




MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: July 27, 2020

SUBJECT: Petition – Debraska – Increase Stipend Payment



Digitally signed by Jo Anne House
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You have requested a legal review regarding a petition submitted by Michael Debraska. The Enrollment Department has verified at least 50 signatures on the petition. The petition contains the following requests.

“...request the Chairman of the Oneida Nation to call for a Special General Tribal Council (GTC) meeting to be held on a Saturday only to allow for greater membership participation with this petition being the only thing on the agenda, within one-hundred twenty (120) days of receipt of this petition to discuss...”

“To double the stipend pay for all GTC meeting(s) from \$100.00 to \$200.00 to be effective in either September or October 2020. The increase will be included in the 2021 budget cycle of the Oneida Nation as presented to GTC in either September or October 2020 for approval by GTC...”

“The Business Committee will contact petitioner, in writing, to discuss the date and time of this scheduled GTC meeting if the Business Committee does not schedule the meeting on a Saturday to allow petitioner to challenge the Business Committee’s decision of the scheduling. The Business Committee will follow all applicable rule and regulations currently in-place for contacting petitioner.”

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 history and issues raised in the petition –

- General Tribal Council meeting stipend actions from 2008 to 2019;
- Scheduling a General Tribal Council meeting;
- Analysis of the quorum count at General Tribal Council meetings from 2008 to 2019;
- Analysis of speakers at General Tribal Council meetings from 2010 to 2019; and
- Analysis of votes in General Tribal Council Meetings from 2008 to 2020.

Note on Acceptance/Rejection of Payment and Impact on Individual

This opinion does not address the tax consequences of acceptance or rejection of a stipend payment on the individual. Tax questions are unique to each individual and cannot be addressed in this type of an opinion. This opinion also does not address the consequences of acceptance or

rejection of a stipend payment on the individual regarding receiving program services at the federal, state, local or tribal level. The impact on program services is unique to the program service and the individual which cannot be addressed in this type of an opinion.

Note on General Tribal Council Motion of January 20, 2020

The following motion was adopted by the General Tribal Council on January 20, 2020. The effect of this motion requires that any action, including petitions, which call for “economic development” or “financial strategy” must have a third-party review who will also be present to respond to questions from the General Tribal Council.

“That any economic development or financial strategy be reviewed and vetted by an independent 3rd party for appropriate due diligence; That the strategy include any and all pertinent assumptions; That the strategy be presented to GTC for review and approval; and That the independent 3rd party be present at the GTC meeting to answer any questions.”

There are no economic development or financial strategies identified in this petition.

Background

On August 11, 2007 the General Tribal Council was presented a petition that contained three items – per capita, stipend payment, legal resources for General Tribal Council. Most of the meeting was spent discussing the proposed per capita payment, almost four hours. After a vote on the per capita payment, with no presentation by the petitioner and little to no discussion, a motion was presented by Madelyn Genskow and adopted approving the payment of a stipend to attend General Tribal Council meetings beginning with the first meeting in 2008.

Prior to 2008 many General Tribal Council meetings were not called to order because of a failure to meet the 75-member minimum quorum requirements. In some circumstances, a meeting called to order was adjourned because of a failure to maintain the 75-member minimum quorum. The types of meetings where quorums were not met included Annual, Semi-Annual, Special meetings held as a result of petitions or for subjects brought forward by the Oneida Business Committee, as well as Special meetings called to adopt the Nation’s budget.

General Tribal Council Meeting Stipend Actions From 2008 to 2019

Since the adoption of the motion to pay stipends to attend General Tribal Council meetings there have been several motions, petitions and referendums regarding the stipend. These actions are summarized below. Not included in the summary are meetings where stipends were discussed as part of another unrelated topic and no stipend related action was on the agenda nor was any action taken.¹

¹ For example, the May 10, 2008 discussion by John Orié suggesting that the stipend should be \$300 to \$400; the January 5, 2009 discussion by Tina Popsychala that employees should not receive the stipend and Madelyn Genskow that individuals should not leave the meeting; or more recently the January 4, 2016 discussion by Teresa Barber-Buch pointing out that the number of people voting is far less than the quorum and that some members are just there for the stipend check and the March 17, 2017 meeting where Pauline Marlewski pointed out the same issue.

