

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.

BC Meeting Materials February 24, 2016

Open Session

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the following 232 pages are the Open Session meeting materials presented at a meeting duly called, noticed and held on the 24th day of FEBRUARY, 2016.

A handwritten signature in blue ink that reads "Lisa Summers". The signature is written in a cursive style.

Lisa Summers, Tribal Secretary
Oneida Business Committee



Oneida Business Committee

Executive Session

9:00 a.m. Tuesday, February 23, 2016

Executive Conference Room, 2nd floor, Norbert Hill Center

Regular Meeting

9:00 a.m. Wednesday, February 24, 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

- A. Recognition of Sr. Staff Attorney Rebecca Webster on publication of article titled “This Land Can Sustain Us: Cooperative Land Use Planning on the Oneida Reservation” in peer-reviewed journal Planning Theory & Practice** *page 8*
Sponsor: Jo Anne House, Chief Counsel
- B. Recognition of Assistant Development Division Director Bruce Danforth’s retirement** *page 37*
Sponsor: Trish King, Tribal Treasurer

III. ADOPT THE AGENDA

IV. OATHS OF OFFICE

- A. Oneida Nation Veterans Affairs Committee** – James Martin, Floyd Hill, Kenneth House Sr. *page 39*
- B. Southeastern Oneida Tribal Services Advisory Board** – Casey Houtsinger *page 41*
- C. Oneida Library Board** – Dylan Benton *page 43*
- D. Oneida Pow Wow Committee** – Heather Heuer and William King *page 45*
- E. Oneida Personnel Commission** – Bradley Graham *page 47*
- F. Oneida Nation School Board** – Neset Skenandore, Shanna Torres *page 49*

V. MINUTES

- A. Approve February 10, 2016, regular meeting minutes** *page 51*
Sponsor: Lisa Summers, Tribal Secretary

VI. RESOLUTIONS

- A. Adopt resolution titled Authorizing and Submitting a Grant Application to the State of Wisconsin/Department of Natural Resources for the 2016 Summer Tribal Youth Program Grant** *page 66*
Sponsor: Patrick Pelky, Division Director/Environmental Health & Safety Division
- B. Adopt resolution titled Administrative Procedures Act Adoption** *page 69*
Sponsor: Brandon Stevens, Councilman
- C. Adopt resolution titled Administrative Rulemaking Law Adoption** *page 91*
Sponsor: Brandon Stevens, Councilman
- D. Adopt resolution titled Amending Resolution 09-24-14-H Appointing Representative to the State of Wisconsin Special Committee on State-Tribal Relations** *page 118*
Sponsor: Lisa Summers, Tribal Secretary

VII. APPOINTMENTS *(No Requested Action)***VIII. STANDING COMMITTEES**

- A. Legislative Operating Committee**
Sponsor: Councilman Brandon Stevens, Chair
1. **Accept February 3, 2016, Legislative Operating Committee meeting minutes** *page 121*
- B. Finance Committee**
Sponsor: Tribal Treasurer Trish King, Chair
1. **Approve February 15, 2016, Finance Committee meeting minutes** *page 125*
- C. Community Development & Planning Committee *(No Requested Action)***
- D. Quality of Life Committee**
Sponsor: Councilwoman Fawn Billie, Chair
1. **Accept December 10, 2015, Quality of Life Committee meeting minutes** *page 130*

IX. GENERAL TRIBAL COUNCIL

- A. Determine available General Tribal Council meeting date to address Petitioner Madelyn Genskow: three resolutions** *page 135*
- 1) **Oneida Business Committee Accountability**
2) **Repeal Judiciary Law**
3) **Open Records and Open Meetings Law**
Sponsor: Lisa Summers, Tribal Secretary

B. Accept financial analysis and determine available General Tribal Council meeting date to address Petitioner John E. Powless Jr.: Per capita payments

page 141

Sponsor: Lisa Summers, Tribal Secretary

EXCEPRT FROM JANUARY 27, 2016: Motion by Jennifer Webster to defer the financial analysis for two (2) weeks, seconded by Lisa Summers. Motion carried unanimously.

EXCERPT FROM JANUARY 13, 2016: Motion by David Jordan to accept the legal analysis and to note the financial analysis is due by the January 27, 2016, regular Business Committee meeting, seconded by Lisa Summers. Motion carried unanimously.

EXCERPT FROM DECEMBER 23, 2015: Motion by Lisa Summers to defer the legal and financial analyses to the January 27, 2016, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

EXCERPT FROM SEPTEMBER 9, 2015: Motion by Jennifer Webster to provide an additional sixty (60) days for the legal analysis of Petitioner John E. Powless: Per capita payments, seconded by Lisa Summers. Motion carried unanimously.

EXCERPT FROM AUGUST 17, 2015: Motion by David Jordan to accept the legislative analysis for the regarding per capita payments submitted by petitioner John E. Powless Jr., seconded by Trish King. Motion carried unanimously.

EXCERPT FROM AUGUST 12, 2015: Motion by Lisa Summers to adjourn at 2:06 p.m. and to direct the Tribal Secretary to coordinate Business Committee special meeting date for the remainder of this agenda, seconded by Brandon Stevens. Motion carried unanimously.

EXCERPT FROM JUNE 24, 2015: Motion by David Jordan to acknowledge receipt of the verified petition submitted by John E. Powless, Jr.; to send the verified petition to the Law, Finance, Legislative Reference and Direct Report Offices for the legal, financial, legislative and administrative analyses to be completed; to direct the Law, Finance and Legislative Reference Offices to submit the analyses to the Tribal Secretary's office within sixty (60) days, and that a progress report be submitted in forty-five (45) days; and to direct the Direct Report Offices to submit the appropriate administrative analyses to the Tribal Secretary's office within thirty (30) days, seconded by Tehassi Hill. Motion carried unanimously.

C. Request update on anticipated completion date regarding Petitioner Nancy Barton: Emergency food pantry

page 154

Sponsor: Lisa Summers, Tribal Secretary

EXCERPT FROM JANUARY 13, 2016: Motion by Lisa Summers to accept the legislative analysis, seconded by David Jordan. Motion carried unanimously.

EXCERPT FROM DECEMBER 23, 2015: Motion by Jennifer Webster to accept the progress report as information and to defer the legal and financial analyses to the February 24, 2016, regular Business Committee meeting, seconded by Fawn Billie. Motion carried unanimously.

