of public defender by

fiscal year 2016 to be composed of Oneida tribal members, lay advocates, employee relations representatives, paralegals, equal employment opportunity officers and staff attorney who have previously worked on cases before the appeals and the Oneida judiciary. All comments at this time should be towards the motion. Mike Debraska.

Mike Debraska: Quick question, this goes for Gina as well as the Business Committee. On page of 112 of this, there is an estimated start-up cost for the support systems for the attorneys, advocates and paralegals. Do all of you agree with these numbers? I look at this and say the grand total for this what they are estimating for start-up cost would be almost a ½ million dollars. I want to know because I look at this and I say they have a managing attorney, staff attorney, 2 paralegals, grant writer, secretary and all the other things that go with it, fringe, indirect and professional liability insurance. I look at it and the reason why I ask that question is because I know, Gina, you had said it is better if we make better use of the resources that we currently do have. I'm wondering if the numbers are reflective of that.

Gina Powless: When I read that Mike, I thought that all fresh brand new people and my idea is that we just build on what we have already. That doesn't reflect what I'm talking about; the Business Committee could best answer if that reflects all new people to man that office.

Melinda Danforth: Mike, if you look at page 111. It did indicate that it would be about $448,000 start-up cost. On page 111, under financial impact, it says Oneida to provide services in house estimated to be $448,610 but it says it does not take into consideration that employee advocacy which we currently have in house may be incorporated so we wouldn't need an additional $200,000 and then the finance area is indicating that start-up cost and inflation over 10 years the fiscal impact would be $3.685 million. This is an estimate from the Finance department.

Mike Debraska: Thank you.
Melinda Danforth: Chrissy, you have to go to a mic, I cannot hear you.
Chris Cornelius: Madam Chair, my point of order is that I believe we need to have a second before we move into discussion.

Melinda Danforth: There is a second, I did recognize Judy Cornelius.

Chris Cornelius: I didn't see it on the board so that is why I asked.

Melinda Danforth: Thank you. There is a privileged question, Corinne.

Corinne Robelia-Zhuckkahosee: Thank you. It says that, wait now. It says to be composed of Oneida tribal members, lay advocates, employee relations and on and on. But are you specifying in this motion that all these people have to be Oneida tribal members or are you just including Oneida tribal members plus anybody else?

Gina Powless: I'm specifying all of them, whether they are employee relations, paralegal or the attorney, that they are all tribal members.

Melinda Danforth: Madelyn and then Lisa.

Madelyn Genskow: Once again, no Treasurer's report. I'm going to make a motion and I want to give my reasons.

Melinda Danforth: Madelyn, there is already a motion on the floor so it would have to be an amendment.

Madelyn Genskow: I know, but there can be other motions, ok, amendments, and ok, whatever. There is an appeal challenge to the secretarial election to change our tribe's constitution. It will take time for the process to be decided. There is also resolution to repeal the judiciary act that has been petitioned and will come before the General Tribal Council as soon as the Business Committee allows it to come forward. The resolution details that on November 15, 2008, a special resolution read in part no entity of the tribe shall enter into a contract with a corporation that prohibits full disclosure. That means the Business Committee can't keep how our money is spent from the membership. The Business Committee did not carry that out. They passed a….

Melinda Danforth: Madelyn, I'm going to have to ask you to stay to the issue. Somebody did call a point of order; this is not relevant to the motion at hand which is to establish a fully funded and staffed office of public defender's office. I'm asking you to stay to the subject.

Madelyn Genskow: I feel that this issue should be tabled until those 2 things are decided; the decision by the Department of Interior and also the General Tribal Council has a right to decide that before we spend more money. The resolution that is going to be brought will give the General Tribal Council the right for full disclosure, take back the supreme power of the tribe and to carry out the General Tribal Council directive. I make a motion to table until those decisions have been made.

Melinda Danforth: There is a motion to table, that will take precedent over Gina's motion, as a matter of fact, but I need a second. Is there a second to table? Sharlene Kasee. Motion to table by Madelyn Genksow seconded by Sharlene Kasee. I'm just making sure, I keep hearing if it is in order. Yes, the motion is in order to table and there is a call for the question. The motion is to table this item. I'm going to call for a hand vote. All those in favor, no more discussion Madelyn. We're voting on the motion to table. We're voting on the motion to table, Madelyn, please. All those in favor of tabling this item, please raise your hand. Thank you. All those opposed, please raise your hand. Thank you. All those abstaining, please raise your hand. ½ of the room didn't vote and so it was close. We're going to try this again; otherwise I'm going to do a hand count which will take a little bit of time. All those in favor of tabling this item, please raise your hand. I apologize; I have to wait for the camera to go through the overflow room. Thank you. All those opposed to tabling this item, please raise your hand. Thank you. All those abstaining. I'm going to call this motion as carried. Motion to table this item has passed.

Oneida Tribe of Indians of Wisconsin

Certification of Petition Signatures

TO: General Tribal Council
FROM: Lisa Summers, Tribal Secretary
DATE: February 25, 2015
RE: Petitioner Gina D. Powless re: Create an Advocate Support System

Certification of Sufficient Petition Signatures:

Petitioner Name:	Gina D. Powless
Date Submitted:	September 8, 2014
Total # of signatures submitted:	56
Total # of invalid signatures[i]:	1
Total # of valid signatures:	55

Fifty-five signatures were verified by the Oneida Enrollment Department on September 9, 2014. The number of signatures submitted by the petitioner is sufficient.

Petition: A copy of the petition statement is provided here:

RECEIVED BY BC ADMINISTRATIVE OFFICE
SEP 8 2014
ONEIDA TRIBE OF INDIANS OF WISCONSIN

PETITION FORM

NAME OF PETITIONER: GINA D. POWLESS, Tribal enrollment #

PURPOSE: TO CREATE A SUPPORT SYSTEM OF PARALEGALS, ADVOCATES AND ATTORNEYS TO ASSIST AND ADVOCATE FOR ONEIDA ENROLLED TRIBAL MEMBERS THAT ARE ENGAGED IN ANY CASE WITH THE ONEIDA JUDICIARY.

The full petition is available per the Open Records and Open Meetings Law. Contact the Business Committee Support Office for more information at (920) 869-4364.

[i] Reason(s) for invalidation: 1 – no match found

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(920) 869-4327 FAX (920) 869-4065

MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: December 29, 2014

SUBJECT: Opinion – Petition – Powless – Advocates in Oneida Judiciary

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You have requested a legal opinion regarding the above petition. The Enrollment Department has verified 55 of 56 signatures. The petition contains a request set forth in one sentence.

> "To create a support system of paralegals, advocates and attorneys to assist and advocate for Oneida enrolled tribal members that are engaged in any case with the Oneida Judiciary."

I have reviewed the Legislative Analysis, prior General Tribal Council action regarding employee advocates, the revenue and expenses related to the Legal Resource Center and Wisconsin Judicare, Inc., as well as Tribal laws in order to draft this legal opinion.

General Tribal Council Actions

In early 1994, the General Tribal Council convened to discuss employment complaints arising out of the gaming area. The General Tribal Council appointed a task force to investigate the issues and after a series of meetings, a resolution with several recommendations was proposed. The resolution was adopted by the General Tribal Council at the August 8, 1994, meeting and contained the following directive.

> "Compliance Department to develop a department for employee advocacy for all entities of the Tribe to transfer existing employee advocate positions into the Compliance Department."

There are no other General Tribal Council actions regarding advocacy or advocacy related services.

Employee Advocates

Resolution # GTC-8-8-94-A was implemented and employee advocates were consolidated and provided training within the Compliance Division.[1] This office focused on providing a review of

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[1] There are employee advocates currently located in the gaming operations whose job title is "Employee Relations." These are personnel that remained from the 1994 directive and whose job duty at that time was described in a report to the General Tribal Council as follows.

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the employee's disciplinary action and the related evidence, determining if there were options for an appeal of this discipline, and representing in the Personnel Commission if there were grounds for an appeal. An attorney was hired to assist the advocates and provide legal advice.

The Compliance Department has been re-organized on several occasions and the employee advocates and the attorney eventually became the Legal Resource Center. At some point, the attorney assigned to assist the paralegals advocating for employees began providing legal advice for other non-employment matters in the Oneida Appeals Commission and state courts. Although Tribal members were charged fees for these legal services, it was at a highly subsidized rate covered by significant Tribal contribution. The revenue generated by these services is included in the table below.

Legal Resource Center – Revenues and Tribal Contributions

	2010	2011	2012	2013
Criminal Misdemeanor	$ 1,650.00	$ 3,100.00	$ 1,600.00	$ 5,360.00
Criminal Felony	$ 1,000.00	$ 3,000.00	$ 1,025.00	$ 3,000.00
Will	$ 25.00	$ 50.00	$ 240.00	$ 180.00
Family - Paralegal	$ 275.00	$ 2,350.00	$ 1,975.00	$ 1,600.00
Family - Attorney	$ 2,500.00	$ 2,750.00	$ 3,600.00	$ 2,500.00
Eviction/Foreclosure	$ 250.00	$ 230.00		$ 100.00
Divorce - Attorney	$ 1,500.00			
Pro se Divorce	$ 100.00			
Miscellaneous	$ 360.00	$ 789.00	$ 847.00	$ 2,630.00
Total Revenue	**$ 7,660.00**	**$ 12,269.00**	**$ 9,287.00**	**$ 15,370.00**
Tribal Contribution	$ 369,456.00	$ 374,602.00	$ 379,484.00	$ 369,320.00
Total Budget	$ 377,116.00	$ 386,871.00	$ 388,771.00	$ 384,690.00
$ Allocated to Personnel	$ 300,072.00	$ 313,127.00	$ 322,103.00	$ 319,909.00
% = Revenue/Personnel	3%	4%	3%	5%

The attorney retired in 2014 and the position has not been filled. The paralegals continue to provide advice to employees in employment related matters. The office is renamed "Employee Advocacy" to reflect the narrower focus of the office, The November 2014 quarterly report for the Internal Services Division identified that there were 19 inquiries made regarding employment

"After discussion [with the Ad Hoc Task Force and the Oneida Business Committee] and listening to the intent of the recommendations it appears that the role of employee advocacy is the function that needs to be transferred to the Compliance Division and the Employee Relations position is a support function that should remain in the Gaming HRD scope of responsibility. …Employee Relations staff are needed to facilitate mediation and resolution of issues as the first line of support function. At the point issues appear that they will require further follow up in order to protect the rights and integrity of all parties is the point that employee advocacy would be delegated the role to act in the best interests and on behalf of the employee."

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issues and one case went forward to the Personnel Commission. The remainder of the cases was either resolved prior to filing an appeal or no action was taken by the employee. In addition to the employment related calls, the office also received 26 calls related to non-employment legal issues involving name changes, bankruptcy, child support or custody, and probate questions. These were referred to local law offices and other resources.

Similar Legal Services Resource

Legal Services Corporation
The Legal Services Corporation is a federal chartered corporation created by law in 1974. Its purpose is to provide legal aid to "those unable to afford adequate legal counsel," *42 USC 2996(2)*. The corporation is funded by annual appropriations and utilizes these funds to provide grants to state chartered legal aid entities.[2] State chartered legal aid entities are required to agree to the same prohibitions that apply to the Legal Services Corporation in order to receive grant funding. In general, those legal aid entities are prohibited from –

- Participating in lobbying at the local, state or federal level.
- Making contributions to candidates, political parties or referendums.
- Participating in class action suits, appeals, or amicus curiae.
- Participating in criminal proceedings or civil proceedings arising out of matters related to criminal actions.
- Representing legal or illegal aliens.

The most recent annual report from the Legal Services Corporation contains the following facts.

60% of the cases are addressed through providing counsel or limited advice
16% of the cases are addressed through limited legal action

33% of the cases are family matters
- 12% of those are separation/divorce
- 9% of those are custody/visitation

27% of the cases are housing matters
- 15% of those are private landlord-tenant
- 5% of those are related to federally subsidized housing

12% of the cases are income maintenance matters
- 4% of those are related to SSI
- 3% are related to food stamps
- 2% are related to unemployment

11% of the cases are consumer matters
- 5% are collections
- 4% are bankruptcy

3% of all clients are Native American
83% of all clients are between the ages of 18 and 59

[2] In Wisconsin, there are two legal services corporations. Legal Action of Wisconsin, Inc. receives about 42% of its funding from federal grants, or about $3.7 million in 2013. Wisconsin Judicare, Inc. receives about 62% of its funding from federal grants, or about $1 milli0on. The remainder of funding for these corporations is received through donors, state funding, and IOLTA (interest on lawyer trust accounts) funds.

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71% of all clients are women
5% of all clients are veterans

83% of cases in which attorneys were involved were provided pro bono

In addition to the above information, the Legal Services Corporation also reported on salary levels within all programs receiving federal funding. These are median and average salaries across all states.[3]

	Median – Avg Salary	Avg Years of Experience	1 Year of Experience	5 Years of Experience
Managing Attorney	$75,000-$75,453	23	$50,005	$55,792
Supervising Attorney	$73,000-$75,256	19	$50,860	$55,735
Staff Attorney	$52,332-$56,032	7	$43,141	$50,629
Paralegal	$39,132-$39,861	15	$27,360	$33,332

Wisconsin Judicare, Inc. – In General
Wisconsin Judicare, Inc. provides legal services to individuals who meet income guidelines and live within specified counties. The legal services provided include – bankruptcy, family law, health, housing, income maintenance, some Indian law issues, Social Security Disability and SSI, tax, and wills. There are limitations on the types of cases Wisconsin Judicare, Inc. may take. Although the legal services are provided with the fees paid by Wisconsin Judicare, Inc., there are some expenses that are covered by the individual.