On January 17, 2009, at the budget meeting, discussion ensued about how much funding was being allocated to make meeting stipend payments. There was a question raised regarding whether meetings would be held if the budget allocation there was insufficient to make all stipend payments. The Oneida Business Committee members identified the stipend requirements would be met and that meetings would be scheduled, and insufficient funding would not impact either of those items. Notwithstanding that acknowledgement, an amendment to the main motion was made by Madelyn Genskow that prohibited the Oneida Business Committee from delaying any meeting from being scheduled because the funding for stipends had been exhausted. The motion further identified that only the General Tribal Council could vote to suspend stipends. This motion was ruled out of order as it was unrelated to the budget which was the subject of the meeting.

On July 5, 2010, the General Tribal Council met to consider a petition from Corrina Charles which proposed to reduce the stipend payment to \$50 and that it be paid in the form of a gift card. A motion was made by Pat Lasilla to accept the proposal after discussion. The motion failed by a vote of 219 yes votes, 682 no votes. A subsequent motion was made by Sandra Schuyler that the stipend be paid by a retail gift card. This motion was ruled out of order as the subject of a retail gift card was not noticed in accordance with the rules.

On November 21, 2011, the General Tribal Council met to consider a petition from Madelyn Genskow which would require members to remain in room for the entire meeting in order to receive a stipend. A motion was made by Madelyn Genskow to adopt a modified resolution that restricted access to the meeting room to members age 21 and over and that members who leave the room will not receive a stipend. An amendment was made by Loretta Metoxen changing the \$100 stipend to a gift card was ruled out of order as it was not noticed in accordance with the rules. Resolution # GTC-11-21-11-A, *Amendment to GTC Stipend Policy*, was adopted.

On July 2, 2012, the General Tribal Council met to consider a referendum question which would prohibit employees working at a General Tribal Council meeting from receiving a stipend.² The referendum received a vote of 962 yes and 670 no votes during the election. A motion to approve sending the referendum for final review and preparation was presented by Shannon Hill and after discussion failed by a show of hands.

On November 19, 2012, the General Tribal Council met to consider a petition from Mike Debraska proposing that the meeting stipend and the per capita payment be combined along with setting a specific number of meetings each year. After brief discussion, Tina Pospychala made a motion to reject the proposal and a subsequent amendment was made by John Orié to direct the Oneida Business Committee to prepare plan considering the petition proposal. The amendment failed by a show of hands and the main motion carried by a show of hands.

² A referendum question is presented at a Caucus to be placed on a General or Special election ballot. If adopted, the referendum question is presented at a General Tribal Council meeting for the members attending to consider approving it to be sent for final review. If it is not approved, the referendum question is concluded. If it is approved, the referendum question receives the necessary legislative, financial and legal review, and if necessary legislative drafting or amendments. This is then returned to the General Tribal Council for action. *See Election Law.*

On March 28, 2015, during the adoption of the agenda at a General Tribal Council meeting, Sherrole Benton made a motion that if the meeting is reconvened or continued, that a stipend payment will not be made for the subsequent meeting. The amendment was ruled as being in order as it was within the authority of the General Tribal Council to modify its meeting rules. The amendment failed by a vote of 198 yes and 949 no votes.

On October 2, 2016, the General Tribal Council met to consider a petition regarding an emergency food pantry. As part of the discussion and action regarding this petition, an amendment was made Dylan Benton that would utilize the meeting stipends as a funding mechanism. This motion failed by show of hands after discussion.

On July 17, 2017, Ken Stevens made a motion that meetings lasting less than one hour would not have a stipend issued. The motion was seconded and a ruling on the motion identified that it is not generally acceptable to make an active motion while accepting reports, but it was within the discretion of the Chair. No ruling was made on whether the motion was in order as it was not considered as a result of a motion objecting to the consideration of the question.

On October 28, 2018, Ken Stevens made an amendment to a motion regarding a petition about Medicare payments that the action would be funded by the \$100 stipend. This motion was ruled out of order by the Chair because of lack of notice.

Finally, on December 10, 2018, during a budget meeting, Mike Debraska made a motion to increase stipend to \$200. The Chair ruled the motion out of order because it would result in an unbalanced budget.