EXCERPT FROM OCTOBER 28, 2015: Motion by David Jordan to accept the verified petition submitted by Nancy Barton: To open an Emergency Food Pantry; to send the verified petition to the Law, Finance, Legislative Reference, and Direct Report Offices for the legal, financial, legislative, and administrative analyses to be completed; to direct the Law, Finance, and Legislative Reference Offices to submit the analyses to the Tribal Secretary's Office within sixty (60) days, and that a progress report be submitted in forty-five (45) days; and to direct the Direct Report Offices to submit the appropriate administrative analyses to the Tribal Secretary's Office within thirty (30) days, seconded by Fawn Billie. Motion carried unanimously.

X. STANDING ITEMS

- A. Accept update regarding Work Plan for CIP # 14-002 Cemetery Improvements** *page 156*
Sponsor: Troy Parr, Assistant Division Director/Development

XI. UNFINISHED BUSINESS (No Requested Action)**XII. TABLED BUSINESS (No Requested Action)****XIII. NEW BUSINESS**

- A. Approve request to reschedule March 23, 2016, regular Business Committee meeting date to March 30, 2016, with Executive Session discussion to be held on March 29, 2016** *page 159*
Sponsor: Lisa Summers, Tribal Secretary
- B. Approve request to reschedule April 26, 2016, Executive Session meeting date to April 25, 2016** *page 162*
Sponsor: Kaylynn Gresham, Director/Emergency Management
- C. Approve request to post three (3) vacancies on the Oneida Arts Board** *page 166*
Sponsor: Lisa Summers, Tribal Secretary
- D. Acknowledge receipt of decision from the Interior Board of Indian Appeals regarding Docket No. IBIA 15-097 Madelyn Genskow v. Midwest Regional Director, Bureau of Indian Affairs** *page 168*
Sponsor: Melinda J. Danforth, Tribal Vice-Chairwoman

XIV. TRAVEL**A. TRAVEL REPORTS (No Requested Action)****B. TRAVEL REQUESTS**

- 1. Approve travel request – Four (4) Oneida Color Guard Veterans – 26th Annual Washington University Pow Wow – St. Louis, MO – April 8-10, 2016** *page 182*
Sponsor: Jennifer Webster, Councilwoman
- 2. Approve travel request – Five (5) Oneida Color Guard Veterans – National Indian Gaming Association (NIGA) Annual Tradeshow and Convention – Phoenix, AZ – March 13-17, 2016** *page 186*
Sponsor: Jennifer Webster, Councilwoman
- 3. Approve travel request – Secretary Lisa Summers, Councilwoman Fawn Billie, and three (3) Business Committee Staff: Jessica Wallenfang, Lisa Liggins and Nicolas Reynolds – Public Law 280 Training – Baraboo, WI – March 8-10, 2016** *page 190*

XV. REPORTS *(This section of the agenda is scheduled to begin at 1:30 p.m.)***A. OPERATIONAL REPORTS**

1. **Accept Internal Services Division FY '16 1st quarter report** *page 195*
Sponsor: Joanie Buckley, Division Director/Internal Services Division
2. **Accept Ombudsman FY '16 1st quarter report** *page 210*
Sponsor: Dianne McLester-Heim, Ombudsman

B. CORPORATE REPORTS *(No Requested Action)***C. BOARDS, COMMITTEES, AND COMMISSIONS**

1. **Accept Oneida Police Commission FY '16 1st quarter report** *page 212*
Chair: Bernie John Stevens
Liaison: Lisa Summers, Tribal Secretary

EXCERPT FROM FEBRUARY 10, 2016: (1) Motion by David Jordan to defer the Oneida Police Commission FY '16 1st quarter report to the February 24, 2016, regular Business Committee meeting, seconded by Jennifer Webster. Motion carried unanimously. (2) Motion by David Jordan to suspend Oneida Police Commission stipends until the FY '16 1st quarter report is submitted, seconded by Fawn Billie. Motion carried unanimously. EXCERPT FROM JANUARY 27, 2016: Motion by Jennifer Webster to defer the Oneida Police Commission FY '16 1st quarter report to the February 10, 2016, regular Business Committee meeting, seconded by Lisa Summers. Motion carried unanimously.
2. **Accept Land Claims Commission FY '16 1st quarter report** *page 217*
Chair: Loretta Metoxen
Liaison: Brandon Stevens, Councilman
3. **Accept Environmental Resources Board FY '16 1st quarter report** *page 219*
Chair: Marlene Garvey
Liaison: Tehassi Hill, Councilman
4. **Accept Oneida Nation School Board FY '16 1st quarter report** *page 223*
Chair: Debra Danforth
Liaison: Fawn Billie, Councilwoman
5. **Accept Oneida Library Board FY '16 1st quarter report** *(No Report Submitted)*
Vice-Chair: Roxanne Anderson
Liaison: Fawn Billie, Councilwoman

XVI. EXECUTIVE SESSION**A. REPORTS**

1. **Accept Intergovernmental Affairs & Communications report** page 230
Sponsor: Nathan King, Director/ Intergovernmental Affairs & Communications
2. **Accept Chief Counsel report** page 247
Sponsor: Jo Anne House, Chief Counsel
3. **Accept Chief Financial Officer report** page 248
Sponsor: Larry Barton, Chief Financial Officer

B. STANDING ITEMS

1. **Land Claims Strategy** (*No Requested Action*)
2. **Oneida Golf Enterprise – Ladies Professional Golf Association** page 255
Liaison: Trish King, Tribal Treasurer

C. AUDIT COMMITTEE (*No Requested Action*)**D. UNFINISHED BUSINESS**

1. **Accept update regarding Native Diversification Network–Procurement Technical Assistance Center donation request and delete from agenda** page 259
Sponsor: Lisa Summers, Tribal Secretary

EXCERPT FROM DECEMBER 23, 2015: Motion by Jennifer Webster to defer this item to the February 24, 2016, regular Business Committee meeting, seconded by Brandon Stevens. Motion carried unanimously.

EXCERPT FROM NOVEMBER 25, 2015: (1) Motion by Lisa Summers to accept the request for support and to defer item to the Finance Committee to review the request; to identify funding source; and to bring back a final recommendation for the December 23, 2015, regular Business Committee meeting, seconded by Fawn Billie. Motion carried unanimously. (2) Motion by Lisa Summers to defer this item to a four (4) member Business Committee team to work with the presenters on other opportunities NDN-PTAC may be able to provide for the Tribe, seconded by Jennifer Webster. Motion carried unanimously.

2. **Defer update regarding complaint # 2015-DR11-01** page 262
Sponsor: Tina Danforth, Tribal Chairwoman

EXCERPT FROM DECEMBER 9, 2015: Motion by Lisa Summers to accept complaint # 2015-DR11-01 and to defer item to Chairwoman Tina Danforth, Councilman David Jordan, and Councilman Brandon Stevens for follow-up, seconded by Jennifer Webster. Motion carried unanimously.

