



May 20, 2020

Dear Tribal Member,

We are providing this notice as an update on the status of the upcoming 2020 General Election, which was anticipated to be held on Saturday, May 23, 2020. On May 19, 2020 the Oneida Election Board took action to cancel the 2020 Primary Election in accordance with the Election Law.

“102.12-2. Cancellation of a Primary Election. A primary election for Business Committee positions may be canceled in the following circumstances:

(a) The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary.

(b) The Election Board may cancel the primary election when large gatherings of people present a substantial risk to the health and safety of the Nation’s citizens.

(1) In the event the Election Board cancels the primary election, all candidates that are determined eligible according to section 102.5 and are not made ineligible under section 102.6-2 shall be placed on the ballot for the general election.”

In addition to consulting with experts, the following documents assisted in our decision-making:

- “Professional Assessment Duration of COVID19 Outbreak” dated April 16, 2020,
- Legal opinion regarding “Constitutional Meetings; Elections – COVID-19 Pandemic” date April 22, 2020
- BC Resolution #05-06-20-A Extension of Declaration of Public Health State of Emergency until June 11, 2020.

The Election Board is continuing to monitor the situation and are discussing options to protect the health and safety of the membership for the 2020 General Election.

The General Election is tentatively scheduled for Saturday, July 25, 2020 in accordance with the Oneida Nation Constitution.

Sincerely,

Oneida Election Board

Appendix Material

1. Public Health & Emergency Management Report dated April 16, 2020.
2. Legal Opinion, dated April 22, 2020.
3. BC Resolution 05-06-20-A Extension of Declaration of Public Health State of Emergency until June 11, 2020

Report to
COVID CORE TEAM
Regarding
Professional Assessment Duration of COVID19 Outbreak
April 16, 2020

Background:

At the request of the COVID Core Team, there was a team formed to assess the duration of the COVID19 pandemic and to report back to the COVID Core Team.

Purpose:

Predicting, forecasting and operational planning for a “new normal” after the “safer at home” order ends during the current COVID-19 emergency. To strategically prepare and plan for the future given the uncertainty with forecasting and projection models.

Approach:

Our team reviewed the State of Wisconsin Model posted on the WI Public Health website <https://www.dhs.wisconsin.gov/covid-19/prepare.htm> and the University of Washington (Institute of Health Metrics and Evaluation) model

Facts:

The COVID-19 pandemic has presented an urgent concern, which is projected to continue for 1-2 years or longer. Wisconsin Department of Health Services uses an electronic database WEDSS for data collection and reporting. Initial reports were gathered during the early phase of COVID-19 case counts in Wisconsin (March 3 through March 15, 2020.) At that time the predictions were more catastrophic, because the number of cases were doubling every 3.4 days. At that rate and without action, COVID-19 would have caused over 20,000 infections by April 8, 2020.

It is important to note that since there is a lag between the disease onset date and the lab test confirmation date, the number of confirmed cases posted on the Wisconsin Department of Health Services website is less than the actual number of cases.

The good news is that Social Distancing, and the subsequent Safer At Home restrictions have decreased the earlier predictions. The Institute for Health Metrics and Evaluation predicts that Wisconsin may reach its peak of the COVID-19 pandemic on or about April 17. Other models predict that the peak will most likely occur between April 23 and May 23, 2020.

Mailing Address: P.O. Box 365, Oneida, WI 54155
<https://oneida-nsn.gov/resources/health/>

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#SaferAtHome



YES, IT'S WORKING!

THE STEPS WISCONSINITES HAVE TAKEN



Staying Safer at Home by eliminating nonessential outings



Practicing physical distancing



Washing your hands frequently with soap and water



Covering your nose and mouth when you cough and sneeze

FLATTENING THE CURVE

- Our initial projections show that without Safer at Home, there would be significantly more cases of COVID-19, resulting in more deaths.
- Safer at Home has flattened the curve, resulting in fewer cases, hospitalizations, and deaths.



WWW.DHS.WISCONSIN.GOV/COVID-19/

(Wisconsin Department of Health Services, 2020)

Assumptions:

1. Oneida Nation continues to follow guidelines and recommendations from both the Center for Disease Control and Prevention (CDC) and WI Public Health.
2. Oneida Nation Public Health will maintain capacity for disease surveillance.
3. COVID19 testing capability will ramp up locally, regionally and nationally to facilitate transition to some semblance of normality.
4. Adequate Personal Protective Equipment (PPE) available for the organization.

A good mind. A good heart. A strong fire.



Assessment:

An infectious illness like COVID19 does not follow our jurisdictional boundaries. It is critical for us to continue to work in tandem with our local and state public health departments.