Scheduling a General Tribal Council Meeting

The General Tribal Council has identified that petitions must be presented at a meeting on an agenda within 180 days of receipt of the petition. *See Resolution # GTC-01-21-19-A, Amending the 120-Day Petition Timeline Adopted by the General Tribal Council.*³ The Tribal Secretary is responsible for managing the workflow to meet these timelines.

³ This memo is drafted during a period of public health emergency caused by the COVID-19 pandemic. COVID-19 spreads mainly from person-to-person through respiratory droplets when a person with a COVID-19 infection coughs, sneezes, or talks. The nature of the COVID-19 pandemic prohibited gathering large numbers of members in an enclosed space in order to avoid the spread of the virus. In addition to prohibiting larger gatherings, much of the world's economy was severely impacted as a result of closure of most businesses, at least within the United States, for over 30 days. The Nation's gaming operations were closed for over 60 days. Much of the world, the United States, the State of Wisconsin, and the Reservation remains impacted by the virus and travel, business meetings and conferences, and training programs have been discontinued for the foreseeable future. On March 12, 2020 the Oneida Nation declared a Public Health State of Emergency in response to the COVID-19 pandemic. The Nation has been under a continual Public Health State of Emergency since March 12, 2020. The Nation's most recent Safer at Home order issued June 10, 2020 prohibits public and private gatherings of more than 20 people that are not part of a single household or living unit, with some exceptions. In accordance with the July 8, 2020 extension of the Public Health State of Emergency, this order is in effect during the duration of the Public Health State of Emergency. On July 20, 2020 the Nation's Public Health official issued an order mandating masks and further limiting outside mass gatherings. This opinion does not further address the full Public Health concerns of conducting a GTC meeting.

The Radisson provides three sets of conference space that can be broken into many different sizes to meet the needs of the group. In some circumstances, this allows the Radisson to host multiple groups at the same time. Typical scheduling of conferences, business meetings and training programs occur during the week, many times during the latter half of the week. Summer and spring are months usually scheduled for weddings, and winter months generally have holiday parties scheduled. Many of these types of events are scheduled as much as one year in advance.

General Tribal Council meetings require the Oneida Business Committee to hold all three sets of conference rooms to allow the greatest amount of anticipated participation. It takes the Radisson four to six hours to set up all three rooms, another two to four hours to set up the audio and video connections, one or two hours for the Nation's MIS employees to set up all laptops for check-in/check-out. Closing out the meeting, cleaning up, storing chairs, taking down audio and video equipment can be done during check-out and generally takes approximately four to six hours. Generally, meetings last four hours. This requires a 14 to 16-hour period when the conference rooms would not be available for any other purpose.⁴

Analysis of the Quorum Count at General Tribal Council Meetings From 2008 to 2019⁵

Since adoption of the motion, every General Tribal Council meeting has met the minimum 75-member quorum requirements. The average number of members attending has increased from an average of 1042 members (low 758; high 1566) in 2008 over nine different meetings to 1690 members (low 1391; high 1856) in 2019 over seven different meetings.

The following table shows the range and standard deviation between high and low quorum counts for meetings from 2008 to 2019.⁶ A range is the difference between the lowest and highest quorum numbers. It shows the spread between quorum counts, a small range shows greater consistency in quorum counts. The standard deviation shows the spread between quorum counts and the relationship to the average, smaller standard deviations are better as it shows more normally grouped data which lends to the predictive ability of quorum counts for future meetings. The average, range and standard deviation in the table help to identify if any patterns or trends are forming regarding quorums.

⁴ There has been at least one occasion where the General Tribal Council meeting went longer than expected and the meeting had to be recessed because one or more of the rooms was reserved for another party later in the evening. *See August 1, 2009 meeting adjourned because of a previously scheduled wedding.*

⁵ Note, none of the available information regarding quorums at General Tribal Council meetings identify individual names.

⁶ The years 2008 to 2019 were used as the information was gathered for a prior legal opinion. The information was updated to include the most recent meetings.