3. **Defer update regarding complaint # 2015-DR11-02** page 264
Sponsor: Tina Danforth, Tribal Chairwoman

EXCERPT FROM DECEMBER 9, 2015: Motion by Lisa Summers to accept complaint # 2015-DR11-02 and to defer item to Chairwoman Tina Danforth, Councilman David Jordan, and Councilman Brandon Stevens for follow-up, seconded by Fawn Billie. Motion carried unanimously.

4. **Review update regarding complaint # 2015-DR14-01** *page 266*
Sponsor: Tina Danforth, Tribal Chairwoman

EXCERPT FROM DECEMBER 9, 2015: Motion by David Jordan to defer complaint # 2015-DR14-01 to Chairwoman Tina Danforth, Councilman David Jordan, and Councilman Brandon Stevens for follow-up, seconded by Lisa Summers. Motion carried unanimously.

E. NEW BUSINESS

1. **Approve next steps and timeline for filling Assistant Development Division Director position** *page 268*
Sponsor: Lisa Summers, Tribal Secretary
2. **Authorize release of executive session documents to the Land Claims Commission** *page 273*
Sponsor: Jennifer Webster, Councilwoman
3. **Approve two (2) actions for the special project regarding economic development** *page 279*
Sponsor: Lisa Summers, Tribal Secretary
4. **Approve three (3) actions regarding Sovereign Finance – Economic Development Training Proposal** *page 281*
Sponsor: Trish King, Tribal Treasurer

XVII. ADJOURN

Posted on the Tribe's official website, www.oneida-nsn.gov, at 6:00 p.m., on Friday, February 19, 2016, pursuant to the Open Records and Open Meetings Law, section 7.17-1. For additional information, please call the Business Committee Support Office at (920) 869-4364.

The packet of the open session materials for this meeting is available to Tribal members by going on to the Members-Only section of the Tribe's official website at: www.oneida-nsn.gov/MembersOnly

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

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: _____
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

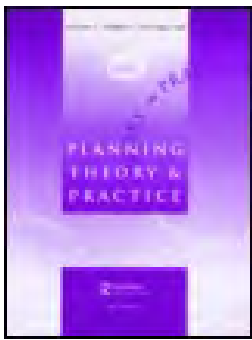
"This land can sustain us: cooperative land use planning on the Oneida Reservation", by Sr. Staff Attorney Rebecca Webster published in the peer-reviewed journal Planning Theory & Practice, DOI:10.1080/14649357.2015.1135250.

Abstract

Land use planning in indigenous communities often takes place within state-based planning initiatives, leaving indigenous governments to serve as token participants. Through these initiatives, state-based governments have the ability to wield their power and control the planning process to the detriment of indigenous governments. This study sets forth an alternative option involving cooperative land use planning practices where neither government controls the planning process. Drawing upon a case study of the Oneida Reservation in Wisconsin, USA, this study explores ways to increase cooperative land use planning relationships between indigenous and state-based governments. As one of the few empirical studies to apply critical planning theory to advocate for increased cooperative land use planning, this paper proposes a series of recommendations that can help indigenous and state-based governments avoid conflicts and work toward cooperative relationships.

The article can be founds at <http://www.tandfonline.com/eprint/r5eZHrBCacAI4w3rkrDu/full>

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This land can sustain us: cooperative land use planning on the Oneida Reservation

Rebecca M. Webster

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This land can sustain us: cooperative land use planning on the Oneida Reservation

Rebecca M. Webster 

ABSTRACT

Land use planning in indigenous communities often takes place within state-based planning initiatives, leaving indigenous governments to serve as token participants. Through these initiatives, state-based governments have the ability to wield their power and control the planning process to the detriment of indigenous governments. This study sets forth an alternative option involving cooperative land use planning practices where neither government controls the planning process. Drawing upon a case study of the Oneida Reservation in Wisconsin, USA, this study explores ways to increase cooperative land use planning relationships between indigenous and state-based governments. As one of the few empirical studies to apply critical planning theory to advocate for increased cooperative land use planning, this paper proposes a series of recommendations that can help indigenous and state-based governments avoid conflicts and work toward cooperative relationships.

ARTICLE HISTORY

Received 7 January 2015
 Accepted 14 December 2015

KEYWORDS

Cooperative land use planning; Indian reservation; tribal governments; critical planning theory; planning; local governments

Introduction

Australia, Canada, New Zealand, and the USA are home to a myriad of indigenous communities with stories of tragic land loss, dispossession, and relocation (Belmessous, 2014; Hibbard, Lane, & Rasmussen, 2008; Pasqualucci, 2009; Sandercock, 2004; Ugarte, 2014). These so-called settler states were formed generations ago when the settlers “discovered” the land occupied by indigenous people, acquired title to the land by virtue of that discovery, subjugated the indigenous inhabitants, and eventually asserted state sovereignty over the entire area (Hibbard, Lane, & Rasmussen, 2008). In more recent decades indigenous people have been finding ways to reassert their own sovereignty and regain ownership and control of land within their communities (Webster, 2015). As tribes try to reassert their previously dormant sovereignty over their reservations, state and local governments accustomed to being in control typically resist (Zaferatos, 1998). These fluctuations in power can lead to a number of conflicts between indigenous and state-based governments, including conflicts over land use decisions.

Land use planning within these indigenous communities is an under-studied phenomenon (Hausam, 2013). Based on a review of the literature, three main categories of land use planning relationships between indigenous governments and state-based systems have emerged. First, indigenous governments that have been dispossessed of their authority to shape their reservations are often left as mere token consultants to state-based planning initiatives (e.g. Cosgrove & Klinger, 1997). Second, indigenous governments that have retained or acquired ownership of their land bases have the freedom to

undertake land use planning efforts independently of state-based actors (e.g. McCarthy et al., 2012). Third, indigenous governments that share land ownership or land use authority within the indigenous community may struggle to find ways to cooperatively plan for the development of that shared space (e.g. Zaferatos, 1998).

Within the USA these indigenous communities are referred to as Indian reservations. Many Indian reservations are home to overlapping layers of tribal and local governments that exercise varying levels of land use authority over a variety of different land types (Zaferatos, 1998). As a result of Acts of Congress, Indian tribes, tribal members, and non-members often own non-contiguous parcels of land throughout the reservation in a checkerboard pattern. This study is premised on the argument that tribal and local governments should work together toward planning practices within this third category of land use planning. Local government planning without hearing the voices of the tribal governments perpetuates colonialism, ignores tribal sovereignty, and disregards rights of self-determination to make decisions about the future of tribal land. Tribal planning without hearing the voices of local governments overlooks the history that created checkerboard reservations and invited local governments to administer within reservation boundaries. Finding ways to sustainably plan for future development within this shared space can be a difficult task, especially in instances where tribes and local governments have different visions for how to shape the space they share.