The client/case load offered through Wisconsin Judicare, Inc., is significantly greater than the client/case load of the Oneida Tribe. However, for reference, a review of the 2012 tax filing for Wisconsin Judicare, Inc. shows the following levels of expenses during a calendar year.

- Compensation to employees related to program services $139,911.00
- Fees paid for legal services related to program services $251,679.00

Wisconsin Judicare, Inc. utilizes outside legal counsel to provide significant legal services. Attorneys charge a reduced rate and many charge off some of the time as pro bono.[4] Cases are authorized up to a specific amount of hours to be completed. In addition, attorneys are not compensated for any work other than the authorized service, even if other matters arise during the course of representation.

In addition, there are some types of cases in which Wisconsin Judicare, Inc. cannot provide representation for which some examples are – class action lawsuits; redistricting activities or litigation; representation in civil litigation or challenging the conditions of incarceration on behalf of an incarcerated person; representation in eviction cases where the client was charged with or convicted of sale, possession, and/or distributing a controlled substance; criminal cases; and juvenile matters.

[3] A review of the tax statements filed by Wisconsin Judicare, Inc. identifies that the salaries are consistent with these salary levels.
[4] There is no requirement that attorneys provide pro bono services. However, there are certain tax benefits to doing so that attorneys and law firms can take advantage of in filing state and federal business taxes. In some circumstances, the benefit may also include building networks and client bases.

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DRAFT – August 10, 2016 special GTC meeting packet - DRAFT

Wisconsin Judicare, Inc. – Agreement with Ho-Chunk Nation
Wisconsin Judicare, Inc. and the Ho-Chunk Nation have entered into an agreement to provide services to Tribal members in state and tribal courts. The agreement identified a specific amount of funding provided to Wisconsin Judicare, Inc. which would be placed in a separate fund and utilized to provide legal services by attorneys employed by Wisconsin Judicare, Inc. and by retained law offices and attorneys.

Tribal members were required to meet income eligibility requirements. The agreement placed a maximum income at 200% of federal poverty guidelines. This amount was based on the effect of the per capita payments on the eligibility of Tribal members. The eligibility requirement of the standard program is 125% of federal poverty guidelines. The agreement also limits legal services primarily within the State of Wisconsin. The agreement also places a cap on the cost of any accepted case at $1000.00. Finally, the agreement prohibits some cases from being taken up by Wisconsin Judicare, Inc. which involve primarily cases against or involving the Tribe and family law issues.

The agreement has covered a little over 100 cases in a three year period. Most of the cases are family law and wills. Of the individuals served under the agreement, most clients were single, males and females were equally represented, and all age groups were also equally represented.

Oneida Appeals Commission

While there is no way to identify compensation agreements, there are a number of individuals who have provided representation in the Oneida Appeals Commission and there is no indication that such individuals would not also consider providing representation in the Judiciary. These individuals, excluding an individual appointed as a guardian ad litem, have been both attorneys and lay advocates.

Analysis

There is no requirement for the government to provide legal services on matters which are not criminal matters likely to result in detention. However, the federal government has created a corporation for the purposes of providing legal services to those who cannot afford legal services, i.e., those whose income is below 125% of the federal poverty levels. Today, the Legal Services Corporation provides grants to state legal aid entities which in turn accept restrictions on the types of legal services they can provide.

The Tribe has provided limited services of this type in the past. As identified above, those services were highly subsidized and were limited to the availability or ability of the staff attorney. Unlike legal aid services, there were no pro bono services provided by outside counsel and no income eligibility requirements. For example, Wisconsin Judicare, Inc. provides much of its legal services through outside counsel who are paid a very small fee capped at a specific number of hours. Many attorneys providing services do this on a pro bono basis.

If the Tribe wishes to consider the development of a legal aid entity it would be easier to enter into a contract with Wisconsin Judicare, Inc., similar to that between Wisconsin Judicare, Inc. and the Ho Chunk Nation. This will create an independent entity to confirm eligibility, provide legal services, and reduce overall costs.

If a tribal program is desired, it is recommended that a separate corporate entity be created similar to the legal aid entities described above. Such an entity could be staffed with the following personnel and funding levels based on an employee with five years of experience.

Managing Attorney	$55,792.00
Staff Attorney	$50,629.00
2 Paralegals	$66,664.00
Grant Writer	$40,844.00
Secretary/Clerical	$28,373.00
Estimated Personnel Cost	**$242,302.00**

This staffing level presumes that no outsourcing will occur and that paralegals can also provide a significant level of assistance to clients representing themselves and representing clients in the Judiciary. It is possible that these costs can be reduced by removing a staff attorney position given the case level in the current Oneida Appeals Commission as well as the case level reported in the Wisconsin Judicare, Inc. – Ho Chunk Nation contract. The costs above are related only to staffing and do not include costs associated with employer related taxes and fringe benefits, office space, filing fees, or office supplies.

Conclusion

There is no constitutional requirement for the Tribe to provide legal assistance to persons appearing in the Judiciary. However, if such an action is desired by the General Tribal Council, it is recommended that legal services be provided by an independent entity (such as a Tribal corporate entity set up similar to a legal aid entity) or via contract with existing legal aid services. If this is the direction taken by the General Tribal Council, the following action is recommended –

> Motion to direct the Oneida Business Committee to develop either an independent legal aid entity or to contract with an existing legal aid entity to provide legal services to Tribal members whose income is at or below 125% of federal poverty level and who have cases appearing before the Judiciary.

Such an action would require a two-thirds vote as it will have an impact on the current fiscal year, unless the direction is to begin providing services in the next fiscal year.

If you have further questions, please contact me.

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Oneida Tribe of Indians of Wisconsin
Legislative Reference Office

Lynn A. Franzmeier, Attorney
Taniquelle J. Thurner, Legislative Analyst
Candice E. Skenandore, Legislative Analyst

P.O. Box 365
Oneida, WI 54155
(920) 869-4375
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https://oneida-nsn.gov/Laws

Memorandum

TO: Oneida Business Committee
FROM: Legislative Reference Office
Taniquelle J. Thurner, Legislative Analyst
DATE: October 21, 2014
RE: Petition: Judiciary Support System

On October 8, 2014, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on a verified General Tribal Council (GTC) petition submitted by Gina D Powless. The petition requests that the Tribe "Create a support system of paralegals, advocates, and attorneys to assist and advocate for Oneida Enrolled Tribal members that are engaged in any case with the Oneida Judiciary."

Overview

This petition would very likely result in new legislation and/or amendments to existing legislation, however without a more clear understanding of what the petitioner is seeking, it would be difficult to identify exactly what new legislation would be needed or how existing legislation would be affected. This analysis identifies how such legislation could be adopted, and identifies various provisions that should be included.

This analysis also discusses existing Tribal services that provide assistance to Tribal members with legal matters, including a brief overview of the services provided through the Tribe prior to January of 2014. Attached to this analysis (Attachment A) is a list of additional, non-Tribal resources that may currently be available for Tribal members.

There are some concerns with the potential effects of establishing a system of legal professionals to assist Tribal members. Most notably, state courts may become reluctant to transfer cases to the Judiciary if Tribal members automatically receive free legal assistance while non-Tribal members do not; and there is a possible risk of increased costs/workloads and an increase in frivolous actions filed if legal representation is provided for free.

As part of this analysis, a review was conducted of other tribes to see what sort of legal services/assistance they provide for their membership. There is no general consensus, but there do appear to be a few generalized trends:

- Like the Judiciary, many tribal court systems require lawyers/advocates to be admitted to their tribal court Bar or otherwise authorized to practice before their court.
- Although the terminology differs, non-attorney advocates (also called spokespersons, lay advocates, representatives, non-law-trained attorneys, etc.) are generally permitted to represent/assist parties with cases. Almost always, these advocates must be members of that tribe, and must meet certain qualifications and/or fulfill certain requirements.
- Many tribal courts partner with outside organizations to provide limited legal assistance for their courts. Commonly, a tribal court works with a local law school to provide legal

services – enabling law students to gain experience and making legal assistance available for parties at a reduced cost for either the Tribal member or the tribe.

There are many different questions that should be answered before any sort of system of legal assistance is established, and there are various concerns which may need to be addressed, depending, ultimately, on what is implemented.

Analysis

Clarifying Intent of the Petition

There are various ways this petition could be interpreted; therefore it may be beneficial to consider clarifying the following:

1. Whether the petitioner is asking the Tribe to:
   - Establish and regulate a system of legal professionals authorized to practice before the Judiciary (i.e. similar to a state bar), or
   - Provide legal services for every Tribal member appearing before the Judiciary.
2. If the intent is to provide legal services, it should be clarified whether the intent to provide these services for free for all members, or whether the client must pay all representation fees, and/or whether services would be provided for low-income members with fees set on a sliding scale based on income.
3. Whether providing legal services for members "engaged in any case" includes:
   - Tribal members in all actions, including when the Tribal member is the petitioner/plaintiff (such as when the Tribal member wants to sue another person or a Tribal entity) or only in particular situations (such as only when the Tribal member is a defendant/respondent, or is appealing a penalty or adverse decision).
   - Tribal members who are not named parties to a case, but who are involved in the case in other ways or who have an interest in the outcome of a case
   - Tribal members who are not the named party to a case, but the case is brought on their behalf (such as when a non-Tribal member is a guardian of a Tribal member and brings a case on the Tribal member's behalf).
4. If the intent is to provide any reduced-cost or no-cost services to the membership, it may also be necessary to clarify who will pay all related costs that a party would normally be responsible for – *i.e.* any court fees, filing fees, witness fees, copying fees, transcript fees, mediation fees, guardian ad litem fees and/or discovery fees.

Current Caseload

The Tribe's Judicial system has been steadily growing over the past several years, especially since the state courts began transferring child support and paternity cases over to the Tribal system in 2009. The following chart shows the number of cases filed in each of the three main Tribal Judicial System divisions over the past four years:

Cases Filed	**2011**	**2012**	**2013**	***2014*** **
Trial Court*	283	328	336	*366*
Family Court	606	577	649	*494*
Appellate Court	30	24	19	*15*
Total	**919**	**929**	**1004**	***875***

*The Trial Court also includes Tribal debt and Garnishment cases.

*** This information is not complete – it is current as of 11/1/14, but more cases are likely to be filed in the two months remaining in the year)***

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The chart above shows the total number of cases filed in a given year; which can help with projecting how many cases would have to be assigned, on a yearly basis, by any system of attorneys and advocates. However, those numbers do not provide any information about active cases – a case is considered active from the time the court receives a filing until an order has been entered. On November 12, 2014, there were 104 active cases in the Tribe's Judicial System - 84 in Family Court, 14 in the Trial court and 6 in the Appellate court. Although the number of active cases is just a snapshot in time and will fluctuate, this information can also be used to project the amount of legal professionals that would be needed to cover the demand.

Current and past legal assistance/advocacy services available to Tribal members

Current Tribal Services

The primary Tribal resource for legal assistance is the Employee Advocacy Department (EAD), which provides services for all employees, not just Tribal members. Currently, the EAD does not charge fees. Consisting of two paralegals, the EAD only answers/advises employees on matters that fall under tribal jurisdiction (primarily employment matters) – but nothing related to state law and no actual involvement outside of employment actions in the Tribal system.

Because the services offered by the EAD were scaled back in January 2014, (see below) if a person needs more than a simple consultation, basic assistance with paperwork, or employee representation, the EAD is often only able to offer that person a listing of the attorneys and advocates who have been authorized to practice before the Judiciary/Family Court[1]. If that person wants to use one of those attorneys or advocates, that party is responsible for working out payment arrangements with the attorney or advocate – the Tribe does not cover these services.

Although specific records were unavailable, one of the two EAD paralegals had 162 "contacts" in FY14 and 192 in FY13. (Contacts are consultations with persons seeking legal assistance – sometimes these consultations led to representation or document drafting; other contacts just involved a conversation – discussing the client's options, providing referrals, etc.) The other paralegal estimated that she had a similar amount of contacts, and when there was a staff attorney, she also had an unknown number of contacts. Very roughly speaking, this means that in a year, the EAD provides consultations for 300-500 persons seeking legal assistance.

Tribal Services offered prior to 2014

For approximately 20 years up until January 2014, the EAD had been called the Legal Resource Center. (The name was changed after the one staff attorney retired and that position was not re-filled, leaving only two paralegals to continue operations.) When the Center had an attorney on staff, it had offered a very broad range of legal services for enrolled Tribal members including criminal defense, family law, housing – evictions and foreclosures; guardianship actions, probate, civil forfeitures and small claims actions. In addition to frequent consultations and legal advice, the Center provided services including:

- Representing members in various civil, criminal and family law cases in not only the Tribal System, but also Brown and Outagamie circuit courts and local municipal courts.
- Drafting documents such as wills or pleadings for cases for persons who were not represented by an attorney.
- Assistance with filling out legal forms.