Table 1. 2008 to 2019 Average Quorums by Year

Year	Average	Lowest #	Highest #	Range	Std Dev
2008	1042	758	1566	808	256
2009	1494	1158	2094	936	308
2010	1312	1182	1438	256	87
2011	1626	1338	1965	627	217
2012	1892	1718	2056	338	122
2013	1878	1648	2070	422	149
2014	1737	1500	1942	442	153
2015	1535	1397	1775	378	114
2016	1649	1415	1873	458	156
2017	1681	1421	1890	469	142
2018	1756	1393	1965	572	181
2019	1690	1391	1856	465	150

The range between the high and low numbers for each year which identifies how different the quorums are, began around 808 members in 2008 and have reduced to 465 members in 2019. This means that the number of people attending meetings have generally stabilized. To determine how large the range is in relation to the group, a standard deviation is calculated. For 2008, the standard deviation among the meeting quorums is 256, for 2019, the standard deviation among the meeting quorums is 150. Over the years from 2008 to 2019, the range fluctuates from a low of 256 members to a high of 936 members. A clearer look at these differences is identified in the standard deviation which seems to stabilize at the lower rate in 2013.

Looking at this information from the perspective of terms of office, or three-year periods, this same trend occurs. *See Table 2.* For example, Chairman Rick Hill, who had the first full three-year term, had an average attendance at 1384 members, a range of 1082 members, and a standard deviation of 225. On the other hand, Chairman Ed Delgado had an average attendance of 1868 members, a range of 570 members, and a standard deviation of 152.

Table 2. 2008 to 2019 Average Quorums by Chair Term of Office

Chair	Average	Lowest #	Highest #	Range	Std Dev
G. Danforth	996	758	1566	808	295
R. Hill	1384	1012	2094	1082	225
E. Delgado	1868	1500	2070	570	152
T. Danforth	1625	1397	1873	476	145
T. Hill	1722	1391	1965	574	170

Attendance at General Tribal Council meetings are reported in groups related to addresses –

- on Reservation;
- Brown and Outagamie counties outside of Reservation;
- Milwaukee;
- within the state but outside of Reservation, Brown and Outagamie counties and Milwaukee, and
- outside of state.

For simplicity, in this opinion, groups will be referred to as follows within tables: “Milw” (living in Milwaukee and surrounding area); “State” (living in the State of Wisconsin but outside Milwaukee and surrounding area, Brown or Outagamie Counties, and Reservation); “R&Cs” (living on Reservation or in Brown or Outagamie Counties); “Out” (living outside of the State of Wisconsin). And, within the opinion, will be referred to as follows: Milwaukee (Milw); State; Outside of State (Out); and Reservation (R&Cs).

Table 3, below, shows the numbers and percentage of total quorum of members attending General Tribal Council meetings based on residence from 2013 to 2019.⁷ The attendance from various areas has been relatively stable.

Table 3. Average Quorum and Attendance Groups by Year

Year	Total	Milw	M %	State	S %	Out	Out %	R & Cs	R&C %
2013	1773	87	5%	126	7%	42	2%	1518	86%
2014	1737	65	4%	108	6%	39	2%	1525	88%
2015	1535	52	3%	78	5%	18	1%	1387	90%
2016	1649	57	3%	95	6%	21	1%	1476	89%
2017	1681	61	4%	96	6%	25	2%	1498	89%
2018	1756	56	3%	94	5%	20	1%	1586	90%
2019	1690	52	3%	93	6%	13	1%	1533	91%

The relationship of attendance to percentage of members in each residency area identifies a different picture. In June 2020 – 1879 or 14% of members live in Milwaukee; 2127 or 15% of members live within the State; 4256 or 29% of members live outside of the State; and, 6126 or 42% of members live within the Reservation. Attendance at General Tribal Council meetings show little relationship to these residential group percentages. For example, 1533 or 91% of the members living on the Reservation made up the quorum at meetings in 2019, but at that same time period, 6126 or 42% of the members live in that area. This is only 25% of the members living in that area attending meetings. In the alternative, 52 or 12% of the members living in Milwaukee made up the quorum meetings in 2019. Again, at the same time period, 1879 or 13% of the members live in Milwaukee. This is only 3% of the members living in Milwaukee attending meetings. Overall, only 12% of the members attended General Tribal Council meetings.

⁷ The years 2013 to 2019 were used as the information for this period had already been collected in relation to prior legal reviews.

