



Oneida Nation  
Oneida Business Committee  
PO Box 365 • Oneida, WI 54155-0365  
[oneida-nsn.gov](http://oneida-nsn.gov)



June 29, 2018

**Notice Regarding Petition Submitted by  
Gladys Dallas - \$5000 Per Capita Paid Within 45 Days**

The Oneida Business Committee has received a petition from Gladys Dallas requesting the General Tribal Council to consider approval of a \$5000 per capita payment. The petition was tentatively scheduled to meet the 120-day deadline set by the General Tribal Council. As with every petition, we requested the legislative, legal and financial analysis to be conducted regarding the petitioner's request. On June 27, 2018, we received the analyses and were able to review the materials to develop our recommendation regarding the petitioner's request.

Based on our review of the petition and analyses, we have determined that the petition will not be presented to the General Tribal Council because the Nation does not have the funds to make the suggested payment, the payment cannot be made within the requested time period, and in order to try to make such a payment, it would take almost two years to earn and accumulate the funds – while at the same time gutting all programming, returning all grant funds, and laying off all non-enterprise related personnel.

The Oneida Nation Constitution identifies that the, “chairman or fifty (50) qualified voters may, by written notice, call special meetings of the General Tribal Council. Seventy-five (75) qualified voters shall constitute a quorum at any regular or special meeting of the General Tribal Council.” *Constitution, Article III, Section 6*. This right to request a topic by petition be presented to the General Tribal Council is limited. For example, previous Oneida Business Committees have denied a petition for removal indicating that if you want to remove an elected official you must follow the Removal law. In addition, if a petitioner addresses an employee or employment-related matter, it cannot be brought to the General Tribal Council.

We know our responsibilities as an elected member of the Oneida Business Committee call on us to deny this petition request. The Constitution and By-laws require the officers and Council members to uphold the Constitution and to carry out our duties on behalf of the Nation.

Our oath of office contains the following language.

“I, \_\_\_\_\_, swear to uphold the laws and regulations of the Oneida Nation, the Oneida Constitution and the Oneida General Tribal Council. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, dignity, and sincerity.

I will carry out the duties and responsibilities of the Oneida Business Committee to protect the people, land, resources and treaty rights of the Oneida Nation, and I will abide by the decisions of the General Tribal Council.”

We knew when we took this oath we were given the trust of the members and a high responsibility to take actions that are in the best interests of the Nation. We take this responsibility seriously. It is our guiding principle.

In 1994, the General Tribal Council identified a group of members to create job descriptions for the Oneida Business Committee to guide their actions and duties. Our job descriptions adopted by the General Tribal Council guide us in our actions and decision making.

- The Chairman is “required to support and advocate tribal goals and objectives and act, at all times, in the best interest of the Tribe and in a manner in keeping with” the office. He “must be responsive to the tribal members and the reservation community and their needs and put their interest above any personal interests.”
- The Vice-Chairman is responsible to uphold those duties of the Chair in his absence as well as keeping the Chair “advised on matters which may have an affect on the Tribal administration, Tribal Council, or Tribal members.”
- The Treasurer “maintains fiduciary responsibility for funds received by the Oneida Tribe.” In addition, she must be “responsive to the tribal members and the reservation community and their needs and put their interest above any personal interest.”
- The Secretary “is the official record keeper for the Oneida Business Committee and General Tribal Council.” She “must be responsive to the tribal members and reservation community and their needs and put their interest above any personal interest.”
- Council members “will portray a sense of allegiance, practice altruism, and act in the best interest of the Oneida Nation and its membership.” In addition, “a Council member, in accordance with the Constitution and bylaws of the Oneida Nation, shares equally in the fiduciary responsibility to preserve and safeguard the records, assets, and funds that are placed in the custody of the Oneida Business Committee by appropriate action or reaction of pertinent Oneida Business Committee or General Tribal Council actions.”

Over the years, the General Tribal Council has recognized that it cannot take on certain subjects. Examples of this include addressing employment matters, sitting on committees, legislative, judicial functions, and removal without due process. Further, the General Tribal Council has also identified that it must have information to make an informed decision. That was the impetus driving the creation of the Ten Day Notice Policy. And, as we have identified above, the Oneida Business Committee has not presented petitions which violate any of those laws.

With that history noted, we have never been faced with a petition which asks the General Tribal Council to take action that would gut all revenues for Nation operations for two years or more. The Chief Financial Officer has presented a financial analysis that clearly identifies there is no way to make this payment – the Nation does not have \$86.5 million available. The following straightforward quotes are from the Finance Office presentation:

- Finance is unable to identify sufficient funding sources for the requested Per Capita payment.

- The General Fund doesn't have \$86.3 million of unobligated cash available now or in the near future.