Cooperation, as used in this study, relates to the communicative and collaborative efforts tribal and local governments employ (or do not employ) when developing land use plans. While the global literature dedicated to theory and practice relied on the terms “communicative” and “collaborative”, the term “cooperate” emerged more frequently in the data for this study and in the literature of land use planning on Indian reservations in the USA (Zaferatos, 1998, 2004a, 2004b). As a result, references to “cooperation” also encompass the attributes of communication and collaboration as used globally. Employing these cooperative efforts can help pre-empt disputes and create plans and policies (Innes & Booher, 2010). Cooperation does not necessarily require the formation of formal joint planning commissions but it does require mutual respect for each other’s interests in participating in the land use decision-making process. If tribal and local state-based governments were unable to accomplish this, then this study described such instances as “uncooperative.” Litigation over land use serves as an example of uncooperative planning.

When governments cooperate, “problems are treated as puzzles as participants work jointly to put pieces together to create a shared picture of the future as a strategy for getting there” (Innes & Booher, 2010, p. 9). Working cooperatively can increase individual and collective knowledge as well as allowing the community to become more adaptive and resilient. Working together and learning from each other can help address and perhaps begin to “de-colonize” the practice of planning in indigenous communities (Ugarte, 2014). “The more the deliberating parties depart from dialogue and the more they fall back on non-deliberative and coercive means of negotiation, the less hope there is that a fair agreement will emerge” (Sager, 2013, p. 97). While the literature emphasizes the importance of communication among all the stakeholders, the literature does not adequately explain how indigenous people can adequately have their voices heard.

In order to add to this limited knowledge base, increase awareness of these issues on Indian reservations, and explore ways to foster cooperative land use planning among tribal and local governments, this study utilized the Oneida Reservation in Wisconsin as a qualitative instrumental case study. As is typical with many other Indian reservations, the Oneida Tribe of Indians of Wisconsin (henceforth “Tribe”) and several local governments exercise some level of land use authority on the reservation (Webster, 2014). In addition, the Tribe, tribal members, and non-members own non-contiguous parcels of land throughout the Reservation.

Critical planning theory (CPT), combined with elements of communicative planning theory and collaborative planning theory, served as the theoretical framework for this study (Matthews, 2012; Sager, 2013). CPT calls for scholars and practitioners to critically examine the social and historical roots of planning within a particular community in order to improve planning practices. This study examined the impacts of Acts of Congress on the Reservation land base and uncovered a series of themes from tribal and local comprehensive plans, intergovernmental agreements, land use litigation, and in-depth interviews with planners, elected officials, and government relations staff from the Tribe and local governments. This study focused on two research questions. First, what are the common themes in land use planning and development relationships between tribal and local governments? Second, what factors might lead to cooperative or uncooperative relationships in relation to land use planning and development? An examination of the social and historical roots of planning not only assisted in providing a context for these questions, but will become an essential component of future discussions among tribal and local government planners, government relations staff, and elected officials. Consistent with CPT's emphasis on transforming knowledge into practice (Sager, 2013), the goal of this research is ultimately for planners and government officials to employ the findings of this study to improve cooperative land use planning practices.

Historical background

Reservation establishment and land ownership

Recognizing CPT's emphasis on the examination of the social and historical roots of planning within a particular community (Matthews, 2012), an inquiry into the establishment of the reservation, the history of the formation of the local governments on the reservation, the record of changing land ownership patterns, and an account of early comprehensive plans are critical to improving land use planning practices. The Oneida Reservation in Wisconsin was created pursuant to a treaty in 1838, 10 years before Wisconsin became a state (Treaty with the Oneida, 1838). While Brown County spanned much of the Midwest including the eastern half of Wisconsin prior to the establishment of the Reservation, the Wisconsin legislature created county governments throughout the state in the 1850s (Webster, 2014). The Oneida Reservation straddled two of these county governments: Brown County and Outagamie County. In the early 1900s, the Wisconsin legislature formed two towns in the area within the reservation boundaries (Webster, 2014). Over the next several decades, other local governments annexed portions of one of the town governments. Today, the Tribe and seven different local governments occupy portions of the Reservation. Figure 1 shows a map of the local governments located on the Oneida Reservation. The Tribe's jurisdiction encompasses the entire reservation and the local governments exercise jurisdiction over portions of the reservation. The town of Oneida is located in Outagamie County. The remaining local governments are all located in Brown County. Only the town of Oneida is located in Outagamie County.

Since its establishment in 1838, the land ownership patterns within the Oneida Reservation have changed drastically (Webster, 2014). Two Congressional Acts caused these changes in land ownership on the Oneida Reservation as well as other Indian Reservations throughout the USA: the Dawes General Allotment Act of 1887 (Allotment Act) and the Indian Reorganization Act (IRA) of 1934 (Locklear, 1988, p. 24 Stat. 388; 25 U.S.C. §§461–479). Indian reservations throughout the country continue to experience the impact of these two Acts today (Canby, 2009).

Prior to the Allotment Act, Indian tribes held title to their land communally (Canby, 2009). This meant that no one individual owned any particular piece of the land; rather, the land was held for