[1] The Family Court is a division of the Judiciary; however the Family Court was established and became operational before the rest of the Judiciary. The Family Court will merge into the Judiciary once the Judiciary is up and running. Currently,

These services were not provided for free, but cost less than the rates usually charged by an attorney. For persons who were not seeking representation, the Center charged $60 per page for the attorney to prepare forms and $30-$200 for a paralegal to draft various documents. Depending on the type of case, the Center charged between $100-$1000 per case for attorney representation, and $50 to $650 per case for paralegal assistance/representation. Represented clients were also required to pay a flat fee of $50-$120 for mileage and were responsible for paying all other costs/fees related to their case (court, filing, witness, copying, transcript, mediation, guardian ad litem and discovery fees; any ordered fines/forfeitures).

The Center represented 15 Tribal members in different cases in 2010, 31 in 2011, 22 in 2012 and 17 in 2013. The Center also drafted legal documents for 5 Tribal members in 2010, 4 in 2011, 8 in 2012 and 6 in 2013.

Other Tribal programs commonly thought to provide assistance

There are two Tribal resources which are commonly believed to provide legal assistance for Tribal members, however this is inaccurate:

- The Community Support Fund provides financial assistance for Tribal members in various emergency/hardship situations; but specifically states that funding will not be provided for legal fees/court costs/judgments[2].
- The Oneida Law Office primarily provides legal support for the OBC, Tribal Government and tribal operations; and does not typically represent individual members.

Is the Tribe required to provide any sort of legal representation for any parties?

Federal Law

The only requirements under federal law pertain to criminal proceedings. Under the Indian Civil Rights Act tribes cannot **"**deny to any person in a criminal proceeding the right […] at his own expense to have the assistance of counsel for his defense", except that the tribe must provide an indigent defendant with a defense attorney if the crime could be punishable by more than one year.[3] The Oneida Tribe is not exercising criminal jurisdiction at this time, so this requirement is not currently applicable.

State Law

In addition to criminal proceedings, Wisconsin law also allows for a "public defender" to be provided for parties for a limited range of non-criminal proceedings, including for respondents in a paternity action when genetic testing fails to conclusively prove or disprove paternity[4]; and minor children and/or parents for various proceedings under Chapters 48 and 938 of the Wisconsin Statutes, primarily related to juvenile delinquency, removal or placement of a child outside of their home, children in need of protective services, termination of parental rights, minors seeking to waive the parental consent requirement for an abortion, and contested adoptions.

Regardless of whether it is a criminal action or not, under Wisconsin law, public defenders are not automatically provided to any party for free. Instead, a fee schedule identifies all of the various types of cases a public defender may be assigned to, and for each type of case, there is one flat fee. When a public defender is assigned, then the client (or their guardian/representative) is responsible for paying for the public defender unless they can show they cannot afford to pay,

[2] See the Community Support Fund Policy, 7-1(g)
[3] 25 USC 1302(a)(6) and (c)
[4] See Wis. Stat. 977.08(2)(h) and 767.83

in which case they may be allowed to pay a lesser amount (or nothing) based on a sliding fee scale.

When determining whether a person has the ability to pay, the court will not only consider income, but also any assets that the client has that could be available to pay the costs. Also, if a person is initially determined to be unable to pay for a public defender, but this later changes, they may then be required to pay for the services they received.[5]

What sort of Tribal legislation would be required to implement this request, and who would create/adopt it?

To ensure consistency, any legislation and/or supporting rules that create a support system of paralegals, advocates, and attorneys (hereinafter: "legal professionals") should, at a minimum, address the following:

- **Establishment.** Establishing the system by law, identifying any authorities and responsibilities, licensing requirements, etc.
- **Regulation.** Identifying qualifications, standards and ethics requirements for attorneys, paralegals, and advocates. Ethics requirements should address attorney-client privilege, and any duties owed to the client and/or to the Tribe – i.e. what to do when the best interests of the Tribe are different from the best interests of the client[6]. Rules protecting confidentiality and establishing "screens" may be necessary if opposing parties are assisted or represented by persons from the same office.
- **Scope and Application.** Identifying whether a Tribal member is entitled to legal services; when services would be provided; the extent/scope of services to be provided (for example, under Wisconsin law a public defender assigned to a paternity action only represents the respondent in matters directly related to the paternity action - not ancillary actions like child support or visitation rights); when/how representation ends, and what happens if counsel or client wants to end their relationship before the case is complete.
- **Payment.** Identifying how legal professionals would be paid – i.e. through the Tribal budget or by clients; whether there would be reduced-cost or free assistance available; whether/how parties can appeal determinations about whether they qualify for assistance.
- **Enforcement and Due Process.**
    - If the legislation creates an absolute right/entitlement for Tribal members to receive legal assistance, then it should also identify what happens if a Tribal member does not receive the assistance they are entitled to.
    - Identifying acceptable standards for representation, and what happens if representation is provided that fails to meet those standards; and whether ineffective assistance of counsel could affect a decision/make it appealable.
    - An appeal process for attorneys/paralegals/advocates who are denied admission to practice before the Judiciary, or whose admission is suspended/revoked.

The legislation needed to create a system of legal professionals could be generated by the Judiciary, the OBC, or GTC; and adopted by either the OBC or GTC.

Judiciary. The Judiciary and Family Court laws set out a process by which the Court can create (and the OBC then adopts) "rules of pleading, practice and procedure to regulate all

[5] Wis. Stat. 977.075 and the correlating Public Defender Rules (Chapter PD 6).
[6] For comparison, see Wisconsin Supreme Court Rule 20 – the state's ethical requirements for attorneys.

hearings conducted before" the Court.[7] Depending on what sort of system is sought by this petition, it may be possible to establish the system by creating such a rule.

OBC. The OBC could establish a system by adopting a law in accordance with the Tribal legislative process, as set out in the Legislative Procedures Act.

GTC. The Oneida Constitution[8] authorizes the government to promulgate and enforce ordinances establishing "proper agencies for law enforcement upon the Oneida Reservation;" and to adopt resolutions "regulating the procedure of [tribal agencies, officials or organizations …]." A system of professionals providing legal assistance would appear to fall under either category. In short, GTC could establish a system in one of at least three ways:

- Adopt a complete law establishing such a system (this is the process used to adopt the Judiciary Law, the Legislative Procedures Act, the Notary Law, etc.)
- Establish general requirements by resolution, delegate authority to a specific entity, and allow the delegated entity to establish more specific rules (this is the process used to establish the Higher Education Scholarship Fund); or
- Direct the OBC to adopt a law creating the system, with or without any more detailed, specific requirements (this is the process used to adopt the Judicial Canons). This gives the OBC the liberty to establish a more detailed, comprehensive law, as long as it does not conflict with GTC direction.

Would any existing Tribal legislation be affected?

Depending on the type of system that is created, various laws and/or procedural rules may need to be revised to address the legal representation. This is most likely going to affect the Judiciary and Family Court laws, Rules of Civil Procedure, Rules of Appellate Procedure, Rules of Evidence, and possibly the Judicial Canons.

It may be necessary to review the Open Records and Open Meetings Law, at least to ensure there would be no problems with when/how legal representatives can obtain Tribal records on behalf of a client.

And finally, all other laws and policies that provide for hearings or an appeal process may need review, to ensure any provisions discussing a party's right to representation, or discussing the availability of legal assistance, are correct and do not cause conflict (for example, if a law provides for persons to have a hearing but says that parties have the right to counsel at their own expense; this may conflict if a new system is created that is intended to provide counsel at no expense.)

Potential Issue: "Enrolled Oneida Tribal Members"

If a system is established that automatically provides free legal services for Tribal members only, the non-Tribal member will either have to pay for comparable services, or risk going into a case without legal representation while the other party is represented. This could appear to put the non-Tribal member party at a distinct disadvantage.

Under Wisconsin law, state courts can transfer various types of cases over to a Tribal court, when both court systems have jurisdiction over the case. However, if all parties do not agree to the transfer, the state court is required to consider "all relevant factors" before deciding whether to transfer the case, including:

[7] See the Judiciary Law, 150.10-1 and the Family Court Law, 151.9-2

[8] *See Oneida Constitution, Article IV, Sections 1(f) and (i).*

- The relative burdens on the parties, including cost, […] and matters of process, practice, and procedure, […] and
- Any other factors having substantial bearing upon the selection of a convenient, reasonable and fair place of trial[9].

Both of those factors may be affected by a system that provides legal assistance for Tribal members only - transferring a matter to the Judiciary could impose a greater "relative burden" on a non-Tribal party, and providing legal assistance for one party but not the other could affect a determination of a "reasonable and fair place of trial."

Potential Issue: Impact of Providing Free Legal Assistance

Although a fiscal analysis will provide a detailed look at the financial effects of this petition, this analysis will discuss one potential issue that could arise.

When both parties must pay for their own legal counsel, the parties have substantial incentive to settle their dispute quickly and efficiently. Parties can be more willing to negotiate or be flexible in order to limit the costs of litigation. When a party is not responsible for attorney's fees, there is no financial incentive to limit the proceedings.

When the Tribe's Legal Resource Center initially began offering services, they were provided for free. However, as time passed, the Center began charging fees because they found that it meant clients were more apt to be involved and were more invested in their case. According to one paralegal from the Center, "[I]t made us get the more serious client, instead of those that take advantage because the service was free and would just drop everything in our laps and doing nothing to further their case."

There are various ways that this issue could possibly be addressed – for example by limiting the scope/amount of free representation/assistance that is provided to each client; or by establishing that if a member cannot afford to pay for legal assistance when they need it, then they can still be provided with an attorney/advocate but will be required to sign a document authorizing the organization to collect their future per capita payments until the legal fees are paid in full.

Do other tribes provide legal assistance for their courts/tribal members?

A review of other tribes' laws shows that there are many common elements and themes, but that each tribal court system is somewhat different as to whether/how they provide legal representation/assistance.

- Research did not find any other tribal court system that provided legal assistance, free of cost, to all Tribal members for all matters before their tribal court.
- Many tribes do not provide legal representation for members, but include provisions in their laws that permit parties to be represented by counsel, at the party's own cost[10].
- Many tribal codes provide for counsel to be appointed for a party; but almost always only when the party cannot afford an attorney,[11] and usually only for criminal cases and/or very limited non-criminal proceedings.[12]

[9] Wis. Stat. 801.54(2)(j) and (k)

[10] See for example: Oglala Sioux Tribe Law and Order Code, Chapter 5 (Juvenile Code), Sault Ste Marie Tribal Code Ch. 87; Puyallup Tribal Code 4.04.440 Rule 44.

[11] See for example the Fort Peck Comprehensive Code of Justice, Title 2 Ch. 5, 2014.2, (the court may appoint an attorney) Stockbridge Munsee Tribal Code 1.33 (the court may provide an advocate), Tulalip Tribe.

- Like the Judiciary, many tribes only permit attorneys, advocates, etc. to practice in their courts if they are members of a tribal Bar or have formally been authorized/admitted to practice in the tribal court[13].
    - Many tribes have a tribal Bar exam, usually testing legal knowledge and tribal history. Many other tribes only require an application and usually, a fee.[14] Most tribes check an applicant's criminal history.[15]
    - In order to be admitted to practice in tribal court, many tribal courts require attorneys to be a licensed member in good standing of the Bar in any state or federal jurisdiction[16].
    - Many tribes permit some form of non-attorneys (advocates, spokespersons, etc) to represent/assist parties. Almost always, they must be members of that tribe[17], although at least one court permits members of any tribe[18]. A few tribes require advocates to complete some sort of training, but many do not.
    - As a condition of being admitted to practice in their court, some tribes require legal representatives to provide a certain number of pro-bono hours to indigent tribal members.[19]
- Usually, attorneys and advocates are admitted to practice/regulated by the tribal court (i.e. the court establishes qualifications and administers any tribal bar exams). However, at least one tribe, the Standing Rock Sioux, has public defenders appointed by their Business Committee, which can also terminate them at any time with cause.
- Many Tribal Court systems partner with, or receive services from, an outside organization that provides legal assistance. For example:
    - The Tulalip Tribal Court has an Office of Civil Legal Aid which provides legal assistance to low-income members of federally-recognized tribes with civil matters such as consumer law, family law, housing, estate planning.
    - Non-Profit Columbia Legal Services, has attorneys admitted to the Muckleshoot Court Bar for serving low-income clients with civil matters.
- Many tribal court systems have programs or rules that permit law students to represent clients in their courts; generally under the direct supervision of a licensed attorney or a law clinic/law program supervisor who is fully responsible for the student[20]. At least one tribal court permits local community college students to represent parties in proceedings, as long as the student is "attending legal courses" and completed at least 6 credits of legal studies including tribal codes and federal Indian law[21].