We have heard that the per capita could be paid using the funds of the Nation including the trust funds. A trust fund involves money set aside to grow through investment to serve a long-term future need. Some of our current trust funds were created by directive of the General Tribal Council and now are in excess of a \$100 million. In the wisdom of the General Tribal Council, the ability to use those funds requires a two-thirds vote of three entities, who are – the Trust Enrollment Committee, the Oneida Business Committee and the General Tribal Council. These restrictions ensure that the funds will always be available for their intended purpose and not subject to the political or personal demands of members, Trust Enrollment Committee, Oneida Business Committee or the General Tribal Council. We, this Oneida Business Committee, will not act to approve use of trust funds for this purpose.

We have heard suggestions that the Nation could just take out a loan to pay the per capita payment. Unfortunately, the act of taking out an \$86.5 million loan would require collateral that would negatively impact the Nation's ability to provide services. In addition, the interest rate on such a loan would result in millions of dollars being re-routed from programs and services to simply pay the interest and monthly/annual payment. The General Tribal Council has approved reducing the Nation's loans to the lowest possible level, so interest payments go to services, not banks. In fact, the General Tribal Council has done this twice – once reducing the per capita payments to pay down debt and once by directing the strategic use of the Executive Contingency Fund to also pay down the Nation's debt. Even if it might be possible, it is not appropriate to take out loans for per capita payments. It is simply not financially smart to do so, and individuals, companies and governments that take these kinds of actions soon find their debt overwhelms their resources and are left with nothing. We will not ignore the directions given to us by General Tribal Council only to go into even deeper debt than ever before just to make a per capita payment.

The legal analysis identifies that there is a strong likelihood that any Revenue Allocation Plan submission will be denied for failure to meet the requirements of federal law. The plan would show that the funds of the Nation would move from 19% allocated to per capita to 93% allocated to per capita. This dramatic change in allocations would violate the Indian Gaming Regulatory Act. Further, the legal analysis and the financial analysis identify that implementation of this proposed per capita would result in significant costs regarding lay-offs of most if not all the employment base, contract termination costs, return of grant funds we are unable to complete, and endangerment of the Nation's 93-638 contracts for self-governance programming.

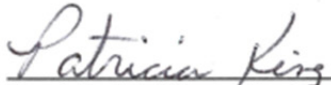
We cannot present a petition that so obviously damages the Nation to the General Tribal Council. The General Tribal Council has already acted to adopt a per capita for a five-year period. The discussion at that meeting was wide ranging and accounted for all aspects of the Nation's activities from programs and services to financial commitments. We are guided by that action in our decision today.

In addition to the above, this petition calls for a per capita be made within 45 days. Over the years the membership has received many packets regarding per capita requests. In those packets

it has been explained how per capita actions by Tribes are approved and how long it takes to approve those actions by the federal agencies. Yet, this petition asks the General Tribal Council to take action that cannot be taken. This is not new information; it has been consistently presented to the members and discussed in General Tribal Council meetings. Further, it violates our own law, the Per Capita law. The Per Capita law sets forth processes to answer questions that were consistently raised by the General Tribal Council. It provides standards that every member has become accustomed to, timelines that allow for accumulation of funding over a fiscal year to pay a per capita, and clearly identifies the deadlines for identifying who is a member.

For all of the above reasons the Oneida Business Committee by unanimous decision has determined that the petition submitted by Gladys Dallas requesting the General Tribal Council to approve a \$5000 per capita payment to be paid within 45 days is in violation of the Constitution and laws of the Oneida Nation, action on this petition would be in violation of the Indian Gaming Regulatory Act and related regulations, presentation of this petition would be in violation of the Oneida Business Committee's fiduciary responsibilities to the Nation and all of its members, and the Nation does not have the financial ability to make such a payment. As a result, this petition will not be presented to the General Tribal Council in accordance with the discretionary authority granted in Article III, Section 6 and the delegated authorities and responsibilities set forth in the Constitution, By-Laws, oath of office, and approved job descriptions of the Oneida Business Committee.

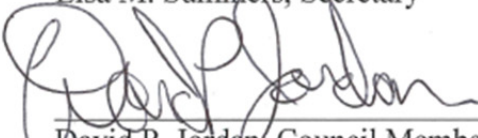
  
Tehassi Tasi Hill, Chairman

  
Patricia M. King, Treasurer

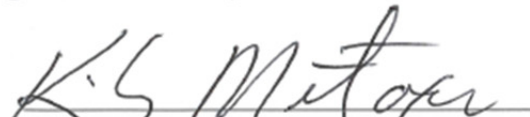
  
Brandon L. Yellowbird-Stevens, Vice-Chairman


  
Lisa M. Summers, Secretary

  
Ernest L. Stevens, III, Council Member

  
David P. Jordan, Council Member

  
Jennifer A. Webster, Council Member

  
Kirby W. Metoxen, Council Member

  
Daniel P. Guzman, Council Member