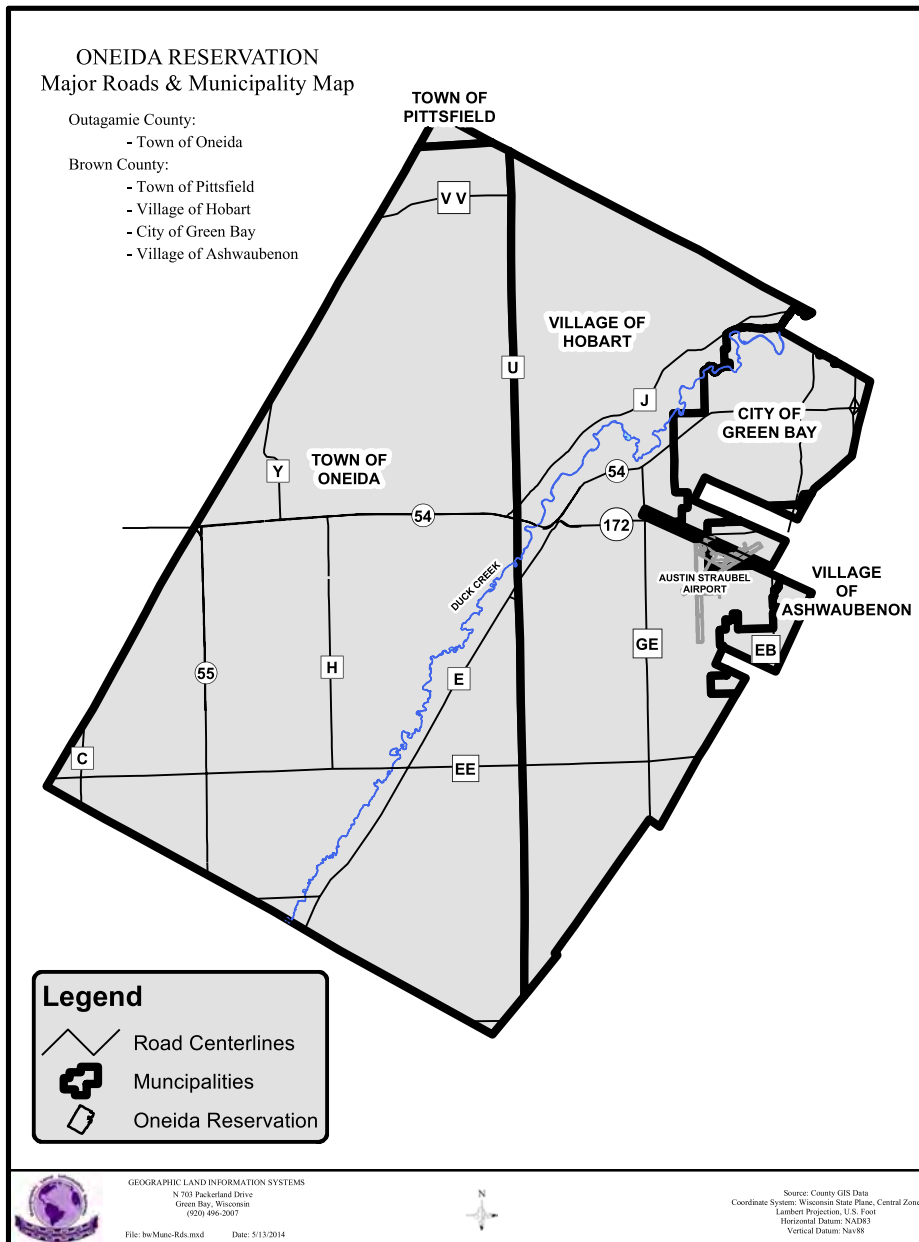


Figure 1. Oneida Reservation major roads and municipality map. Source: Oneida Geographic Land Information Systems, 2014.

the benefit of all tribal members. Congress passed the Allotment Act as a means of breaking up these tribal landholdings, dispossessing Indian tribes of their land bases, and assimilating tribal members into mainstream society (Merjian, 2011). The Act called for the transfer of land on Indian reservations from tribal governments to individual tribal members. While the federal government was to hold the title for a period of time, soon tribal members gained fee title in their own names and were able to sell and mortgage this land, which also became taxable as a result of the Act. Unfortunately, the

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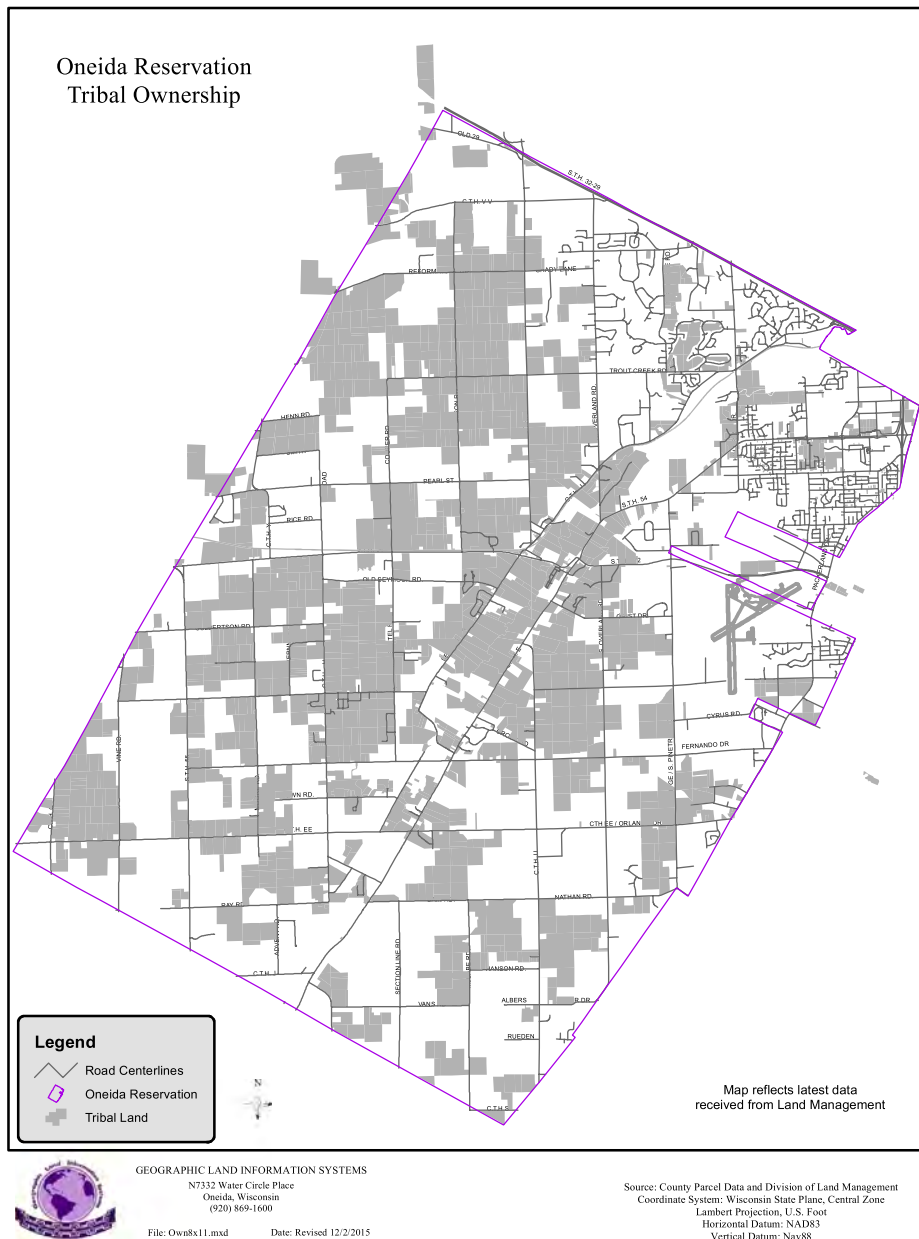


Figure 2. Oneida Reservation tribal ownership. Source: Oneida Geographic Land Information Systems, 2015.

experiences of Oneida tribal members were similar to members of other tribes throughout the country. Tribal members throughout the country have tragic stories of individuals losing land through tax sales and falling victim to fraudulent land transactions (Hauptman, 1981). In the wake of the Allotment Act, tribes and tribal members lost title to approximately ninety million acres of land, roughly 65% of their land bases (Merjian, 2011). The Tribe and its members fared worse than many others, losing title to approximately 90% of their land after the Allotment Act (Locklear, 1988).

