



Statement of Effect

Petition: M. Debraska – Increase GTC Meeting Stipend

Summary

This petition requests the General Tribal Council to consider doubling the stipend payment for attendance at all General Tribal Council meetings from one hundred dollars (\$100) to two hundred dollars (\$200) to be effective in either September or October 2020.

*Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office
Date: October 2, 2020*

Analysis by the Legislative Reference Office

On January 21, 2020, the Petition: M. Debraska - Increase GTC Meeting Stipend (“the Petition”) was submitted to the Business Committee Support Office by Michael Debraska and has since been verified by the Oneida Trust Enrollment Department. On February 12, 2020, the Oneida Business Committee acknowledged receipt of the Petition. On February 26, 2020, the Oneida Business Committee directed that the Legislative Reference Office complete a statement of effect for the Petition.

The purpose of this Petition is to “*direct 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 the 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 the following:*

- 1. 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; and*
- 2. 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.”*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

August 11, 2007 General Tribal Council Directive

On August 11, 2007, a Special General Tribal Council meeting was held to discuss establishing an office of General Tribal Council to review and monitor all aspects of tribal operations, the payment of one hundred dollars (\$100) to eligible voters attending GTC meetings, and the development of a five thousand (\$5,000) to ten thousand (\$10,000) per capita payment for Fiscal Year 2008.

During this special meeting the General Tribal Council adopted a motion made by Madelyn Genskow, seconded by Nancy Skenandore, that a stipend of one hundred dollars (\$100) be paid to any General Tribal Council member who attends a General Tribal Council meeting and is eligible to vote and stays until the end of the meeting effective in calendar year 2008 and for all time.

General Tribal Council Meeting Stipend Payment Policy

The General Tribal Council Meeting Stipend Payment Policy was developed in an effort to establish rules and processes to be followed for eligible Oneida Tribal members to receive a stipend for attending a General Tribal Council meeting in accordance with the August 11, 2007, General Tribal Council directive.

The General Tribal Council Meeting Stipend Payment Policy governs the payment of stipends for attendance at General Tribal Council meetings at which a quorum is established and maintained and where official business of the Nation is conducted. [1 O.C. 111.1-1, 111.1-2]. The General Tribal Council Meeting Stipend Payment Policy provides that any member of the Nation who meets the following requirements shall receive a stipend for attending a General Tribal Council meeting where a quorum is established:

- be a qualified voter, in accordance with the Constitution of the Oneida Nation;
- register, or be in line to register, no later than fifteen (15) minutes after the published starting time of the meeting by checking in at a registration table, filling out any required forms, and providing a valid Tribal or state issued picture identification;
- be present for the entire meeting, from the time the meeting is called to order until the meeting is adjourned; and
- check out and provide a valid Tribal or state issued picture identification card after the meeting ends. [1 O.C. 111.4-2(a)-(d)].

The General Tribal Council Meeting Stipend Payment Policy itself does not establish the amount of a stipend a person is eligible to receive for attendance at a General Tribal Council meeting, but provides that the amount of the stipend a person is eligible to receive is determined by the General Tribal Council. [1 O.C. 111.4-1]. The General Tribal Council Meeting Stipend Payment Policy does contain a footnote which provides the August 11, 2007 General Tribal Council directive which set the specific stipend amount at one hundred dollars (\$100).

Ten Day Notice Policy

The Ten Day Notice Policy was adopted by the General Tribal Council to provide a clear and concise statement of procedures to be followed by the General Tribal Council and the Oneida Business Committee during General Tribal Council meetings. [1 O.C. 110.1-3]. The Ten Day Notice Policy provides that any action to over rule previous passed motions or resolutions shall require a two-thirds (2/3) majority vote. [1 O.C. 110.3-1(a)(3)]. Therefore, action to overrule the August 11, 2007, General Tribal Council motion that “a stipend of one hundred dollars (\$100) be paid to any General Tribal Council member who attends a General Tribal Council meeting and is

eligible to vote and stays until the end of the meeting” to increase the amount of the meeting stipend would require a two-thirds (2/3) vote by the General Tribal Council.¹

Inclusion of Increased General Tribal Council Meeting Stipend in the Fiscal Year 2021 Budget

The Petition calls for the increased stipend “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 Petition’s requirement that the increased General Tribal Council meeting stipend be included in the 2021 budget cycle and presented to the General Tribal Council for adoption in September or October 2020 cannot be met.