Table 4. Day of Week for Each Year 2008 to 2019

Day/Year	MON	TUE	WED	THU	FRI	SAT	SUN
2008	1					8	
2009	2					4	
2010	2					5	
2011	6					2	
2012	4						
2013	3					1	3
2014	2					1	2
2015	6					3	
2016	5		2	1		1	2
2017	5	1					5
2018	5	2				1	3
2019	4			1			1

A review of the day of the week for each meeting identifies that meetings have shifted from primarily held on a Saturday to Mondays. This may explain some of the change in the quorum dispersion in Table 3 above. However, the percentage of the quorum for each residential area remains consistent.

There are two remaining groups of information available regarding the quorum at General Tribal Council meetings – employees and age. From 2008 to 2019, 29% of the members attending General Tribal Council meetings are employees of the Nation. This is an average of 470 employees at each meeting. The largest groups of employees attending are from gaming (139 employees), Governmental Services Division (59 employees), and Oneida Police Department (29 employees). In addition, it is estimated that 82 members are attending the meeting and are also working at the meeting – security, enrollment, computer set-up, counting votes, operating video and microphones, providing meeting information on screens, etc.

Table 5. 2018 to 2019 Average Quorum Dispersion by Age

	Milw	M %	State	S %	Out	Out %	R & Cs	R&C %	Total	Total %
18-20	1	0%	4	0%	1	0%	82	5%	88	5%
21-24	22	1%	48	3%	10	1%	919	53%	999	58%
55-61	12	1%	17	1%	4	0%	212	12%	245	14%
62+	19	1%	25	1%	3	0%	348	20%	395	23%
Quorum	55	3%	94	5%	17	1%	1567	90%	1733	
Nation	1879	13%	2127	15%	4256	29%	6126	42%	14,388	

Members age 21 to 24 (58%) who live on the Reservation (53%) are the vast majority of those attending General Tribal Council meetings. The next group are those members age 62 and over at 23%. Again, most of those in this age group live on the Reservation (20%). There is a general relationship between the membership age group dispersion and total enrollment attending General Tribal Council meetings. The smallest group, members age 18-20, are about 5% of the quorum, or 88 members. This group of 669 members also makes up only 4% of the total

membership and 5% of the membership age 18 and over. It is possible that this group, not having had access to General Tribal Council meetings until recently, has not developed an interest in attending meetings. This may raise concerns for future attendance as the large Baby Boomer population (ages 55-75), about 37% of the quorum, continues to age.

Analysis of Speakers at General Tribal Council Meetings from 2010 to 2019

There were 78 General Tribal Council meetings held between January 4, 2010 and March 25, 2019.⁸ The transcripts or minutes from each of these meetings was reviewed and every member who spoke was categorized under either – raising a point of order or privileged question; making a motion; seconding the motion; or discussing the agenda item. The analysis does not include members who spoke as an elected official acting in his or her position (i.e. Chair, Secretary, Legislative Operating Committee member), does not include members making a presentation (i.e. petitioner, Chief Financial Officer, Division Director), or members responding to a question in their official capacity (elected official, Chief of Police, parliamentarian). The review of transcripts and minutes identified 431 different speakers at the 75 meetings reviewed.

Assuming the members attending a General Tribal Council meeting remained consistent from meeting to meeting there are approximately 2094 different members attending meetings. This is the largest number of members attending a General Tribal Council meeting between 2010 and March 2019. It is unlikely that there are no new members attending meetings and that the number of different members who have attended meetings during this time period is greater. Without obtaining additional information regarding members signing into meetings, it is not possible to be more specific.

In 2010, there were 99 different members speaking at General Tribal Council meetings. In 2011, 72 new members spoke up. This dropped to between 26 and 29 for the next three years, and then remained somewhat consistent with about 45 new speakers each year. Generally, speakers at meetings are split into two distinct groups – those who speak repeatedly and those who speak once. Of the latter group, these members will second a motion or speak once in discussion.⁹ A broad look at the 75 meetings in this time period shows there were 897 motions and 767 seconds to the motion.¹⁰ During this same time period, there were 2,101 members recognized for discussion, and 1,181 privileged questions or points of order raised.