In 1928, Congress received an analysis of the Allotment Act revealing that it had succeeded in breaking up tribal landholding but had failed to assimilate tribal members (Canby, 2009; Pommersheim, 2013). Tribal members predominately remained on Indian reservations and faced drastic declines in health, income, and education. In response, Congress passed the IRA in 1934 to reverse the negative impacts the Allotment Act had on Indian reservations. The IRA did not overturn the Allotment Act, but it did stop the allotment process, returned management of tribal affairs to tribal governments, and provided for a process for the federal government to work with tribes to restore land holdings. The Tribe immediately began to work with the federal government to reacquire land on the Oneida Reservation. Figure 2 is a map showing current tribal landholdings as of 2014. Over the years, this has resulted in a checkerboard pattern of noncontiguous parcels of tribal land, tribal member land and non-member land.

In 1941, soon after the Tribe began reacquiring land after adoption of the IRA, the Tribe passed an Ordinance establishing a Land Committee to make recommendations on residential land use (Oneida Land Ordinance, 1941). The first formal planning for land use throughout the reservation came in 1973 when the Tribe adopted a comprehensive plan. The Tribe was able to obtain financial assistance through the US Department of Housing and Urban Development to develop a comprehensive plan. According to this plan, the Tribe and its members held title to 2,516.66 acres of land scattered throughout the reservation, roughly 3.8% of the land within the reservation boundaries. The land use component of this plan focused on how to develop these scattered parcels of land for residential and economic development.

In 1975, Congress passed the Indian Self-Determination Act of 1975. Like the IRA, this Act reaffirmed tribal rights and authorities and enabled tribal governments to play a greater role in planning and implementing a variety of programs dealing with tribal land bases (Zaferatos, 1998). In 1979, the Tribe developed another comprehensive plan using grants from the Department of Housing and Urban Development. This plan, along with plans that the Tribe developed approximately every 10 years, looked at current and proposed land use throughout the reservation and established goals of reacquiring title to as much land as financially feasible.

In general, small towns and rural villages like those located on the Oneida Reservation did not engage in formal land use planning until Wisconsin passed a law in 1999 requiring them to adopt comprehensive plans (Edwards & Haines, 2007). These local governments often “had little to no capacity in planning and very little history of planning” before undertaking the planning process requirements of the 1999 state law (Edwards, p. 53).

Theoretical framework

CPT, combined with elements of communicative planning theory and collaborative planning theory served as the theoretical foundation for this study. The origin of these theories can be traced back to Jürgen Habermas’s theory of communicative action and deliberative democracy (Forester, 1980; Mäntyselä, 2002). The communicative aspects of these theories focus on dialogue and how planners and stakeholders interpret the meaning behind communication (Forester, 1980; Stein & Harper, 2012). The deliberative aspects of these theories require the stakeholders to be informed, to engage each other with face-to-face dialogue, and permit them to express their views regardless of whether they wield power in their community (Innes & Booher, 2010). All three theories call for planners to recognize the presence of conflict and power disparities inherent in the planning process in order to improve planning practices (Huxley, 2000; Innes & Booher, 2014; Matthews,

2012; Sager, 2006). Open deliberation and dialogue can help overcome these issues and produce positive results and innovative solutions that all stakeholders can support (Deyle & Wiedenman, 2014; Innes & Booher, 2014; Stein & Harper, 2012).

While these theories share many of the same foundational ideas, the primary differences among them rest in each theory's focus. Communicative planning focuses on the act of communication and dialogue (Innes, 1995) and collaborative planning focuses on working together to shape the built environment as the nexus for communication (Innes & Booher, 2014). In addition, both collaborative planning theory and communicative planning theory call for consensus-based outcomes (Innes & Booher, 2014; Sager 2006; Stein & Harper, 2012). CPT, on the other hand, applies critical social theory to the planning arena to emphasize the need for decision makers to acknowledge that their ability to wield power in the planning process could have potentially destructive results (Forester, 1993). At their core, critical social theories such as CPT call for justice, preservation of rights, and the fair distribution of resources (March, 2010).

CPT's application of critical social theory in the planning context can assist scholars in evaluating how the dilemmas of exclusion, inequity, discrimination, and private interests can eclipse community interests (Sager, 2013). Ultimately, the goals of CPT include the protection of community interests by minimizing paternalistic practices that can oppress those with less power by providing opportunities for everyone to have a meaningful means of participation in the planning process (Mäntysalo, 2002).

CPT consists of two stages. The first stage requires researchers and practitioners to examine the social and historical roots of development and planning practices in order to gain a better understanding of current planning practices and decision-making processes (Huxley, 2000; Matthews, 2012; Pezzoli, Hibbard, & Huntoon, 2009). This analysis is best completed by evaluating a single community and the unique social dynamics of that community (Friedman, 2008; Stein & Harper, 2012). By looking at a particular community, scholars can illuminate aspects of society that have the potential to perpetuate discrimination along economic, ethnic, and cultural lines (Sager, 2013).

The second stage of CPT requires planners and government officials to transform this knowledge into action and move away from planning practices that create disparities along economic, ethnic, and cultural lines (Huxley, 2000; Sager, 2013). This second stage allows scholars to assist planners and government officials in gaining a more complete understanding of planning as a communicative action instead of merely a means to an end (Forester, 1980). This understanding can assist planners and government officials in transforming the planning practice into a more democratic process.

One underlying assumption to these three theories is that a community can only improve planning practices when the stakeholders find ways to come to the same table, listen to each other, share power, establish common goals, and work together to achieve those goals. This study employed themes from communicative planning theory to consider the dialogue and messages that tribal and local government planners, staff, and elected officials exchange when having discussions concerning how to shape this shared space. This study also employed themes from collaborative planning theory because of its emphasis on the need to plan for a community as a whole and its consideration for pooling resources to accomplish goals that may be unattainable without collaboration. However, instead of focusing on a means to obtain a consensus among all the stakeholders, this study focused on a critical examination of the social and historical roots of planning within a particular community. The background knowledge gained from this examination can assist stakeholders to begin an informed, communicative, and collaborative conversation.

Literature review

A review of the literature dedicated to tribal and local intergovernmental relationships and literature examining land use planning within indigenous communities in settler states helped form this study's research questions and provided guidance for how the tribal and local governments on the Oneida Reservation might be able to move toward more cooperative relationships when planning for land use in this shared space.