After this Petition was submitted, on March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020. [3 O.C. 302.8-1]. At the time this statement of effect was drafted the Public Health State of Emergency had since been extended until October 12, 2020 through adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A and BC-09-09-20-A. As a result of this Public Health State of Emergency all General Tribal Council meetings were canceled.

On March 17, 2020, the Oneida Business Committee adopted resolution BC-03-17-20-A titled, “*Adoption of Tier IV Budget Contingency Plan for the Remainder of Fiscal Year 2020 As a Result of Potential COVID-19 Pandemic Financial Impacts*” which declared that the Nation was implementing the Tier IV measures under its Budget Contingency Plan that was put in place pursuant to the Budget Management and Control law for when the Nation is experiencing extreme financial distress that could negatively impact the Nation. [1 O.C. 121.4-3]. Shortly thereafter, the Oneida Business Committee implemented the Budget Contingency Plan’s Tier V measures, through adoption of resolution BC-04-08-20-C titled, “*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*” which required five percent (5%) mandatory budget cuts across the Nation, a reduction of all funding to essential services only and layoffs for the remainder of Fiscal Year 2020.

The Nation’s Finance Team identified that it was impossible to identify revenues at any level of accuracy during this Public Health State of Emergency as the economy is impacted and beyond as the economy recovers, which impacts the ability to generate a budget for the Fiscal Year 2021. Due to the fact that the Oneida Business Committee would not be able to develop and present a Fiscal Year 2021 budget to the General Tribal Council by September 30, 2020, a continuing budget

¹ Although it is within the discretion of the General Tribal Council to change the stipend amount a person is eligible to receive for attendance at a General Tribal Council meeting, on April 8, 2020, the Oneida Business Committee adopted emergency amendments to the General Tribal Council Meeting Stipend Payment Policy through resolution BC-04-08-20-A which allows the Oneida Business Committee to decide through adoption of a resolution to halt the payment of General Tribal Council meeting stipends to all eligible members for a period of time deemed necessary by the Oneida Business Committee to protect and safeguard the resources and general welfare of the Nation. [1 O.C. 111.4-3(c)]. This emergency amendment was made due to the financial impacts of the COVID-19 pandemic on the Nation. The Oneida Business Committee then adopted resolution BC-04-08-20-F titled, “*Halting General Tribal Council Meeting Stipend Payments for FY2020 and FY2021*” which declared that General Tribal Council meeting stipend payments will not be paid in Fiscal Year 2020 and Fiscal Year 2021.

resolution was sought by the Oneida Business Committee, in accordance with the Budget Management and Control law, to be in place until such time as a budget is adopted by the General Tribal Council. [1 O.C. 121.5-9]. On August 12, 2020, the Oneida Business Committee adopted resolution BC-08-12-20-J titled, “*Continuing Resolution for Fiscal Year 2021*” which provided that Fiscal Year 2021 expenditures shall derive from each fund unit’s approved contingency plan (Fiscal Year 2020 budget) as impacted by resolution BC-04-08-20-C, and all expenditures shall be restricted to the greatest extent possible to allow the Nation to provide critical-essential services.

The inclusion of an increased General Tribal Council meeting stipend will not be included in the Fiscal Year 2021 budget cycle and presented to the General Tribal Council for adoption in either September or October of 2020. These deadlines cannot be met because the Nation does not yet have a Fiscal Year 2021 budget developed as a result of the COVID-19 pandemic, and is operating under a continuing resolution as adopted through resolution BC-08-12-20-J. The increased General Tribal Council meeting stipend may be addressed when the next budget is developed and presented to the General Tribal Council for adoption, but it is unknown at this time when that may occur.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: M. Debraska – Increase GTC Meeting Stipend would not have a legislative impact as long as the following conditions are met:

1. Action by the General Tribal Council to increase the amount of the stipend a person is eligible to receive for attendance at a General Tribal Council meeting from one hundred dollars (\$100) to two hundred dollars (\$200) would require a two-thirds (2/3) majority vote by the General Tribal Council in accordance with the Ten Day Notice Policy.
2. A Fiscal Year 2021 budget that contains the inclusion of increased General Tribal Council meeting stipends would need to comply with the budgeting process provided for in the Budget Management and Control law and be adopted by the General Tribal Council before the increased stipend could go into effect. This will not occur before October 2020 as the Petition directs due to the fact that a Fiscal Year 2021 budget has not been developed as a result of the COVID-19 pandemic, and the Nation is operating under a continuing resolution as adopted through resolution BC-08-12-20-J.

Requested Action

Accept the statement of effect for the Petition: M. Debraska – Increase GTC Meeting Stipend.