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[12] See Oglala Sioux Juvenile Code - counsel provided for involuntary commitment hearings and various proceedings under the Children's Code.
[13] See Muckleshoot, Standing Rock.
[14] See Hualapai Tribe (application only) and Stockbridge-Munsee (advocates must pass a bar exam, but the Court also has discretion to admit advocates with experience/education and a necessary understanding of the law.
[15] Hualapai Tribe only asks if the applicant committed any felonies/misdemeanors within the past 12 months.
[16] See White Mountain Apache Tribe, Sault Ste Marie; San Manuel, Standing Rock.
[17] See Oglala Sioux Juvenile Code, Standing Rock, Leech Lake, Tulalip, San Manuel, White Mountain Apache.
[18] For example, Muckleshoot.
[19] For example, Leech Lake.
[20] See the White Mountain Apache, Spirit Lake and Ft. Peck tribal courts (permitting law students to practice under the supervision of an attorney) the Muckleshoot Tribal Court (University of Washington Native American Law Center provides Public Defender Services by law students for dependency actions), the Tulalip Tribal Court Public Defense Clinic (clinic supervisors assisted by second and third year University of Washington law students)
[21] Ft. Peck tribal court Student Practice Rule 1-16.

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Legislative Analysis

ATTACHMENT A

Other Potential Legal Services Currently Available to the Membership

In addition to the Employee Assistance Department, Tribal members who need legal assistance have various options in addition to hiring an attorney on their own. Some of those options are listed below.

Please note: this list is not exhaustive and is only being provided to demonstrate the availability of other resources – this is not intended to be read as an endorsement of any organization listed.

- **Legal Action of Wisconsin** - LAW (http://www.legalaction.org/) is a civil legal aid provider for Brown and Outagamie Counties. Clients must have income below 125% of the federal poverty level. LAW provides services on a limited number of civil topics, including family law, landlord-tenant issues, and consumer law issues.
- **Community Justice, Incorporated** (http://www.communityjusticeinc.org/) is a non-profit law firm that provides people with access to justice by offering affordable legal services from qualified and dedicated attorneys.
- **The State Bar of Wisconsin Modest Means Program** (http://www.wisbar.org/forPublic/INeedaLawyer/Pages/Modest-Means.aspx) connects individuals with moderate incomes (over 200% of the poverty level) with attorneys that have agreed to take less than the prevailing rate.
- For those in the SEOTS area, the **Legal Aid Society of Milwaukee** (http://lasmilwaukee.com) provides free legal assistance to needy Milwaukee County residents with civil legal problems and **SeniorLAW** (part of LAW) provides free legal assistance to Milwaukee County residents aged 60+.
- A number of specialized statewide agencies provide free or low cost attorneys in specific fields (although sometimes representation is limited to "impact cases," where a victory for one client affects many similarly-situated individuals.)
    - **Disability Rights Wisconsin** (http://www.disabilityrightswi.org) helps people gain access to services and opportunity through advocacy and legal expertise, and works on disability issues with state and local governments.
    - **ABC for Health** (http://www.safetyweb.org/) – a public interest law firm connecting Wisconsin families to health care.
    - **American Civil Liberties Union of Wisconsin** (http://www.aclu-wi.org/get-legal-help) accepts a limited number of cases relating to freedom of speech or religion, privacy, discrimination, police misconduct, censorship, fairness in application of school discipline, and other issues of fair treatment by government.
- There are also a number of semi-legal service providers, providing services similar to what a lawyer might provide – for example assistance with filling out forms, answering questions, offering guidance or advice. Examples include:
    - **Great Lakes Inter-Tribal Council (GLITC) Tribal Disability Benefit Specialist Program** (http://www.glitc.org/programs/tdbs/) provides assistance and advocacy for tribal members aged 18 – 59 with disabilities. A Specialist can help determine which benefits tribal members are entitled to, identify a process to apply for benefits, assist in the application process, and assist in an appeal process if necessary. Specialists are trained to help tribal members with Social Security

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Disability Income, Supplemental Security Income, Medicare, Medical Assistance/Health Insurance, Food Share, Utility Assistance and Veterans Benefits.

- **Aging and Disability Resource Center of Brown County - Disability Specialists** (http://www.co.brown.wi.us/departments/) This is similar to the GLITC program, but only services Brown County and has less focus on Tribal benefits.
- **Greater Wisconsin Agency on Aging - Elder Benefit Specialist Program**- (http://www.gwaar.org/for-professionals/elder-law-and-advocacy-center/elder-benefit-specialist-program.html) - helping elderly people who are having problems with private or government benefits.
- **Wisconsin Fathers for Children and Families** (http://www.wisconsinfathers.org) offers resources and guidance tailored to fathers, primarily with family law and domestic violence issues.
- **Wisconsin Coalition Against Domestic Violence (WCADV)** – (http://endabusewi.org) helps persons in need of various types of assistance due to domestic violence. The website also has links to numerous other resources which may be useful.

- **The Indian Law Office of Wisconsin – Judicare** (www. Judicare.org) has a broad host of services available to Tribal members, including:
  - Legal representation before the Judiciary (not state court) for low-income (less than 200% of the federal poverty level) Tribal members on most civil issues.
  - Public benefit advocacy, powers of attorney, and estate planning services to tribal elders who are below 200% of the federal poverty level.
  - Every 2-3 years, Judicare provides an Indian Wills Caravan – where attorneys and law students travel to the Tribe and provide estate planning services for all Tribal members regardless of income.
  - Judicare may also provide some state court representation on restraining orders, family law, or other issues related to domestic violence.

Currently, Judicare provides a broader range of services for members of the Ho-Chunk Nation, because the Ho-Chunk Nation has contracted directly with Judicare to provide this assistance for their membership. David Armstrong, director of Judicare, has indicated that it would be possible to establish a similar arrangement between Judicare and the Oneida Tribe. Under such an arrangement, Judicare would provide services on a broader range of topics and could raise clients' income eligibility threshold, meaning they would be able to provide assistance to a wider range of Oneida Tribal members.

The cost of contracting services to Judicare would depend on exactly what services were covered under any agreement with Judicare.

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ONEIDA TRIBE OF INDIANS OF WISCONSIN

Oneidas bringing several hundred bags of corn to Washington' s starving army at Valley Forge, after the colonists had consistently refused to aid them.

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possble.

ONEIDA FINANCE OFFICE
Office: (920) 869-4325 • Toll Free: 1-800-236-2214
FAX # (920) 869-4024

MEMORANDUM

DRAFT DRAFT DRAFT

DATE: February 3, 2015

FROM: Larry Barton, Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: Fiscal Impact of the Powless Petition - Advocates in Oneida Judiciary

I. Background

On September 8, 2014, Gina Powless submitted a petition to the Tribal Secretary's Office. The petition states, "To create a support system of paralegals, advocates and attorneys to assist and advocate for Oneida enrolled Tribal Members that are engaged in any case with Oneida Judiciary".

To define these positions, according to the American Bar Association, a paralegal is "A legal assistant or paralegal is a person qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity who performs specifically delegated substantive legal work for which a lawyer is responsible." Under this definition, the legal responsibility for a paralegal's work rests directly and solely upon the lawyer. An "Advocate", according to the rules of civil procedure shall mean "an Oneida non-attorney advocate as provided by law and other advocate who is admitted to practice law and is presented to the Court as the representative or advisor to a party". An "Attorney" shall mean "a person trained and licensed to represent another person in Court, to prepare documents and to give advice or counsel on matters of law".

In the past, the Legal Resource Center was available "to provide understanding, information and assistance with the Oneida Nation's laws, policies and procedures through communication and representation". Currently, without a practicing attorney, the area has been reorganized, with the remaining paralegals, into the Employee Advocacy Department with a FY '15 budget of $249,876. Internal to the organization, no other area provides legal representation to individuals.

Other Tribes

According to the Legislative Reference Office, no tribes were found that provide free legal assistance to all their members. However, some tribes do contract services with local entities for low income clients. For example, The Department of Justice for the Ho-Chunk Nation states

"the Ho-Chunk Nation Tribal Attorneys do not provide representation to individual Tribal Members or persons with individual legal issues. The Tribal Attorneys are contracted and duty-bound to represent the legal interests of the Ho-Chunk Nation, its agencies and entities. Therefore, the Department cannot give legal advice or represent Tribal Members in any capacity".

The Ho-Chunk Nation has an agreement with one of the two Legal Services Corporations in Wisconsin. They are Wisconsin Judicare and Legal Services of Wisconsin. Judicare, Inc. is paid $50,000.00 annually for legal services to low-income Tribal members. The agreement stipulates that the income criteria for services shall be no more than 200% above the Federal poverty level and the cost is capped at $1,000. According to Chief Counsel's memo, the Ho-Chunk agreement with Judicare covered approximately 100 cases in a three year period. Their legal services are NOT limited to representation only in the Ho-Chunk's Judiciary.

Other Governments

No government is required to provide legal services with some exceptions for criminal matters. The two Wisconsin Legal Services Corporations were created to assist individuals with low income. There are also some specialty legal services available for free or at a low cost to seniors or disabled individuals.

II.Executive Summary of Findings

A. Oneida to provide services in-house.

The estimated personnel costs are based on Chief Counsel's assumptions and the Furniture & equipment costs were received from purchasing on another recent petition. Attached is an estimated start-up budget for operations.

It is unknown if the staff & budget from the Employee Advocacy Department would be absorbed by a new legal services department. Or if they would maintain their new focus strictly on employee matters. The approved FY '15 budget for Employee Advocacy is $249,876.

B. Contracted Service

Approaching this as other Tribes have done, Oneida could contract for the service through an existing legal services corporation. The Ho-Chunk Nation gave Judicare $50,000 in fy '13-14 for legal aid to low income members in Wisconsin. The Ho-Chunk has approximately 6,500 members in Wisconsin according to the 1990 US Census records. However, only approximately 100 cases/members have utilized the Judicare Agreement for services in the last 3 years.

Due to the differences between the petition and the agreement the Ho-Chunk have in place, it's difficult to estimate any cost comparison for negotiated services.

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Oneida petition	Ho-Chunk Agreement
Restricted to Oneida Judiciary	No restrictions, i.e. Tribal, State, etc.
Approximately 11,000 members in WI	Approximately 6,500 members in WI
No income requirement	200% of Federal Poverty Guideline
No cap on costs	$1,000 cap

III. Financial Impact

A. Oneida to provide services in-house–Estimated to be approximately $448,610

This does not take into consideration that Employee Advocacy may be incorporated. Their FY '15 budget is $249,876. Including start-up costs and factoring for inflation, **over 10 years the fiscal impact is $3,685,611**

B. Contracted Service

The circumstances between the Ho-Chunk-Judicare Agreement and the petition are too dissimilar to use it as a benchmark to gage what the cost would be to Oneida. However, if similar constraints were placed on the costs and services, one could reasonably assume that the expenses would be similar.

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has full information with which to render a decision.

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Estimated Start Up Costs
Support System for Attorneys, Advocates, Paralegals

Personnel				
Managing Attorney	$55,792			
Staff Attorney	$50,629			
2 Paralegals	$66,664			
Grant Writer	$40,844			
Secretary/Clerical	$28,373			
Subtotal	**$242,302**			
Fringe	$83,110			
Indirect	$40,707			
Professional Liability Insurance	$ 5,000			
Total	**$366,118**			
Business Office	**Per item cost**	**Quantity**	**Total**	
copier machine (monthly)	$ 200	1	$ 2,400	lease payments
time clock	$ 4,200	1	$ 4,200	KRONOS system
answering machine - phone system	$ 20,412	1	$ 20,412	
desk	$ 636	6	$ 3,816	
chairs	$ 371	6	$ 2,226	
filing cabinets with locks	$ 703	6	$ 4,218	
computer system/printer/scanner	$ 3,450	6	$ 20,700	
Subtotal			**$ 57,972**	
Reception/Waiting Area				
chairs	$ 652	8	$ 5,216	
side tables	$ 275	4	$ 1,100	
television	$ 530	1	$ 530	
lamps	$ 260	2	$ 520	
artwork/plants	$ 104	4	$ 416	
clock	$ 26	1	$ 26	
Subtotal			**$ 7,808**	
Signage				
interior	$ 88	4	$ 352	
exterior	$ 5,660	1	$ 5,660	
Subtotal			**$ 6,012**	
Staff Lounge/conference room				
refridgerator	$ 990	1	$ 990	
Misc. equipment	$ 1,602	1	$ 1,602	
table	$ 332	1	$ 332	
chair	$ 292	6	$ 1,752	
Subtotal			**$ 4,676**	
Supplies			$ 2,000	
Occupancy Charge			$ 4,024	
P&C Insurance			$ 5,000	
Grand Total			**$ 448,610**	

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Oneida Tribe of Indians of Wisconsin

BUSINESS COMMITTEE

Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040

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MEMORANDUM

TO: General Tribal Council

FROM: Oneida Business Committee

DATE: February 25, 2015

SUBJECT: Gina Powless Petition – Advocacy in Judiciary

Gina Powless submitted a petition requesting the General Tribal Council to consider approving a motion which would direct that advocates be provided for members appearing in cases in our Judiciary. Her reasoning for this request is that the new rules of procedure for the Judiciary are complex and difficult for the average person to understand. We have reviewed the petition and the analysis presented by our legislative and legal departments. Based on this information, we are recommending that the General Tribal Council not adopt the requested action in this petition.

The Judiciary, at the time this petition was submitted, had not yet opened its doors to acceptance of cases and judges were still proceeding through training on the new systems. As we were reviewing the materials and drafting our recommendations, the Judiciary had only just begun accepting cases. We agree that the new rules regarding the Judiciary are potentially confusing. However, there is no indication that the Judiciary will not make every effort to make sure the courts are open and understandable to the lay person.