Tribal and local intergovernmental relationships

On Indian reservations land use planning can pose unique roadblocks because tribal and local governments often occupy the same geographical space (Zaferatos, 1998). In order to plan within this shared space, some level of cooperation between tribal and local governments is essential. The literature dedicated to the relationships between tribes and local governments generally corresponds to one of two philosophies. One group advocates for the benefits of entering into cooperative relationships in order to allow the parties opportunities to negotiate favorable terms as opposed to risking divergent outcomes that litigation can produce (Fletcher, 2006; Fletcher, 2007; Zaferatos, 1998). "As state and local and tribal officials learn to communicate and cooperate with each other, the opportunities for negotiating agreements that head off jurisdictional and political disputes increase. As a result, one successful agreement leads to more successful agreements" (Fletcher, 2006, p. 39). The act of entering into these agreements can serve as the starting point to future cooperative relationships and additional agreements down the road.

The other group holds a widespread distrust of the motives behind states and local governments that consider entering into intergovernmental relationships with tribal governments (Oeser, 2010; Rosser, 2006). This group believes that participating in state-based initiatives can erode tribal sovereignty by legitimizing state processes and authority over tribal governments (Oeser, 2010). "If tribal citizens reside on the reservation when they participate – i.e. if they are reservation citizens – they invite state government onto the reservation, validating existing assertions of non-tribal authority there and inviting future assertions" (p. 834). Instead of participating in these state-based initiatives, tribes should redirect their energy to enhancing their own internal government structures and policies (Rosser, 2006).

Regardless of whether tribes choose to engage local governments in their planning efforts, one researcher found that tribes and state governments generally lack the capacity to deal with each other on a government-to-government basis (Jarding, 2004). Jarding's study found that employees from tribes and state-based governments enjoyed a positive working relationship, but that state policies aimed at state interests tended to cause conflicts between tribes and state-based governments. In addition, territorial boundaries and differing interpretations of jurisdiction prevented tribes and state-based governments from forming positive intergovernmental relationships.

Planning in indigenous communities

Scholars examining planning on Indian reservations recognize the under-studied nature of this topic (Booth & Muir, 2011). In order to provide guidance for this study's research problems and research questions, this study incorporated prior research on planning within indigenous communities in Australia, Canada, and New Zealand in addition to planning on Indian reservations in the USA. For the purpose of an overall review of the literature, aborigine or aboriginal governments in Australia, First Nations in Canada, Māori in New Zealand, and tribal governments in the USA will be referred to as "indigenous

governments” and their respective aboriginal areas, reserves, territories, or reservations will be referred to as “indigenous communities.”

A review of the literature addressing planning within indigenous communities reveals three key themes. First, state-based governments often control the planning process as well as its outcome (Barry, 2012; Cullen, McGee, Gunton, & Day, 2010; Hausam, 2013; Lane & Hibbard, 2005; Morton, Gunton, & Day, 2012; Porter, 2006; Saarikoski, Raitio, & Barry, 2013; Schoder, 2013). In these instances, the state-based governments may find ways to increase indigenous participation through open communications, collaboration, and consensus-based approaches. However, the indigenous governments often perceive these attempts as insincere and express concerns that the state-based governments repeatedly fail to adequately acknowledge their rights as legitimate governments with the authority to make land use decisions within their communities.

Second, some indigenous governments reject the idea of participating in state-based planning initiatives and have independently undertaken planning efforts on their own, outside the state-based planning process (Applegate, 2013; Booth & Muir, 2011; Hibbard, 2006; Hibbard & Lane, 2004; Hibbard, Lane, & Rasmussen, 2008; Lane & Hibbard, 2005; McCarthy et al., 2012). However, none of the studies dedicated to this type of planning effort considered the potential conflicts that may arise between indigenous governments and state-based governments with respect to land use decisions. Instead, the general focus of these studies centered on strengthening tribal sovereignty and control over the development of the indigenous community.

Third, a limited number of indigenous governments have been able to work out arrangements and agreements with state-based governments to jointly manage a shared space and jointly make land use decisions (Lane, 2001; Lane & Hibbard, 2005; Procter & Chaulk, 2013). Of these few examples, only one occurred in the USA (Zaferatos, 1998, 2004a, 2004b).

Indigenous participation in state-based planning systems

The majority of literature dedicated to land use planning in indigenous communities in Australia, Canada, New Zealand, and the USA involved indigenous governments participating in planning initiatives controlled by state-based governments. That literature placed an emphasis on increasing indigenous participation in the state-based planning process and on undertaking efforts to find ways to work more collaboratively toward consensus based planning and land use goals (e.g. Lane & Hibbard, 2005). Unfortunately, these efforts are typically marked by a lack of interest on the part of indigenous governments to participate in state-controlled planning efforts (Morton, Gunton, & Day, 2012). This lack of interest can be attributed to the perception that state actors may discount indigenous authority and expertise in making informed land use decisions.

It is within the literature dedicated to indigenous participation in state-based planning systems that the colonial nature of planning practices in settler states comes to light. “A ‘settler state’ such as Australia, Canada, New Zealand, and the United States, is formed through colonial processes of ‘discovery,’ acquisition, subjugation of indigenous inhabitants, and ultimately, claims of state sovereignty.” (Hibbard, Lane, & Rasmussen, 2008, p. 137). These settler states justified occupation and eventual assumption of title to indigenous land because they labelled the indigenous inhabitants as sub-humans who underutilized the land and were incapable of holding title (Belmessous, 2014; Ugarte, 2014).

While the state-based governments in these settler states have recently begun to recognize indigenous land rights and have been undertaking efforts to include increased indigenous participation in planning practices, many problems remain (Cosgrove & Klinger, 1997). These problems include unclear policies on the nature of partnerships between indigenous and state-based government (Berke,

Ericksen, Crawford, & Dixon, 2002); insufficient incorporation of indigenous knowledge, customs, and culture into the planning process (Schoder, 2013); and inclusion of indigenous voices only as an afterthought (Hausam, 2013). The colonial roots of planning show themselves through the continuing effects of appropriation of indigenous title, a racialized hierarchy, marginalization of indigenous governments, and at best, a tokenistic inclusion of indigenous voices in the planning processes (Cosgrove & Klinger, 1997; Porter, 2006; Sandercock, 2004).

Planners need to understand the history of colonialism and its impact on current planning practices in order to overcome the “power and oppression [that] are embedded in the very practice of the profession” (Porter, 2006, p. 387). This approach can empower indigenous governments and recognize their inherent authority to impact land use decisions. However, this may be difficult to accomplish within the confines of a state-based planning system (Galbraith, 2014). Indigenous land rights deserve more than mere consultation in a state-based system; rather, indigenous land rights warrant shared decision-making authority. Employing state-based planning systems can squeeze out and attempt to marginalize indigenous voices and extinguish indigenous claims to land within the community.