To give this greater insight, during the 75-meeting period, there were 431 different individuals recognized to speak during these meetings. Of those recognized to speak, 93 of those members spoke ten or more times, with all other speakers generally be recognized less than five times. Most of those members speaking more than 100 times began speaking during the 2010 meetings and continued thereafter, and most of the recognized speech occurred by ten to twelve of those

⁸ The years 2010 to 2019 were used as the information for this period had already been collected in relation to prior legal reviews. To the greatest extent possible, this information was updated to include the most recent meetings where transcripts were available. There were eight meetings in which no transcript existed, these meetings are included for motions and seconds only.

⁹ There is a beginning trend for first time speakers to raise a privileged question or point of order as their initial speech during a meeting. This is not yet clarified and may take additional meetings to discern if this is becoming a ‘normal’ introduction to speaking at General Tribal Council meetings.

¹⁰ Not every motion is seconded, at which point the motion fails. However, there were some occasions where the member seconding the motion was not identified.

speakers. This group of top ten speakers also account for 60% of all privileged questions and points of order, but only 36% of discussion.

When looking at individual meetings, out of an average quorum of 1664 members, 29 different members are recognized to speak on average at each meeting. This is a range of 16 members at a four-hour meeting to a high of 47 members. Generally Annual and Semi-Annual meetings have larger number of speakers because of approval of the minutes are approved individually.

Table 6 below identifies the number of speakers and types of recognition to speak during all meetings held in 2018. For the calendar year 2018, General Tribal Council meetings were four hours long, with the length of the meeting for four meetings being 2.5 hours or less. It appears that there is no relationship between the length of the meeting and the number of speakers, for example, the January 16th meeting was only 2.5 hours long, but there were 45 recognized speakers. Those 45 speakers were recognized 17 times for a privileged question, 44 times for discussion, nine times to make a motion, and seven times to second a motion. The January 16th meeting was a special meeting called for two petitions – law firm for the General Tribal Council presented by Leah Dodge and a request for a banishment law to be considered by Gina Buenrostro.

On the other hand, the May 12th meeting was a continuation of a prior meeting and presented reports for consideration, three tabled and two new reports. There were 31 recognized for privileged questions, 44 recognized for discussion, 18 recognized to make a motion, and 10 recognized to second a motion. This meeting was four hours long.

Table 6. Speakers at Meetings in 2018

Day	Quorum	Meeting Length	Total Speakers	Totals	PO/PQ	Discuss	Motions	Seconds	PO/PQ to Total	Speakers to Quorum
Tuesday, January 16, 2018	1905	2.5	45	77	17	44	9	7	22.08%	2.36%
Sunday, January 28, 2018	1756	3.5	35	94	30	36	15	13	31.91%	1.99%
Monday, March 19, 2018	1713	4.0	38	83	26	37	9	11	31.33%	2.22%
Saturday, May 12, 2018	1431	4.0	32	103	31	44	18	10	30.10%	2.24%
Monday, June 18, 2018	1870	2.0	20	44	15	16	7	6	34.09%	1.07%
Sunday, July 1, 2018	1711	4.0	42	91	20	42	17	12	21.98%	2.45%
Tuesday, July 10, 2018	1936	2.5	29	81	26	33	14	8	32.10%	1.50%
Monday, August 27, 2018	1965	4.0	40	80	21	32	15	12	26.25%	2.04%
Monday, September 24, 2018	1828	4.0	19	37	14	12	7	4	37.84%	1.04%
Sunday, October 28, 2018	1393	4.0	34	93	32	38	13	10	34.41%	2.44%
Monday, December 10, 2018	1808	1.5	13	18	7	4	4	3	38.89%	0.72%

Analysis of Votes in General Tribal Council Meetings from 2008 to 2020

There were 94 meetings in which the minutes or transcripts were available between 2008 and 2020 spanning five different chairpersons and at least three different vice-chairpersons. Seventy percent of the meetings (66) at had at least one hand-count by the Election Board, almost half of the meetings had at least two hand-counts, and one meeting had six hand-counts.

Hand-counts were requested for both majority and two-third vote requirements and on main motions as well as amendments. There was one hand-count which was less than 50% of the quorum and one hand-count which was almost 100% of the quorum.¹¹ On average, 460 members signed into a General Tribal Council meeting do not vote. At the highest number of members voting, only nine members did not vote, at the lowest number of members voting, 830 members did not vote.