Our experience with the Oneida Appeals Commission shows us that lay persons can successfully navigate a hearing process. Further, that there were members that were able to understand that process and become advocates for others. We even found that area attorneys became comfortable arguing within the Oneida Appeals Commission. There is nothing at this time that would indicate that the Judiciary will not also become a similar forum.

We believe that the concern is valid and that it does deserve our monitoring of the Judiciary to ensure that members have an open and understandable hearing process. If there are indicators

that this is not occurring, we have the ability to make legislative changes to the rules to encourage the creation of that environment. Simply put, it is too early to say that the Judiciary will not make the appropriate adjustments to accommodate Tribal members who represent themselves.

Recommended Action: Motion to direct the Oneida Business Committee to monitor the Judiciary processes to ensure the processes and procedures are implemented in a manner that is understandable to unrepresented Tribal members.

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JUDICIARY UPDATE RE: SELF-REPRESENTING LITIGANTS

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(MULTIMEDIA PRESENTATION)

TOPIC:
PETITIONER
NANCY BARTON

OPEN AN EMERGENCY FOOD PANTRY

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Oneida Nation

Certification of Petition Signatures

TO: General Tribal Council
FROM: Lisa Summers, Tribal Secretary
DATE: June 22, 2016
RE: Frank Cornelius Petition re: Emergency Food Pantry

Certification of Sufficient Petition Signatures:

Petitioner Name:	Nancy Barton
Date Submitted:	October 7, 2015
Total # of signatures submitted:	50
Total # of invalid signatures:	0
Total # of valid signatures:	50

Fifty signatures were verified by the Oneida Enrollment Department on October 7, 2015. The number of signatures submitted by the petitioner is sufficient.

Petition: A copy of the petition statement is provided here:

PURPOSE: Emergency Food Pantry

The full petition is available per the Open Records and Open Meetings Law. Contact the Business Committee Support Office for more information at (920) 869-4364.

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I am submitting the following petition to General Tribal Council to approve opening an Emergency Food Pantry. I am requesting that this pantry be located in the now vacant former Tower Foods. This site is adjacent to the Food Distribution Program and newly developed garden. This pantry would serve those households where an enrolled Tribal Member resides.

The income guidelines would remain consistent with state and federal eligibility but discretionary measures will be put in place to review each case on a case by case basis. Circumstances of eligibility would include but not be limited to interruption of family income, job loss, change in family composition, homelessness.

I am requesting the following funding sources be transferred to the Emergency Food Pantry

$50,000 from Center for Self Sufficiency (Festival Food Cards)

I am requesting the following Tribal entities supply to the Pantry

Oneida Nation Farm: Buffalo, Grass Fed Beef eggs chicken

Tsyunhekwa, Cannery White Corn Other products

Apple Orchard: Apples

RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE
OCT 7 2015
ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS K

I am requesting that the GTC approve suspending all food purchases at the Oneida Radisson for meetings, conferences and summits. This previously budgeted amount would be transferred to the Emergency Food Pantry.

Any and all other funding sources including current applicable grants that will benefit the most enrolled Tribal Members be transferred to the emergency food pantry.

I am requesting GTC to approve hiring a Manager and 2 warehouse workers all other positions would be volunteer. This manager would report quarterly to the Business Committee and directly to General Tribal council by report form at the Semi- Annual and Annual meetings. These reports shall include financial, and statistical data, trends, successes and problems. Manager must have three letters of recommendation of prior experience working in the social services.

I am requesting to reinstate the 2008 budget for this food pantry when the program was terminated.

I am requesting that the Tower Foods Building be prepared to meet the needs of Oneida Tribal Members who are requesting food.

I am requesting the following supplies and equipment: A van for delivery and pick up. A Forklift, and 2 dollies. Computer software and office supplies, Freezer and refrigerators

I am requesting the doors of this Emergency Food Pantry be opened on Oct. 1 2016. Hours of pick up would be from 9:00 to noon Monday thru Friday.

Job Requirements: Must be Enrolled Tribal Members

RECEIVED
OCT 07 2015
Oneida Enrollment Dept.

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JO ANNE HOUSE, PHD
CHIEF COUNSEL
JAMES R. BITTORF
DEPUTY CHIEF COUNSEL
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ROBERT W. ORCUTT

(920) 869-4327 FAX (920) 869-4065

MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: February 23, 2016

SUBJECT: Petition – Barton – Food Pantry

You have requested a legal review regarding a petition submitted by Nancy Barton. The petition contains an attached list of items related to the development of a food pantry. The Enrollment Department has verified a sufficient number of signatures on the petition.

To draft this opinion, I have reviewed prior actions of the General Tribal Council, Tribal law, policies and procedures, and various other resources. This opinion is broken into sections to address the issues raised in the petition – hunger/food insecurity, food pantry programs, Oneida Food Pantry/OPEN, Oneida Food Card, and food pantry operational costs.

Background

Hunger or Food Insecurity

The U.S. Department of Agriculture, paired with other survey activities such as the Census, surveys families on hunger.[1] The USDA defines hunger as "food insecurity." A food secure household has "consistent, dependable access to enough food for active, healthy living[.]" *p. 1.* This may consist of supplemental food programs such as SNAP (Supplemental Nutritional Assistance Program), WIC program (Women Infants and Children), school lunch programs, and food pantries and food-kitchens. The USDA identifies that "…households were classified as having…food insecurity if they experienced the condition at any time during the previous 12 months." *P. 10.* This means that, "..on any given day [food insecurity] is far below the corresponding annual prevalence." *P. 10.*

Food insecurity increased significantly between 2007 and 2008 and has been tapering off slowly since that time. Although the year to year change is not significant, overall there has been a decrease. Food insecurity occurred in 14.3% of the U.S. households, with 5.6% of the households as being very low food secure. However, as identified above, the USDA has identified that "when households experience very low food insecurity…the resulting instances of

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[1] The latest study "Household Food Security in the United States in 2014" is located at www.ers.usda.gov/publications/err-economic-research-report/err194.aspx.

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reduced food intake and disrupted eating patterns are usually occasional or episodic but are not usually chronic." *P. 11.*

The report identifies that those living in the South are more likely to experience food insecurity, those living in the West lease likely, and those living in the Northeast and Midwest are equally likely. Further, you are least likely to experience food insecurity if you live in an unincorporated city. Finally, females with children and no spouse are about 35% of food insecure households, and single females are about 15% of households without children who experience food insecurity.

As identified above, the United States experiences about 14.3% food insecure households, with 5.6% of those who are very low food security households. However, Wisconsin specific rates are 11.4% and 4.9%.[2] Statistics for the Brown and Outagamie County area averages are lower with 9-10% food insecure households.[3] Brown County population, from 2010 information, is identified as 2.4% Native American, 11.6% age 65 and older, and 25% age 18 and under. However, not every Native American living in Brown County is food insecure; it is actually some percentage less than 2.4% of 11.2% of the Brown County population. Further, the food insecurity rate is based on households, whereas the population is based on individuals, who may be residing the same household. This is further discussed below.

Food insecurity is based on a survey which individuals self-identify whether the household has sufficient food on any given day of the year. However, to identify what is spent on food to calculate food security and/or food service levels in nutrition programs, the USDA utilizes the Thrifty Food Plan developed by the Center for Nutrition Policy, an office with the USDA. The Thrifty Food Plan identifies a healthy diet, an average nutritional need of an individual and of a family, based on costs of food types. The Thrifty Food Plan is used to set rates for programs like food stamps and WIC, a sample of those rates on monthly spending are set forth in the following table.[4] In addition, the USDA also reports on three other plans – Low-Cost Plan, Moderate-Cost Plan and Liberal Plan. Each of the plans is based on home-preparation of meals and snacks.

Monthly Average Food Expenditures

	Thrifty Food Plan	**Low-Cost Plan**	**Moderate-Cost Plan**	**Liberal Plan**
Male age 19-50	$187.00	$241.70	$302.90	$373.20
Female age 19-50	$165.20	$209.50	$259.10	$330.10
Family of 4, children ages 7 & 10	$648.80	$851.90	$1062.20	$1290.10

[2] See USDA website for database information. Note, as the information becomes more specific to state and county, the margin of error for the statics becomes greater. Meaning, the percentages could be more or less than that reported by 1 or 2 percent.

[3] See information based on legislative districts presented by Feeding Wisconsin at http://www.feedingwi.org/data___research/food_insecurity_rates.php. This is a larger area than Brown County, but would tend to cover the entire Reservation.

[4] "Official USDA Food Plans: Cost of Food at Home at Four Levels, U.S. Average, December 2015," located at www.cnpp.usda.gov.

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A USDA study identified that low income families, when faced with additional allocations of food or food stamps, will generally not increase overall spending on food.[5] Instead, existing funds will be reallocated to other needs. In other words, an additional $10 in food stamps does not result in an additional $10 in food. Further, food budgets were first allocated to meat, eggs, cereals and bakery products. Expenditures for fruits and vegetables increased only if the overall income of the household rose above 130% of the poverty line.

Food Pantry – Best Practices

In 2008 the Ward Family Foundation, Inc. conducted a survey of food pantries in the United States to identify best practices.[6] This study was consistent with the 2007 publication "How to Run a Food Pantry" by Jeff Thomas and a recent publication by Wisconsin Community Action Program.[7] The study found the following were best practices for food pantries. *Pp. 11-12.*

- The total annual budget averaged about $0.25 per pound of food (total annual budget divided by the pounds of food distributed per year)
- Served over 40 pounds of food per person per month
- The total annual budget averaged about $500 per person served (total annual budget divided by the number of people served per year)
- Adequate equipment to fully accommodate the needs of clients (refrigerators, freezers, shelving)
- Provide 5 of 7 broad categories of food (fresh fruits and vegetables, meets, frozen entrees, and dairy products)
- Policy of trying to reduce long-term dependence on the pantry by a client, but serve everyone
- Maintains a database of client information and allows for follow-up with client
- Repeat or regular clients are less than 30% of total clients
- Rarely has to turn away clients because of lack of food
- Provides other services to clients (counseling to obtain food stamps, medical assistance, healthy nutrition, job training)
- Engages independent pantry to evaluate services

Food Distribution/Donations

Food pantries distribute primarily canned goods, breads and other grains, meats and dairy products. USDA identifies that 37% of the food pantries deliver on average, between 30 and 40 pounds per household.[8] This is about two or three large grocery bags. Paul's Pantry of Green Bay reported in 2011 that it delivered an average of 93 pounds per household and has an operating cost of $0.16 per pound.[9]

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[5] "How Low-Income Households Allocated Their Food Budget Relative to the Cost of the Thrifty Food Plan," August 2006, located at http://www.ers.usda.gov/media/861653/err20_002.pdf.

[6] "Food Pantry Programs: Analysis of Strategies and Operating Practices", July 2008, located at http://www.wardfamilyfoundation.org/fpp.shtml. There was no other financial information located for this study. Paul's Pantry is a large food pantry and there is no indication regarding the size of the households receiving assistance which could account for the large difference between the USDA average of 30-40 pounds per household and Paul's Pantry average of 93 pounds per household.

[7] The Thomas report can be found at http://www.foodbankrockies.org/wp-content/uploads/Food_Pantry_Guide_1stEd.pdf. The WISCAP report can be found at www.wiscap.org.

[8] "The Emergency Food Assistance System – Findings From the Provider Survey," Vol. II, Chapter 3, located at http://www.ers.usda.gov/media/1787869/fanrr16-2fm.pdf.

[9] See financial report located at http://www.paulspantry.org/media/2033/pantry05EX.pdf.

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Food is obtained from a variety of sources.[10] Food pantries typically use four sources. Food banks, where they may obtain large quantities of free food and may purchase some staples at discounted cost.[11] Food drives and food donations from individuals through group efforts such as schools and unions. Food rescue occurs when local groceries and manufacturers donate food that is still edible, but past a peak freshness date.[12] Finally, food pantries purchase food directly from retailers.

A recent study indicated that a food pantry can purchase greater quantities, better quality and a consistent type of food through financial donations than any other method; even if such purchases are made through a local grocery.[13] However, the best use of financial donations is purchasing through food banks. The recommendation is to "…acquire at least ¾ of their food through their local food bank, with the remainder coming from either small scale-food rescue or the targeted purchasing (either directly or through food drives) of specific items frequently requested by clients which the food bank does not regularly offer." P. 6.

Distribution

Food pantries operating under best practices will be open fewer hours, but most of those hours will be during times their general clientele are able to access the service. Further, lower operational costs generally mean that the food distributed will be canned foods and foods not requiring refrigeration or freezers.

A food pantry has three general options for distributing food – pre-selected packages, pre-ordering, or shopping cart. In addition, food pantries can also give gift cards directly to the clients. Although studies show that pre-selected packages or standard bags of food generally have greater waste by the client, it is easier for the food pantry to deliver and offers the best use of limited resources.[14] Half of the food pantries reporting in the Ward Family Foundation study utilized this method.[15] About a quarter of the food pantries in the study utilized a combined method of standard goods and allowed the family to choose from those goods that were more plentiful, such as breads. This mixed model tends to avoid some of the waste that may occur in pre-selected packaging, and also allows the family to choose some products it likes. There are even fewer pantries that allow a shopping cart method. Although this allows the client to choose only foods they will eat and reduces waste, it does pose problems in stocking available foods, even if families are limited to a specific quantity of types of foods.