Safer at Home will need more time to result in a significant decrease in cases reported. When the stronger restrictions are lifted, some form of social distancing will be required in the future. The biggest risk nationally is currently our lack of testing capability. Development of mass testing capability to diagnose infection and immunity to the virus within our populations will help us return to work safely. Until that capability is established, the blunt instruments of universal stay at home and social distancing will be the only options to keep the spread in check. This comes with the collateral economic damage currently being inflicted due to Universal Stay At Home precautions. The best means of long-term success against COVID -19 would be the development of a safe and reliable vaccine. This is projected to take at least 18 months in the best-case scenario. The public health system must be prepared to follow up with rapid isolation of any new cases and quarantine of contacts to prevent new startups of community transmission.

Recommendations:

It is important to note, ongoing monitoring will need to occur as the pandemic goes on. As data changes and we gather new information, recommendations will be updated. Based on available information we have today, below are our recommendations for the next 3-6 months:

1. In person General Tribal Council meetings be cancelled. Consideration be given to virtual GTC meetings utilizing technology.
2. Consider cancelling large gathering events for the next 3-6 months such as conferences, meetings, in person elections and trainings.
3. It is our recommendation to encourage the Community to postpone large family gatherings such as holiday events, birthday parties, and graduations.
4. Operational planning must be ongoing to keep workplaces safe today and in the future. This may include implementing structural changes and/ or facility management to incorporate safe distancing requirements within the workplace as we adjust to the “new normal”.

Project Team:

Debra Danforth, Dr Ravi Vir, Kaylynn Gresham, Rich Figueroa, Michelle Myers, Carrie Blohowiak, Sheri Forgette

References

Wisconsin Department of Health Services. (2020, April 15). *#Safer at home* [Image]. Retrieved from <https://www.dhs.wisconsin.gov/covid-19/prepare.htm>

A good mind. A good heart. A strong fire.





MEMORANDUM


TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: April 22, 2020

SUBJECT: Opinion – Constitutional Meetings; Elections – COVID-19 Pandemic

Digitally signed
by Jo Anne House
Date: 2020.04.22
07:14:12 -05'00'



You have requested a legal opinion regarding constitutionally required actions related to the Semi-Annual General Tribal Council meeting and the General Election held in July regarding the Oneida Business Committee. *See Article III, Section 4 and Section 5.*¹ Specifically, you have asked what authority the Oneida Business Committee has regarding these constitutional mandates and the impact of the COVID-19 pandemic. You have also requested a professional recommendation from Michelle Myers, Public Health Officer. The Public Health Officer is legally and ethically responsible to make recommendations that are in the public's interest in order to protect the public from the spread of communicable diseases.

Background

The April 16, 2020 report from the Public Health Officer, recommended “for the next 3-6 months...in person General Tribal Council meetings be canceled.” The Oneida Business Committee will be taking this recommendation under consideration at its next regular meeting.

In addition to the above, Annual and Semi-Annual meetings include reports regarding the operations of the Nation, financial reports, and reports from the Nation's corporations. At the same time, at least 1400 employees of the Nation have been placed on furlough or layoff status, the Nation has shifted to Tier V budget contingency planning under a cash management system, and the Nation's corporations have been closed or partially closed under the Nation's, Wisconsin's, or other state's Safer at Home orders. The Nation and its corporations have been focused on keeping

¹ Constitution, excerpts of applicable Sections of Article III.

Section 2. All enrolled members of the Oneida Nation who are eighteen (18) years of age or over shall be qualified voters provided they present themselves in person at the polls on the day of election.

Section 4. The General Tribal Council shall meet in January and July.

Section 5. The officials provided for in Section 3 of this Article shall be elected every three years in the month of July on a date set by the General Tribal Council. The General Tribal Council shall enact necessary rules and regulations governing the elections of tribal officials.

employees and clients safe, maintaining essential operations, and ensuring that federal stimulus funding is applied for, received and utilized properly. Developing the reports for the Semi-Annual meeting is a collaborative process and many programs and employees are not available to contribute to and complete the reports.

The average attendance at a General Tribal Council meeting is approximately 1700 members of the Oneida Nation.

- Annual Meeting, January 20, 2020
 - 1,725 members registered for the meeting;
 - 405 of the members registered, or 23%, were age 62 or over; and
 - 53 of the members registered were from Milwaukee.
- Semi-Annual Meeting, July 11, 2019
 - 1,734 members registered for the meeting;
 - 439 of the members registered, or 25%, were age 62 or over; and
 - 61 of the members registered were from Milwaukee.