There appears to be no relationship between the number of votes that are conducted by a show of hands or a hand-count. Further, there appears to be no relationship between the number of votes and the length of the meeting. However, there are higher number of votes taken during Annual and Semi-Annual meetings as a result of the presentation of minutes and reports.

Analysis

The petition contains three requests – scheduling a General Tribal Council meeting in a specific manner, increase the stipend payment to \$200 in October 2020, and discussing with the petitioner with the petitioner. This analysis will address the three requests separately.

Scheduling a General Tribal Council Meeting

“...request the Chairman of the Oneida Nation to call for a Special General Tribal Council (GTC) meeting to be held on a Saturday only to allow for greater membership participation with this petition being the only thing on the agenda, within one-hundred twenty (120) days of receipt of this petition to discuss...”

Soon after receipt of this petition the world was hit by the COVID-19 pandemic. This has resulted in the cancelling of all General Tribal Council meetings and all other activities which gather people together. The presentation of this petition has been delayed and the request to schedule a meeting within 120-days cannot be accomplished.

Notwithstanding the restrictions of the COVID-19 pandemic, the General Tribal Council has identified two directives beyond the 50-signature requirement in the Constitution that guide scheduling General Tribal Council meetings – Ten Day Notice Policy and 180-scheduling policy. This portion of the petition makes a request that, other than the COVID-19 pandemic impact, is within the discretion of the Oneida Business Committee.¹²

The petition requests that the meeting be scheduled on a Saturday for more members to attend. As identified in the background section, scheduling meetings are subject to availability. Mondays

¹¹ The meeting with the greatest number of members voting (99%) had six hand-counts and eight raised-hands vote, was a special meeting lasting four hours long. At that meeting, the average percentage of members voting in the six hand-counts was 65%, the lowest vote showed at least 637 members who did not vote at all (yes, no, abstain).

¹² This has been presented regarding all petitions which attempt to direct how or when the petition subject will be presented to the General Tribal Council. In summary, the ability to reserve all three conference rooms to accommodate potential number of members attending, meeting the Ten Day Notice Policy requirements of providing notice and information, printing the materials, and finally developing those information materials are restrictions on the ability to schedule General Tribal Council meetings. This discretion of the Oneida Business Committee has not been curtailed or limited beyond the current criteria.

and Sundays are more frequently available than other days of the week as a trend in conference and entertainment industry.

Since 2008, there have been over 90 meetings scheduled. As identified in Table 4, there has been a distinct transition from holding meetings on Saturdays to holding meetings on Monday evenings and Sunday late mornings. As that transition has occurred, the quorum at General Tribal Council meetings have begun to stabilize, with a slight shift to increasing number of members who live on the Reservation. *See Table 3.* Looking at who is attending meetings, 90% of the quorum are members who live on the Reservation, and this group makes up 42% of the enrollment in the Nation. On the other hand, 3% of the quorum is made up of members living in or around Milwaukee, or a total of 8% of the members living in the State, and this group makes up 13% of enrollment living in Milwaukee, or about 28% of the enrollment living in the State. *See Table 5.*

It does not appear that holding a General Tribal Council meeting on a day of the week other than a Saturday influences attendance. Although, there is a slightly lower attendance for meetings scheduled on Sundays and a higher attendance for meetings scheduled on Mondays.

The request made by the petitioner to schedule a meeting on a Saturday does not appear to be supported by the quorums at General Tribal Council meetings between 2008 and 2019. This request is at the discretion of the Oneida Business Committee to schedule the meeting within the 180-day requirement, post-pandemic allowing large groups of people to gather, and finally, to avoid conflict with previously contracted use of the conference areas at the Radisson.

Further, identification of what is on a General Tribal Council agenda is subject to the Oneida Business Committee managing the schedule of the General Tribal Council to maximize the limited time of the General Tribal Council of four hours per meeting, the cost of those meetings, and the difficulty in identifying sufficient dates and times to hold meeting at the single facility on the Reservation which has sufficient space available. It is not likely that this is a good use of the limited time of the General Tribal Council to present an agenda with a single subject.