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[10] See "WISCAP'S Guide to Resources for Wisconsin Food Pantries" located at www.wiscap.org. This report contains information regarding food drives as well as food resources in Wisconsin.

[11] A food bank is an organization with a specific tax recognition that provides incentives for producers and retailers to donate food. Food banks are able to utilize their large representation of multiple food pantries and food kitchens to obtain larger and more consistent donations and allow a greater return on cash donations through bulk purchasing.

[12] Food labeling is a freshness date, not necessary a date by which the food is no longer edible. For example, "sell by" dates refer to the last date a product should be sold allowing a reasonable shelf life in the home, "best if used by" dates refer to the date after which the contents are not at their highest quality, and "expiration" dates refer to the last day an item should be used because it is likely to lose flavor quality. *See footnote 6 for citation.*

[13] See Thomas report.

[14] See Thomas report.

[15] "Food Pantry Programs: Analysis of Strategies and Operating Practices", July 2008, located at http://www.wardfamilyfoundation.org/fpp.shtml.

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Staffing

Most food pantry guides recommend identifying a strong volunteer base prior to opening a food pantry.[16] The recommendation is a core group of 4-15 people volunteering to plan and operate the food pantry. A USDA study suggests that at least 93% of the staffing at a food pantry is through volunteers.[17] Additional volunteers are needed for the multiple activities of the food pantry such as collecting, accepting and stocking food, cleaning, inventory, and maintenance of the facilities, interviewing clients and identifying trending and client needs (such as elderly, infant, young family, individual, etc.). Volunteer staffing keeps expenses of the food pantry low and allows funding to be spent on food.

Client Information

Food pantries utilizing best practices maintain a database regarding client information. This information is used to identify numbers and types of clients, and allows the food pantry to predict food needs as identified above. Almost every food pantry will ask for the client's name, address and size of the family/household. Other questions asked by about half of the food pantries include level of income, receipt of federal assistance, reason why food assistance is needed (lay-off, reduction in income, etc.), and a picture identification.

Food pantry operating guides suggest that clients should be served promptly, and if they have waiting time be provided with a comfortable place to sit. Best practices suggest that intake occur at a table setting rather than across a desk, and be limited to only necessary information that is required by funding sources or to assist in projecting food pantry needs.

Provide Resources to Client

Food pantry operation guides generally suggest creating partnerships to refer clients to state and federal assistance programs. Whether this is the food pantry volunteer assisting with making contacts with those programs or by having materials to provide to the client. For example, the WISCAP guide provides a list of available programs and resources, the service provided and contact information as a reference tool for food pantries. Brown County, working with the University of Wisconsin-Extension, Nutrition Education Program, has developed the "Community Resource Handbook for Brown County."[18]

Oneida Food Pantry

The Oneida food pantry was called the Oneida Pantry Emergency Network or OPEN. It began in early 2000 and arose out of information from the Oneida Food Distribution program. The information regarding the food pantry is derived from a March 2010 review and report, as well as Area Manager report from December 2010. It is recommended that the March 2010 report be placed on the Member's Only portion of the Tribe's website for review by members. In the

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[16] See, for example, "Organizing and Operating a Food Pantry", http://www.msfoodnet.org/wp-content/uploads/2014/08/Oraganize-and-Operate-a-Food-Pantry.pdf.

[17] "The Emergency Food Assistance System – Findings From the Provider Survey," Vol. II, Chapter 3, located at http://www.ers.usda.gov/media/1787869/fanrr16-2fm.pdf.

[18] The latest version of this handbook can be found at http://www.co.brown.wi.us/i_brown/d/uw_extension/wnep/2015_crh_for_website.pdf.

alternative, it is available through an Open Records and Open Meetings Law request to the Tribal Secretary's Office. Unless otherwise indicated, the information in this section is derived from this report.

The food pantry utilized Tribal employees to operate. Those employment costs were paid by the Tribe. In its original position associated with Food Distribution, employees from that program utilized their time to operate the food pantry. When the food pantry was moved to the Social Services Building, the Center for Self Sufficiency manager operated the food pantry. The remainder of services was provided by volunteers from the community.

The food pantry received a financial donation and grants to conduct operations. The Miller Brewing Company donated $5000 in 2001 to purchase fresh meat and fruits to supplement the food pantry resources. The First Nations Development Institute awarded $25,000 from its Native American Hunger Fund; $2000 was utilized for administrative purposes and the reminder was intended to begin developing an endowment fund.[19] Finally, in 2009, the USDA awarded a $3,045 grant.

The food pantry obtained resources through donations. In some circumstances this involved donations of "day old" food from local companies like SueAnn's Bagels, and damaged or day-old food from local groceries. These donations required pick-up by volunteers to be delivered to the food pantry, review for quality and sorting, and ultimately shelving and storage. Initially, the food pantry utilized the same or adjacent space to the Food Distribution program. This included use of Food Distribution program resources such as storage such as shelving and refrigeration.

The food pantry transitioned in 2008 from the Food Distribution program facilities to the Social Services Building. This was a result of an external USDA audit, an internal audit, and a review of the food pantry program assessment. The relocation of the food pantry was beneficial to the program as it allowed personnel to be in a better position to recommend other Tribal, local, state and federal programs that could be of assistance to the household. However, the food pantry began having difficulties in locating volunteers to operate the program.[20] Tribal employees of the Food Distribution program were no longer available to donate tribal employment related hours which may have affected the "volunteer" time.

The operational analysis conducted in 2010 looked at alternatives to the existing pantry program and offered five different options. A summary of that information is presented below.

Structure	Annual Funding Options	Total Cost
Non-profit business entity under IRS 501(c)(3)	Charitable donations and funding drives	$50,000
Tribal program – Center for Self-Sufficiency – Social Services Building	Tribal contribution, charitable donations, potential grants	$158,291
Tribal program – Center for Self-Sufficiency – Tower Foods Building	Tribal contribution, charitable donations, potential grants	$279,063

[19] The 2010 report identified that the grantor authorized the remainder of the funds from the endowment to be reallocated as long as it was related to the provision of food.
[20] Although, the 2010 report identified that the food pantry was able to reduce the overall hours of operation and shift the hours of operation to better meet the needs of the clients.

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Gift Card – Center for Self-Sufficiency	Tribal contribution	$131,535
Dissolve food pantry	None	$0

There were three years of information regarding the clients presented in the 2010 report. From 2006 to 2008, the number of participants fell from 2,748 to 1,716 participants. The food pantry, anticipating additional financial stresses in 2008, increased the qualifying income levels. The report identifies that the number of participants increased from three new households in January to 24 new households in August.

However, the current information identifies that the trend of reduction in the number of participants continued with the transition to gift cards. This change involved 1,749 families in 2011 to 1079 families in 2015. It appears that the expected increase anticipated in 2008 did not occur.

The Social Services Area attempted to transition the food pantry from a tribal program to a private organization. Letters were presented in the Kaliwhisaks calling for volunteers and interested persons as well as sent to local charitable organizations and churches. There was no interest in maintaining the operations of a food pantry on a volunteer basis. The food pantry program was dissolved and the Oneida Food Card program was developed. This change was made to reduce administrative costs, storage and equipment costs, and food collection and handling costs.

In addition, there are approximately 20 existing food pantry resources in the Brown County area. Food pantries in Outagamie County are not as easily identified. It is possible that another food pantry is not needed in the area and the Oneida Food Card program meets that missing gap in needs that the commodities services and local food pantries are unable to fill.

Oneida Food Card

The Oneida Food Card program is operated in accordance with a Standard Operating Procedure. To be eligible to receive a food card, there must be at least one adult in the household who is a member, residence in Brown or Outagamie County within the last 30 days, provide verification of all household income, and verification of application for and eligibility/ineligibility for the Wisconsin FoodShare Program of the USDA Commodities Program. The food card program utilizes the Federal Poverty Level as a guideline for eligibility and accepts applicants who are up to 200% of the poverty level of the household.

A household of one to three persons receives a $25 gift card and a household of four or more persons receives a gift card of $50. The gift card is from Festival Foods. A recipient may not use the card for alcohol or tobacco products, chips, candy, ice cream, soda, coffee, tea, energy drinks, sweet rolls/donuts, juice boxes, paper products, or pet food/supplies. Recipients must provide a receipt regarding the use of the card and misuse of the card could result in a written warning up to termination from the program for as long as twelve months.

In the first quarter of FY2016, the Oneida Food Card program served 313 families made up of 1,145 people, two-thirds of which lived on the Reservation and in Brown County. Of the 313 families, 83 were enrolled in the Food Distribution Program and 186 were enrolled in the

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Wisconsin FoodShare Program. The Center for Self Sufficiency handed out $10,500 in gift cards in the first quarter, and $17,500 up to the date of this legal opinion. This is consistent with the trending expected in this fiscal year. The program is budgeted at $54,282. The program below shows the Oneida Food Card client base and expenditures from 2011 to 2015.

Fiscal Year	# Families	$ Expended
2011	1749	$50,980
2012	1323	$34,295
2013	1400	$42,740
2014	1440	$43,530
2015	1079	$31,795

In 2015, the elder population in the food card program was about 9% of the total participants, and in 2014, the elder population was about 13%. These small numbers may be in part due to the elder services programs.

The study conducted in 2010 identified that a significant increase in participants in the food card program occurred during the summer months. This may be due in part as a result of no school lunch programs being available.

The Center for Self Sufficiency has identified that most clients appear to prefer the food card program. However, the personnel are considering implementing a survey of clients to determine if there are improvements that can be made to the program.

Food Pantry Operational Costs

The petition requests allocation of funding for different types of resources. A brief review of the request and utilizing on-line searches, the following are estimated costs.

- Forklifts range from seated trucks that can lift pallets up to limited heights to pallet movers. Purchasing.com has published a research paper to assist in identifying the appropriate type of equipment, "Forklift Purchasing Guide." Based on this research, it appears that what would be appropriate is an "order picker" which assists in pulling items from shelves. The price range of this type of equipment ranging from manual to electronic is $5,000 to $10,000.
- Commercial refrigerators range from built-in units to stand-alone units. A commercial refrigerator is a higher quality than a residential unit; they are generally simpler and easier to clean. Presuming that this is not a built-in unit, the range of costs for a commercial refrigerator of 49 cubic feet or greater is $3000 to $5000.
- Commercial freezers are similar to commercial refrigerators. The cost of a 49 cubic feet or greater is $2000 to $4000
- Commercial vans would be purchased through the Tribe's Fleet Management Department. This type of cargo van would range from $23,000 to $50,000 and would depend greatly on the purchasing value of the Tribe and negotiations of the department.

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In addition to the above, a food pantry will need shelving for food storage, computers and filing for administrative needs to manage client information, inventory information and to identify future needs planning.

Finally, the cost of rent regarding the food pantry has not been calculated. As identified in other petition analysis which proposed use of the Tower Foods Building, this facility is owned and operated by the Oneida Seven Generations Corporation.[21] Regardless, the cost of the building used for this program has not been identified – whether that is rent for a building or internal costs associated with maintenance, repair, cleaning, and similar costs.

The information above is a brief overview of potential costs. Members are encouraged to review the financial analysis regarding other operational costs not included in this brief overview.

Conclusion

The petition requests the General Tribal Council to direct that a food pantry be opened by the Oneida Tribe. The information above identifies best practices for food pantries as well as resources used by food pantries to obtain supplies. There is also a short summary of the Oneida Food Pantry and the Oneida Food Card programs.

This action is within the authority of the General Tribal Council. Depending in the implementation date, it is subject to a two-thirds vote if it affects FY2016 or a simple majority if it is to be implemented in FY2017. Further, it is possible that some parts of the petition may be unavailable; for example, there could be a commercial lessor of the Tower Foods building. It would be more appropriate, if this were to be considered, to simply direct that a food pantry be developed rather than go into the specifics. For example, there may be no need for a commercial van or forklift.

Further, it is not known if there is overall dissatisfaction with the current food card program or whether a food pantry is sustainable. The information above suggests that the food pantry program is not sustainable on a volunteer basis and that significant contacts would need to be made to begin developing the food resources needed by a food pantry. It is recommended that the Governmental Services Division continue to monitor and study the existing program to determine if changes are needed and whether a food pantry is needed or should be developed.

If you have further questions, please contact me.

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[21] The General Tribal Council directive to dissolve the Oneida Seven Generations Corporation is delayed in light of litigation that affected the ability to transfer assets of the corporation. There remains the issue of financing related to the building and infrastructure for which the building has been utilized as collateral. As a result, management of the building remains with the Oneida Seven Generations Corporation.

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Statement of Effect
Petition: Food Pantry

Summary

This Petition concerns the establishment and operation of an emergency food pantry containing specific requirements. Additionally, the Petition provides for specific supplies and funding from other Tribal entities.

Submitted by Douglass A. McIntyre, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

On October 7, 2015, a Petition was submitted to the Tribal Secretary's Office and verified by the Enrollment Department. At an Oneida Business Committee meeting on October 28, 2015, the verified petition was accepted and referred to the Legislative Reference Office for a Statement of Effect with a due date of January 13, 2016.