The Oneida Nation conducts a General Election every three years, and such Special Elections that may be called in between General Elections. The last General Election was held in 2017. A General Election consists of a caucus for nominations, petition period, submission of applications, primary election if certain criteria are met, a general election, and a final report.

The current General Election has been modified to remove the requirement for a caucus and the collection of signatures on a petition. The purpose of these modifications is to allow the election to move forward while reducing the need for large groups or community contract to avoid the spread of COVID-19.

In the 2017 General Election, the following ballot information was identified in the Final Report.

- Primary
 - 716 ballots cast in Oneida
 - 94 ballots cast in Milwaukee
 - 220 members age 65 and over voted
- General Election
 - 1,462 ballots cast in Oneida
 - 150 ballots cast in Milwaukee
 - 419 members age 65 and over voted

The State of Wisconsin recently held an election in early-April. Governor Evers' issued an Executive Order to have in-person voting closed for that election, the Wisconsin Supreme Court ruled the executive action was outside the scope of the Governor's powers. A special legislative session was called for the legislature to address the Governor's request to close in-person voting, the legislature declined to take up this request. The elections were held on April 7th. There are initial reports identifying that there were seven positive cases were linked to the five Milwaukee polling sites, a complete report has not yet been issued. Because April 21st would be fourteen days out

from the election, and this is the generally recognized period in which the virus is spread, it would still be too early to tell if there is any spike in COVID-19 cases related to the election.

The United States, and the rest of the world, are affected by the COVID-19 pandemic. In the State of Wisconsin, the peak periods are estimated to be between mid-April and mid-May. The current positive test rate continues to climb in the State of Wisconsin, Brown County has seen a recent spike in positive cases, and the Reservation has remained consistent with no new cases.

Constitutional Meetings

The Oneida Business Committee has scheduled the constitutionally required Annual and Semi-Annual meetings each year. There are several occasions where those meetings have been canceled or rescheduled based on inclement weather or other community emergency. On at least one occasion, the Annual meeting was held in March.²

Considering the recommendation from the Public Health Officer regarding large crowds and knowing that 23% of the members in the room are from a population especially vulnerable to COVID-19, holding meetings between May 2020 and October 2020 would not be in the best interests of the Nation or its members. The Oneida Business Committee, consistent with other actions and directives of the General Tribal Council, can determine that the Semi-Annual meeting be held at some other time to protect the health and safety of its members.³ Further, the type of material on the agenda can be abbreviated to minutes, tabled items, and a summary report of the organization status and activities.

General Election

The Constitution requires an election to be held every three years in the month of July for positions on the Oneida Business Committee. The General Tribal Council has adopted an Election Ordinance which calls for a Primary Election to be scheduled if there are “three (3) or more candidates for any officer position or sixteen (16) or more candidates for the at-large council members positions.” *Election Law, sec. 102.12-2*. The Constitution also requires that voting be conducted in person at the polls. This requirement has been met by having a polling place in Oneida and in Milwaukee in Oneida facilities.

² See 2019 Annual Meeting originally scheduled for January 31, 2019, this meeting was rescheduled, in the interest of safety, to February 11, 2019 due to weather; this meeting was again rescheduled, in the interest of safety, to March 25, 2019 due to weather.

³ See motion, “the Oneida Business Committee cannot cancel any duly called General Tribal Council meeting unless it is for health and safety of our Tribal members,” *July 17, 2017 GTC Minutes, p. 50 of 63*.

There are two questions presented regarding the General Election. First, should a Primary be held. Second, should the General Election be held as scheduled?

The Primary election is not a constitutionally required election. Further, the Primary election date of May 23, 2020 is well within the three to six-month period during which the Public Health Officer recommends that no meetings be scheduled, and the Nation should continue to avoid large groups of people. Amending the Election Law under the Oneida Business Committee's emergency authority to delete the requirement of a primary election would be a health and safety measure protecting the members of the Oneida Nation.

What is the trigger for removing the primary election requirement? The number of applicants for the positions on the Oneida Business Committee. If this is not a large deviation from the three applicants per officer position or fifteen applicants for Council member positions, perhaps it would be in the best interests of the membership to not require a primary election to be held. This is a request the Election Board should answer.

The second trigger involves the level of positive COVID-19 tests on and near the Oneida Reservation as well as in Milwaukee. It is possible that a spike in the number of positive COVID-19 tests could occur in either location. The Election Board should monitor this closely in order to allow enough time to respond by the Oneida Business Committee.

It is recommended that a health/safety operation plan should be developed by the Election Board with input and review by the Public Health Officer. Further, that the Election Board monitor the need to conduct a primary election and the extent of the spread of COVID-19 within the Reservation and Milwaukee.