Increase the Stipend Payment to \$200 in October 2020

“To double the stipend pay for all GTC meeting(s) from \$100.00 to \$200.00 to be effective in either September or October 2020. The increase will be included in the 2021 budget cycle of the Oneida Nation as presented to GTC in either September or October 2020 for approval by GTC...”

Increasing the stipend amount from \$100 to \$200 per meeting is within the authority of the General Tribal Council. The GTC Meeting Stipend Payment Policy reflects the actions of the Oneida Business Committee to implement the directive of the General Tribal Council. There would need to be minor updates to footnote #1 in the Policy which identifies the original motion to include references to the amendments made through adoption of resolution # GTC-11-21-11-A, and this amendment if necessary. Because this amends a prior directive of the General Tribal Council it would require a two-thirds vote as identified in the Ten Day Notice Policy. *See Ten Day Notice Policy section 110.3-1(a)(3).*

There is a financial impact of increasing the stipend payment. Discussion of this impact can be found in the financial analysis. Approval of a motion to increase the stipend from \$100 to \$200 is subject to the Nation's ability to make such a payment.

Discussing the Petition with the Petitioner

“The Business Committee will contact petitioner, in writing, to discuss the date and time of this scheduled GTC meeting if the Business Committee does not schedule the meeting on a Saturday to allow petitioner to challenge the Business Committee's decision of the scheduling. The Business Committee will follow all applicable rule and regulations currently in-place for contacting petitioner.”

Oneida Business Committees have approached petitions generally in the same manner. The petition is received, and signatures verified. It is placed on an Oneida Business Committee agenda and directives to provide legal, financial and legislative opinions within a certain deadline. The options for meeting dates and agendas are presented either at this same meeting or a later meeting, which also includes the estimated schedule for printing and mailing. Once the legal, financial and legislative opinions are received on an Oneida Business Committee agenda, the documents are mailed to the petitioner with notice of when petitioner documents, if any, are due in order to be included in the meeting materials. The Oneida Business Committee finalizes its recommendation regarding the petition and then presents the entire meeting packet on the Oneida Business Committee agenda for approval.

There have been occasions when the Oneida Business Committee has contacted a petitioner for additional information or clarification. For the most part, this is not a common occurrence.

The petitioner has multiple opportunities to participate in the decision-making process for scheduling General Tribal Council meetings. He or she can anticipate that the petition will be placed on the next regular agenda of the Oneida Business Committee. The schedule of regular meetings is posted on a yearly basis by resolution adopted by the Oneida Business Committee and placed on the Nation's website. In addition, on an individual page – “BC Meeting Schedule and Deadlines” – members can identify when meetings are scheduled and the related deadlines. Further, the petitioner can review meeting agenda which is posted prior to each meeting on the Oneida Business Committee webpage – “BC Agendas & Packets.” This review would identify when opinions are presented, proposed meeting dates and times are presented for approval, and final packets are presented for approval.

As identified above, meetings are scheduled on dates when all three conference rooms are available. Mondays or Sundays have generally been available given the traditional dates for conferences, entertainment, weddings, etc. Since the Nation's expectation is that the Oneida Airport Hotel Corporation (Radisson Hotel and Conference Center) will be profitable, the Oneida Business Committee has generally chosen free dates in order to avoid disruption of the conference and meeting business of the corporation.

In the past it was easier to schedule meetings because quorums were generally about 75-100 members if a quorum was reached. After 2008, meetings were held at the Turtle School gym. Although in the long run this presented its own difficulties related to available restroom facilities and parking. This became more difficult as quorums at General Tribal Council meetings began

stabilizing around 1500 to 1600 members. At that point, it was safer to move these meetings to the Radisson's conference rooms. There are no other locations which can safely house this size of a meeting on the Reservation.

Conclusion

The petition requests three actions. Of the three actions, only one is applicable – i.e. increasing the stipend from \$100 to \$200. All other requests within the petition are just that, requests. A petition is not a directive of the General Tribal Council, it is a request to present an issue for the General Tribal Council to consider.

The request to increase the stipend from \$100 to \$200 is properly placed before the General Tribal Council to act upon in accordance with the rules of that body. Action to approve the request would require an opinion from the Treasurer regarding the financial ability of the Nation to make such payments. If there are enough funds available to make the requested stipend increase, a motion to approve the increase would require a two-thirds vote.

If you have further questions, please contact me.