The Petition is a full page containing the specific requirements, but can be broken down into three separate sections:

- Establishing
- Funding and Supplying
- Operating

1. Establishing the Food Pantry

a. The location of the food pantry be at the now vacant former Tower Foods.
b. The food pantry be opened on October 1, 2016.
c. That three (3) positions be filled: a manager and two (2) warehouse workers.
    1. These jobs are Enrolled Oneida members only.
    2. The additional workforce be made of volunteers.

The requirement in (1)(c)(1) that the two (2) warehouse workers be enrolled Oneida members is in conflict with Section III(a) of the Personnel Policies & Procedures. This section provides:

> The Oneida Tribe of Indians of Wisconsin is an equal employment opportunity employer and follows non-discriminatory policies and procedures in personnel decisions. However, the Oneida Tribe exists to serve the needs of the Oneida people and therefore accords Oneida Preference to enrolled Oneida Tribal Members where such preference is

not otherwise prohibited. **All General Managers and top administrative positions, as defined by HRD, shall be held by enrolled Tribal members. In all other instances, the Tribe applies the following priorities** of Indian Preference in staffing decisions:

1. Enrolled Oneida Tribal member;
2. Oneida Indians eligible for enrollment in the Oneida Tribe;
3. Documented first generation Oneida descendant;
4. Other Native American Indian;
5. Other (non-Indian).

"Oneida-only" positions have been created through various resolutions and directives of the General Tribal Council and Oneida Business Committee, such as all retail employees or specific positions within gaming. The requested positions do not fall under any of these. Therefore, this portion of the Petition would be in conflict with the Personnel Policies & Procedures. The remaining portion of the Petition establishing a food pantry has no legislative impact on any other current Tribal laws.

2. **Funding and Supplying the Food Pantry**
   a. The emergency food pantry be funded by:
      1. transferring $50,000 from Center for Self Sufficiently (Festival Food Cards) to the food pantry.
      2. suspending all food purchases at the Oneida Radisson for meetings, conferences, summits.
      3. transferring any and all other funding sources, including grants to the food pantry.
      4. a reinstatement of the 2008 budget for the food pantry.
   b. The food pantry would be supplied by:
      1. the Oneida Nation Farm providing buffalo, grass-fed beef, eggs, chicken, Tsyunhekwa, Cannery white corn and other products.
      2. the Apple Orchard providing apples.
   c. Additional supplies and equipment be supplied by the Tribe:
      1. A van.
      2. A forklift.
      3. Two (2) dollies.
      4. Freezer.
      5. Refrigerators.
      6. Computer software.
      7. Office supplies.

Without knowing the specific funding source that would be effected by (2)(a)(4) "transferring any and all other funding sources, including grants to the food pantry", it is impossible to determine if this would have any effect on current law. The remaining portion of the Petition concerning the supplying and funding of the food pantry has no legislative impact on any current Tribal laws.

3. Operating the Food Pantry:
   a. Hours of pickup would be from 9:00 a.m. to 12:00 p.m. Monday through Friday.

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b. The food pantry would have the following restrictions:
    1. Will only serve households where an enrolled Tribal member resides.
    2. Will only serve those with income guidelines consistent with state and federal eligibility, but with the flexibility to review a case-by-case basis.
    3. Circumstances of eligibly include, but are not limited to, interruption of family income, job loss, change in family composition, homelessness.
c. Reporting policy be implemented:
    1. The manager would be required to report quarterly to the Oneida Business Committee.
    2. The manager would be required to submit a report form to the General Tribal Council at the annual and semiannual meetings.

The portion of the Petition concerning the operation of the food pantry does not conflict with and has no legislative impact on any other current Tribal laws.

Conclusion

The Petition does not have an impact on current legislation except in potentially two (2) areas. First, the language providing that the warehouse worker positions be Oneida-only is in conflict with the priority list found within the Personnel Policies & Procedures. However, this could be remedied by General Tribal Council clarifying that these positions are Oneida-only in the adopting resolution. Second, the vague language concerning the transfer of funding sources makes it impossible to determine what current laws, if any, might be affected.

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ONEIDA NATION

Post Office Box 365

Phone: (920) 869-2214

Oneida, Wi 54155

Oneidas bringing several hundred bags of corn to Washington' s starving army at Valley Forge, after the colonists had consistently refused to aid them.

UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possble.

MEMORANDUM

DATE: May 9th, 2016

FROM: RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

TO: Patricia King, Treasurer
Oneida Business Committee

RE: **Financial Impact of Petition Regarding Emergency Food Pantry**

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I. Background

Under consideration is a General Tribal Council Petition which would create an Emergency Food Pantry. Specifically, the Petition calls for the placement of the Food Pantry to be located in the former Tower Foods building, owned by the Oneida Seven Generations Corporation. The Petition suggests that the Food Pantry would only service those households where an enrolled Oneida Tribal member resides. Moreover, while the Petition does state the Food Pantry should follow income guidelines consistent with State and Federal eligibility, the Petition also calls for discretionary measures to be allowed so that eligibility may be reviewed on a case by case basis.

As for funding sources, the Petition calls for fifty thousand dollars ($50,000) to be transferred from the Center for Self Sufficiency budget (funds used for Festival Foods cards) and that the Oneida Nation Farm be required to supply buffalo, grass fed beef, eggs and chicken. Further, Tsyunhehkwa would be required to supply white corn and other products, while the Apple Orchard would be required to supply apples. Lastly, the Petition calls for all food purchases for meetings at the Radisson Hotel and Conference Center to be suspended, with any budgeted dollars to be transferred to the Food Pantry and calls for "any and all other funding sources including current applicable grants that will benefit the most enrolled Tribal Members be transferred to the emergency food pantry."

The Petition further goes on to specify suggested staffing levels and equipment. It states the Food Pantry should have a paid Manager and two warehouse workers. These positions would be required to be filled by Oneida Tribal Members. All other positions are to be volunteers. The Manager is to report out to the Business Committee on a quarterly basis and to provide direct reports to the General Tribal Council at Annual and Semi-Annual meetings. The reports are to include financials, statistical data, trends, successes and problems faced. As for equipment, the

Petition calls for a van for delivery and pickup; a forklift and two dollies, a freezer and refrigerators, as well as computer software and office supplies.

II. Executive Summary of Findings

The language in the Petition regarding the funding for the operation of an Emergency Food Pantry is very impactful. By stating that "any and all other funding sources….be transferred to the emergency food pantry" this has the effect of assigning this as the number one priority of the Oneida Nation. In essence, it would mandate that the operation of an Emergency Food Pantry would be provided for in the Fiscal Year 2017 budget, above any other service or operation of the Tribe. This includes the potential of requiring cuts to other services, such as education, health care, elder services, public safety, etc. in order to operate the Emergency Food Pantry, if this Petition is approved. It can be argued that this language requires the Emergency Food Pantry to be prioritized before existing General Tribal Council mandates, such as Per Capita payments and scholarship funds. If so, we will defer to a legal opinion as to whether this Petition would require a two-thirds majority vote to be approved.

From the Oneida Human Resources Department, we have learned that the two warehouse workers would be expected to be assigned a salary grade of NE05. The midpoint of this salary grade is $11.48 per hour. This rate amounts to $23,878.40 in salary per year before fringe benefits and indirect costs. So, two workers would have an estimated impact of $47,756.80. The Manager would be expected to be assigned a salary grade of E4. The midpoint of this salary grade is $24.98 per hour. This amounts to an annual salary of $51,958.40 before fringe benefits and indirect costs. For Fiscal Year 2017, it is anticipated our fringe benefit rate will be 40.05% and our indirect cost rate will be 16.89%. Therefore, the two warehouse workers total cost would be estimated at $74,949.52 and the total cost of the Manager would be estimated at $81,543.51, equating to a total labor cost of $156,493.03 (one hundred fifty-six thousand, four hundred ninety-three dollars and three cents.)

As noted, the space identified by the Petition– the former Tower Foods building – is owned and operated by the Oneida Seven Generations Corporation (OSGC). We have learned that there is currently ten thousand (10,000) square feet of space available at the facility. Warehousing space makes up three-fourths of this available space, while the remaining one-fourth of space is an office area and restrooms, etc. The Oneida Seven Generations Corporation states that a tribal entity would receive a discounted rate to rent the ten thousand (10,000) square feet available – $5.10 per square foot per year, or fifty-one thousand dollars ($51,000) per year. If this space was rented to an entity outside the Tribal organization, the cost would be $9.00 per square foot per year, or ninety thousand dollars ($90,000).

The legal review provided by the Oneida Law Office does contain some research of operational costs and equipment costs. This information has various dates of applicability from 2015 back to 2008. So as not to cause confusion, we will utilize the data provided by the Oneida Law Office. It should be noted, however, that the actual costs may vary due to potential cost increases over the years, due to inflation and/or changes in market pricing for the items. The legal review estimated that a forklift would cost $5,000 to $10,000, commercial refrigerators would cost $3,000 to $5,000, commercial freezers would cost $2,000 to $4,000 and a van would cost $23,000 to $50,000.

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The normal operations of a food pantry consist of gathering excess foods from Food Banks, donations or purchases and storing the food for distribution to households. According to the Redwood Empire Food Bank, (established in 1987 to service Sonoma County, CA) a targeted minimum distribution would be 20 pounds of food per household per week. As for a financial budget, the legal review identified an expected budgetary cost of twenty five cents ($.25) per pound of food. Therefore, the targeted minimum cost of acquiring the food would be $260 per household per year. While it is noted that the Petition called for specific food donations from Tribal operations such as the Farm, Tsyunhehkwa and the Apple Orchard, there have been communications from these areas that there is no "excess food" to be stored for distribution in such a manner. These areas generate revenues for the Tribal operations and utilize all foods produced.

Another method of determining estimated costs of acquiring food is provided by the Second Harvest Gleaners Food Bank of Western Michigan, Inc. In the book, Charity Food Programs That Can End Hunger in America, author and Executive Director John M. Arnold provides a formula of multiplying the number of people at or below the poverty level times two hundred thirty-four (234) pounds. This figure will provide an estimated need of annual food assistance.

From the Statistician in the Oneida Planning Department, the 2014 Tribal Census provided this data:

Oneida Population Below Poverty Level

	Oneida Reservation	Brown/Outagamie Counties Off Reservation	Total in Brown/ Outagamie Counties
Children	291	275	566
18-54	537	456	993
55+	128	55	183
All	956	787	1,743

Therefore, an estimate can be reached that the Food Pantry would need to acquire four hundred seven thousand, eight hundred sixty-two (407,862) pounds of food per year. If the cost estimate provided by the legal review of twenty-five cents ($.25) per pound of food is accurate, an annual budget of one hundred one thousand, nine hundred sixty-five dollars and fifty cents ($101,965.50) can be a minimum estimate to acquire the necessary food.

As for other funding sources, besides the tribal departments specified which have indicated no excess food exists, the Petition does call for $50,000 to be transferred from the Center for Self Sufficiency annual budget, and for all food purchases from the Radisson Hotel and Conference Center to be ceased and those dollars to be transferred to the Emergency Food Pantry. According to communication from the Director of Sales and Catering at the Radisson Hotel and Conference Center, Food purchases from the Oneida Casino have averaged $9,071.47 per month over the last nineteen months, or $108,857.68 per year. Food purchases from all other Tribal departments have averaged $3,059.00 per month over the last nineteen months, or $36,708.00 per year. Therefore, when including food purchased by the Oneida Casino, there is potentially

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$145,565.68 of allocations available per year. However, as the food purchases by Oneida Casino is certain to include foods purchased for consumption by the Player Club members and other clients, it would be recommended to include only the thirty-six thousand, seven hundred eight dollars ($36,708) in average annual purchases by the rest of the Tribal Departments for consideration of funding source.

III. Financial Impact

Item	Annual Cost	5 Year Cost
Personnel	$156,493	$782,465
Space	$51,000	$255,000
Food Acquisition	$101,966	$509,830
Equipment	$33,000-$69,000	NA
Total	$342,459-$378,405	$1,547,295
Reallocated funding	($86,708)	($433,540)
Fiscal Impact	$255,751-$291,697	$1,113,755

TOTAL MINIMUM ESTIMATED FINANCIAL IMPACT: $255,750.03 TO $291,750.53 FIRST YEAR, FIVE YEAR IMPACT OF $1,146,752.65 TO $1,182,752.65.

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

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FOOD PANTRY

BUSINESS COMMITTEE RECOMMENDATION

PLACE HOLDER

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tsiʔ niyukwalihó·tʌ

Jeet nee yoon gwea lee hoe' duh

"Our ways" includes our beliefs, our customs, and how we view things (past, present, and future). It also includes our history, language, and things in our environment (man-made and natural) that make us distinct from others as a people.

Vision

A Nation of strong families built on Tsiʔ niyukwalihó·tʌ and a strong economy.

Mission

To strengthen and protect our people, reclaim our land, and enhance the environment by exercising our sovereignty.

Values

To establish positive behaviors upon which we will conduct our daily activities. The extent to which we dedicate ourselves to the implementation of these values will determine our success.