The General Election is scheduled near the end of July. The Public Health Officer suggested the Nation not conduct activities that collect individuals in a single area until after July at the earliest or October at the latest. Further, elections would result in at least 1600 individuals moving through a single location. It is likely the Election Board could conduct the election in a manner that was safe for members voting as well as election officials. A health/safety operation plan should be developed by the Election Board with input and review by the Public Health Officer.

What would impact the July election polling? A spike in COVID-19 positive tests in the area. This would include Brown and Outagamie Counties and the Milwaukee area. It appears that movement to re-opening businesses is being presented at the state level, supported through the federal level, and monitored by the COVID-19 Core Decision Making Team. This is not something that is needed today. However, it should continue to be monitored closely by the Election Board and recommendations reported to the Oneida Business Committee and community.

Conclusion

The COVID-19 pandemic has affected all aspects of individual, business and governmental activities. The Oneida Nation community is a tightly networked community where families interact frequently. This has a significant impact on our elder community and the very young. As a result, maintaining social distancing should remain mandatory and avoiding the development of community spread of the virus through interaction should be under heightened scrutiny.

Constitutional Required Semi-Annual Meeting Recommendation. Accept the Public Health Officer recommendation delaying activities that would result in large group interaction. The Oneida Business Committee, consistent with prior actions and General Tribal Council directives, can reschedule the Semi-Annual meeting until later in the year. This could be as late as October but may be earlier depending on how the virus has been contained.

Primary and General Elections. The authority regarding elections rests with the Election Board regarding scheduling election dates. However, to determine that we would not have a primary vote would require amendment of the Election Law. The Oneida Business Committee has that authority under the Legislative Procedures Act to amend that law regarding a health safety event. This, in general, should be deferred to the Election Board to lead decisions regarding this matter.

If you have further questions, please contact me.

Oneida Nation

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Oneida, WI 54155

BC Resolution # 05-06-20-A

Extension of Declaration of Public Health State of Emergency Until June 11, 2020

- WHEREAS,** the Oneida Nation 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 Nation; 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a Public Health State of Emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the Public Health State of Emergency as long as the Nation's resources will allow; and
- WHEREAS,** the status of the COVID-19 pandemic continues to change daily with identification of hotspots occurring within certain food industries; and
- WHEREAS,** the State of Wisconsin has experienced a growth in cases now identifying 6520 positive tests, 308 deaths, and of these tests:
- there are 14 positive results in Brown and Outagamie counties within Oneida Nation Jurisdiction
 - with identification of positive test results in JBS USA causing a closing of this area business;
 - with identification of increasing positive tests from the opening of the polling places for the state election held on April 7th; and
- WHEREAS,** the State of Wisconsin has general contact with residents of the State of Illinois (50,355 positive tests and 2,125 deaths, most of those positive tests in the Chicago area), the State

of Minnesota (4,644 positive tests, 2,043 recovered, and 319 deaths), and the State of Michigan (40,399 positive tests and 3,670 deaths); and

WHEREAS, a positive test does not identify the number of individuals who have the virus, including those who are not showing symptoms or who have isolated themselves at home; and

WHEREAS, the initial Public Health State of Emergency declaration issued by the Chairman under section 302.8-2 requested by the Emergency Management Director on March 12th would expire on April 11th; and

WHEREAS, the Oneida Business Committee adopted resolution # BC-03-26-20-A which extended the Public Health State of Emergency until May 12, 2020; and

WHEREAS, on April 21, 2020 the COVID-19 Core Decision Making Team has issued an Updated Safer At Home Declaration which directs that individuals within the Oneida Reservation should stay at home, businesses should close, and Social Distancing should be practiced by all persons which is effective during the Public Health State of Emergency; and

WHEREAS, the Emergency Management Director and the Public Health Officer have advised extension of the Public Health State of Emergency declaration supported by information from the Centers for Disease Control and the level of spread of COVID-19 throughout the State of Wisconsin, surrounding states, and the United States; and

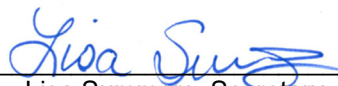
WHEREAS, the Oneida Business Committee has determined that continuing the Public Health State of Emergency for another 30 days continues to be necessary;

Extension of Public Health State of Emergency Declaration

NOW THEREFORE BE IT RESOLVED, that in accordance with section 302.8-5, the Oneida Business Committee extends the Public Health State of Emergency declaration for an additional 30 days beginning on May 12, 2020 and ending at 11:59 p.m. on June 11, 2020.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 9 members were present at a meeting duly called, noticed and held on the 6th day of May, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 8 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."