Kahletsyalúsla
gah lay ja loose' la
The heart felt encouragement of the best in each of us

Kanolukhwásla
ga no loonk wass' la
Compassion, caring, identity and joy of being

Kaʔnikuhlí·yo
gat knee goo leee' (yo)
The openness of the good spirit and mind

Twahwahtsilayʌ́
dwah wah jee lie (uh')
All of us are Family

Kalihwi·yʌ́
gally we' (yo)
The use of good words about ourselves, our Nation and our future

Yukwatsístayʌ
yoon gwa jeesta' (yuh)
Our fire, our spirit within each one of us

Kaʔtshatstʌ́sla
gat chot stews' la
The strength of belief and vision as a people

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MEMORANDUM

TO: General Tribal Council

From: Oneida Business Committee

Date: July 5, 2016

RE: Recommendation – Frank Cornelius Petition – Report on Oneida Seven Generations Corporation

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From December 2013 until today, the Oneida Business Committee has been working towards the dissolution of Oneida Seven Generations Corporation as directed by the General Tribal Council. Although we would have liked this to move forward faster, it was not and is not possible. The corporation was sued by ACF which was only recently settled. In addition to that, the corporation also has some minor contract litigation matters which have not yet been resolved. And finally, the corporation has some damage recovery litigation in settlement discussions with the City of Green Bay regarding the conditional use permit.

However, the previous Oneida Business Committee, as well as the current Oneida Business Committee has taken steps to limit the corporation to simply acting as a commercial leasing company and to work with the current agent to resolve the litigation and financing agreements. What we have found is that the corporation, as a commercial leasing company, is a viable operation. Once all of the other issues are resolved, there are valuable tenants that continue to lease the property, and the corporation continues to utilize its relationships to identify new tenants and increase the existing landlord-tenant relationships. The foundation of the corporation remains solid.

Mr. Cornelius would argue that the Oneida Nation can simply dissolve the corporation, walk away from the financial agreements, tear up the partnership agreements, and simply take control of the corporate assets. It never was that simple. The Oneida Nation cannot take on the debt that would be incurred if the corporation were dissolved and we cannot simply walk away from those financial commitments; we cannot simply take up the litigation that would recover damages regarding the conditional use permit litigation that the corporation won; and we cannot simply tell partners of the corporation they are now working for the Tribe. It's not that simple. But, we continue to direct the dissolution of the corporation in an orderly manner that protects the assets of the corporation and of the Oneida Nation. Just like a city, state or national government cannot just walk away from its responsibilities, neither can we.

Faced with the need for immediate responses and actions, we and the prior Oneida Business Committee have done the best we could. Hindsight always makes for a clearer picture, looking backwards only helps you judge what you have done, not what you need to do. We believe that the corporation has value and will bring value in the future. We believe that if the corporation were limited to purely commercial leasing as we have done with the charter, that Oneida Seven Generations Corporation can bring in revenue to support its actions of maintaining the land and buildings it has leased and eventually, return funds to the Tribe paying off the loans it has

entered into in order to fight the litigation brought by ACF and the recovery of damages brought about by the City of Green Bay.

Yes, the General Tribal Council has issued a directive to dissolve Oneida Seven Generations Corporation. After many presentations and much discussion, the General Tribal Council took action. With all that has occurred since the December 2013 action, we believe that the General Tribal Council has made its position very clear – no waste-to-energy, waste-to-oil, or other projects that could potentially result in harm to the community and the environment. We believe that the General Tribal Council has also made it clear that it cannot tolerate business investments and ventures that are not clearly explained to the membership regarding both the financial and the environmental impacts. We agree, this is a matter that requires the Oneida Nation to monitor and manage business investments carefully, presenting as much information as possible to the members before taking action.

However, managing commercial leasing can be done profitably and more easily by a corporate entity. We believe the time is ripe for General Tribal Council to look forward and determine a future direction. The Oneida Seven Generations Corporation is now limited to commercial leasing only, and the corporation can be more formally restructured so it is in the best position to lease the Oneida Nation's commercial properties. We ask the General Tribal Council to consider the following recommendation and recognize that it will take a two-thirds vote to accomplish.

Recommendation: Motion to rescind the December 15, 2013 action dissolving the Oneida Seven Generations Corporation and restrict the corporation to commercial leasing activities.

MEMORANDUM

TO: General Tribal Council

From: Oneida Business Committee

Date: July 5, 2016

RE: Recommendation – Frank Cornelius Petition – Resolution – Audit of Oneida Seven Generations Corporation

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The Oneida Seven Generations Corporation is 21 years old. The original charter was adopted in 1995. Since its creation, the corporation has had several different managers, accountants, financing agreements, partnership agreements, and financial audits. It has been most recently audited by the Internal Audit Department in 2008 for compliance with the corporate charter.

An audit generally looks at a sample of the activities of the entity and possibly chooses more samples in areas of high risk. A forensic audit looks at every transaction in an attempt to discover or prove an alleged criminal activity or misconduct. These types of audits are expensive and generally limited to a series or single transaction specifically identified by those requesting the audits. The Chief Financial Officer has suggested that such an audit could cost from $50,000 to $250,000. Without specific allegations, we believe that conducting a forensic audit of a 20 year history is more likely to cost closer to $250,000. As identified in the legal opinion, this is not a task the Bureau of Indian Affairs takes on, this would be the Oneida Nation's responsibility.

We do not have any specific allegations of fraud or other misconduct by an individual, an officer, an employee or the corporation. If a member has any of this type of information supporting an allegation, please forward that information to Tehassi Hill, Councilman and Chairman of the Audit Committee or directly to Loucinda Conway, Internal Audit Manager. We will investigate that information and take appropriate actions.

The resolution also asks that a report on specific information be developed for the General Tribal Council. Although much of this information has appeared in previous information shared with the General Tribal Council, we have asked the agent to develop an updated report and present it at the August Special General Tribal Council meeting. As we have stated in the past, there are agreements in place which protect some of the information from being disclosed. Violation of those agreements could lead to damages against the Oneida Nation. Since we cannot go back and just amend those documents, we must abide by the terms of those agreements. However, we have notified the Agent that no further such agreements, contracts or other documents should contain such restrictive language.

In regards to the final two questions regarding co-mingling the Tribe's assets and finances, the answer is no. There is no co-mingling of either assets or finances between the Oneida Nation and the corporation.

Finally, the resolution asks the General Tribal Council to "withdraws the Oneida Seven Generations' charter immediately." This resolve will have the same effect as the December 2013 motion of the General Tribal Council if action is taken to protect the assets of the corporation. Mr. Cornelius would argue that the accounting report submitted in 2013 by an outside firm says that no financial damage to the Tribe would occur if the corporation was dissolved and it would be no different today. However, the accounting report was based on a reasonable and fiscally responsible dissolution. Further, the corporation and the Oneida Nation have already been financially harmed by that action, we were sued by ACF. On the other hand. we could immediately withdraw the charter and be prepared to make reparations for violation of agreements in place and losses related to financing documents already in place which would either take all resources and revenue from leases to repay or result in additional litigation which the Tribe could not avoid.

We would ask the members to reject the resolution. However, if there are any members with documentation of financial misconduct, we would ask that you bring that forward so that it can be addressed as quickly as possible.

Recommendation: Motion to reject the resolution.

MEMORANDUM

TO: General Tribal Council

From: Oneida Business Committee

Date: July 5, 2016

RE: Recommendation – Frank Cornelius Petition – Resolution – Enforcing Salaries of Oneida Seven Generations Corporation

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The petition calls for a cap on salaries, effective back to 2008 and recovery of salaries of the corporate employees inconsistent with this salary cap. The analysis presented identify that this is an unconstitutional action to make such a retro-active directive. In addition, the action would have little, to no effect on future actions as salaries are part of the operational costs of the corporation and thus, as presented in the resolution, could end up being much higher than current levels.

The 1995 charter identified that the corporation would return a percentage of net profits to the Tribe. This was amended in 2006 to allow the corporation the opportunity to create the necessary cash reserves in order to grow its commercial leasing activities and business investments. As a result, between 2006 and today, no such restriction existed. This would be the same as the General Tribal Council saying that the 2007 action directing a $100 stipend be reduced to $50 retroactively and that the Oneida Nation must collect all payments in excess of the $50 paid. You simply cannot change the rules retroactively in this manner, it's unconstitutional.

The General Tribal Council could direct the Oneida Business Committee to modify the corporate charter to reinsert this language for future application. This would be within the authority of the General Tribal Council. However, if the corporation is dissolved, this action will not be necessary. If the corporation is not dissolved, but restricted to commercial leasing, such an action may inhibit the corporation in the near future. We do not recommend taking this action.

Recommendation: Motion to reject the resolution as unconstitutional.

HANDOUT FOR ITEM - 04.A.

MEMORANDUM

TO: General Tribal Council

From: Oneida Business Committee

Date: July 5, 2016

RE: Recommendation – Frank Cornelius Petition – Resolution – Freedom of Speech, Press, and Assembly

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The Kaliwisaks, as the official newspaper of the Oneida Nation, publishes news, advertisements, public notices and letters to the editor. The paper uses the best practices of the newspaper industry, including those practices regarding publishing advertisements and letters to the editor. This is necessary in order to avoid liability resulting from third party ads and letters which may contain slander or liable. The newspaper has consistent and clear Standard Operating Procedure regarding both types of publication which are available for individuals to review.

The Constitution of the Oneida Nation incorporates the protections set forth in the United States Constitution. There is freedom of the speech, the press and assembly. But, those freedoms are not endless, there are some restrictions. First, you can't yell fire in a theatre or other place of assembly, you can't write anything you want without incurring liability for those writings, and you can't simply assemble wherever and whenever you want without obtaining the proper permits. Placing a disclaimer in the Kalwhisaks saying the words of the opinion letter are not those of the newspaper is insufficient to protect the Oneida Nation from liability. Mr. Cornelius, or any member, may publish their own newspaper or letter on-line or on paper. It is their right to do so and accept the consequences of those actions. The Kaliwhisaks represents the Oneida Nation and has established standard and consistent publishing criteria which allows for opinion letters to be published. It is our opinion that these standards should not be changed.

The two paragraphs above total 251 words. This is the current limitation on opinion letters for the Kaliwhisaks. We agree that this limitation could be increased. We will be asking the Internal Services Division Director and the Editor of the Kaliwhisaks to review existing standards and consider the costs associated with increasing the word count limitation.

Recommendation: Motion to direct the Oneida Business Committee to review the word count limitation regarding opinion letters published in the Kaliwhisaks.

HANDOUT FOR ITEM - 04.A.

MEMORANDUM

TO: General Tribal Council

From: Oneida Business Committee

Date: July 5, 2016

RE: Recommendation – Frank Cornelius Petition – Resolution – Imposing a Tax on the Oneida Business Committee

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This resolution proposes a "tax" on the Oneida Business Committee and tribal attorneys for actions that occurred after December 2013, but before the tax was imposed. This is an unconstitutional action and cannot be taken by the General Tribal Council. It arises to the same type of action of the General Tribal Council attempting to impose a retro-active tax on employment; or a tax on benefits received from the tribe; or a property tax. The Oneida Nation cannot impose a retro-active tax.

Recommendation: Motion to reject resolution as unconstitutional.

MEMORANDUM

TO: General Tribal Council

From: Oneida Business Committee

Date: July 5, 2016

RE: Recommendation – Nancy Barton Petition – Open an Emergency Food Pantry

Nancy Barton has submitted a petition which requests the Oneida Nation to re-open an emergency food pantry. The previous version of the food pantry was a volunteer pantry and operated on food donations collected from local stores and bakeries. The volunteers included members who gave time to operate the food pantry and employees who managed the food pantry administratively as well as collected donations and disbursed foods. The food pantry was closed down because it was unable to sustain a necessary level of volunteers and donated foods. In addition, it had insufficient controls to ensure food was properly maintained and distributed.

The food pantry was shifted to a gift card from Festival Foods. The card is now restricted for use for food purchases only and can be obtained once a month as a supplemental source of food. This is in addition to the state assistance programs and numerous area food pantries supported by state and federal funding as well as food distribution networks. It appears that the current gift card system is acceptable to clients as it allows them to obtain foods based on family preference.

The proposed food pantry is estimated by the Chief Financial Officer to cost between $256,000 to $297,000 per year. This is significantly greater than the $50,000 currently budgeted for the food gift cards utilized by 313 families (1,145 individuals) utilizing the program. About a quarter of those individuals were enrolled in the Food Distribution program and about half were enrolled in the Wisconsin FoodShare program. The income level for the food gift card is set at 200% above federal poverty level.

We believe that providing the food gift cards provides greater opportunities for individuals and families to purchase foods that meet their needs. Further, that opening a food pantry will result in a large expenditure of funds for operations, a loss of revenue from tribal enterprises through redirecting food, and will not provide a greater amount of food available for distribution. The Tribe does not grow or process a wide variety of foods. As a result, we believe the current program better suits member's needs. However, it is possible that the program should be reviewed to determine if any changes are needed to the amount to address the gap from various existing food support programs.

Recommendation: Motion to direct the Oneida Business Committee to implement a review of the food gift card program and its effectiveness to meet the gap in Tribal member needs.

Business Committee Special Meeting
8:30 a.m. Tuesday, July 5, 2016
Thank you for printing clearly

Dawn Moon-Kopetsky
Larry Barton
Jo Anne House
Heather Heuer