When reviewing indigenous government participation in state-based planning systems in Australia, Canada, New Zealand, and the USA, it becomes apparent that some indigenous governments are hesitant to participate in state-based planning systems while others fight their way in, demanding to be heard. While state-based planning systems have yet to break completely free from their oppressive colonial roots it appears as though there is a slow shift across these different countries that is enabling and encouraging greater participation of indigenous voices in the planning process. However, even with an increase in participation of indigenous governments, having state-based planning initiatives as the only forum for indigenous governments to voice their visions for the development of their communities reaffirms the position of indigenous governments as the oppressed and the state-based governments as the oppressors.

Indigenous planning outside of state planning

As an alternative to participating in state-based planning initiatives, indigenous governments have undertaken planning efforts on their own (e.g. McCarthy et al., 2012). Typically, these indigenous governments turned to their own planning initiatives as a result of the unresolved frustration with their inability to influence state-based planning initiatives or because the indigenous government had control over the land use plan area.

State-based planning can result in measurable losses of indigenous knowledge, culture, identity, health, economic stability, and self-determination (Booth & Muir, 2011). In order to protect their future interests in natural and cultural resources, Booth and Muir advocate for indigenous governments to take control of planning. Evaluating a handful of indigenous land use plans, they found the indigenous government plans succeeded in incorporating indigenous culture and history, but relied heavily on nonindigenous philosophies, tenets, and applications that failed to adequately depict multifaceted indigenous social and cultural values. Along similar lines, McCarthy et al. (2012) explained that if indigenous governments want to undertake their own planning initiatives they need to first develop internal capacity and a means to enhance internal collaborative processes in order to adequately make land use decisions for their communities. Only then can their efforts to implement land use plans be successful.

In instances where indigenous communities retain ownership and control over their territories, state-based governments do not necessarily need to be involved in the planning process (Hibbard, 2006; Hibbard & Lane, 2004; Lane & Hibbard, 2005). In the USA on the Confederated Tribes of Warm Springs Indian Reservation in Oregon, the indigenous community remains isolated from nontribal influences

and land speculators. The indigenous government retains ownership and control of the community and is able to control land development without interference from state-based governments. As a result, studies of the land use planning in this community did not consider the interactions between indigenous and state-based governments and instead concentrated on land use planning as a means to enhance sovereignty, protect the environment, and preserve cultural values.

Indigenous governments also engage in the reacquisition of land within their ancestral territories or their reserves, and create plans for the use of that land (Kelly, Bliss & Gosnell, 2013; Lane, 2006). While Lane still recognizes the practical necessity of participating in state-based planning initiatives as a means to address the marginalization of indigenous rights, Kelly, Bliss and Gosnell advocate for land acquisition as a means to shift the balance of power and gain exclusive indigenous control of the future of land and natural resources. Like other researchers, they also acknowledge the need for indigenous governments to develop tribal capacity for managing and restoring reacquired land.

Indigenous and state-based governments sharing land use responsibility

A handful of indigenous governments in Australia and Canada have successfully found ways to work cooperatively to jointly manage a shared space. In Australia, researchers studied instances where indigenous governments and state-based governments worked together to jointly manage land held by the indigenous government (Hill, 2011; Lane, 2001; Ross, Grant, Robinson, Izurieta, Smyth, & Rist, 2009). Success to co-management plans rested with the recognition of indigenous land rights, effective organization of the stakeholders, and bringing the stakeholders to the table employing an appropriate engagement process (Hill, 2011). In instances where indigenous land title is not well established, co-management may be a way to resolve land claim issues (Ross et al., 2009).

In the USA, the Swinomish Reservation in Washington consists of a checkerboard pattern of non-contiguous parcels of land including tribal, tribal member, and nonmember land (Zaferatos, 1998, 2004a, 2004b). Within the reservation boundaries, both the Swinomish Tribe and Skagit County exercise varying levels of land use authority. The primary obstacles in that case related to jurisdiction over the land – the tribe regulated tribal land and tribal member land and the county regulated non-tribal land. However, any land use decisions the tribe or county made had impacts on the other government. Examining the issue from the Swinomish Tribe's perspective, Zaferatos concluded the tribe had three options: sue the county, acquiesce to the county's authority, or cooperate with the county. After significant efforts, the Swinomish Tribe and Skagit County were able to successfully negotiate inter-governmental agreements pertaining to land use and joint management of their shared space. During the discussions, tribal and local governments employed a "government-to-government approach, cognizant of the historic circumstances that first created conflicts" (Zaferatos, 2004b, p. 93). Zaferatos ultimately concluded that the success of these agreements arose from the negotiation process where the parties purposefully chose to not focus on jurisdiction, rather the parties focused on community-wide issues such as environmental protection, improvements to transportation infrastructure, and ensuring an adequate supply of clean water for the community.

In many respects, the Oneida Reservation shares many common characteristics with the Swinomish Reservation. They are both home to tribal and local governments that make land use decisions. They also have similar histories of tribal land loss and reacquisition creating checkerboard land ownership patterns. They also have a similar history of both the tribe and local government asserting more land use planning authority over time, creating conflicts between tribal and local governments. The Swinomish Reservation was the focus of litigation involving tribal treaty fishing rights, land claims, natural resource management, and the attempted imposition of state tax laws and land use regulations (Zaferatos,

2004b). As this study revealed, the Oneida Reservation was also the focus of similar litigation. In addition, in 1989 the Governor of Washington issued a proclamation calling for relationships between state and local governments and tribal governments to take place on a government-to-government basis with respect for tribal sovereignty. The Governor of Wisconsin issued a similar proclamation in 2004 (Exec. Order No. 39). However, unlike Swinomish, the Oneida Reservation is home to not one, but seven different overlapping local governments. This difference adds complicating layers to efforts focused on cooperative land use planning.

Methodology

The literature focused on planning in indigenous communities generally relied on qualitative instrumental case studies employing detailed consideration of the history of the particular community, the status of the relationships between the indigenous and state-based governments, and the results of the community planning efforts (e.g. Galbraith, 2014; Saarikoski, Raitio, & Barry, 2013). The unique legal and political history of each Indian reservation requires an analysis of that history in order to understand the impact it has on current planning practices (Hausam, 2013). This is in line with CPT's emphasis on studying the social and historical roots of planning within a particular community (Friedman, 2008; Stein & Harper, 2012). Similarly, Yin (2014) acknowledged there may be instances where a case study of an under-studied phenomenon and a historical study might be undertaken at the same time in order for a review of the history to illuminate the contemporary inquiry.

As is typical for instrumental qualitative case studies (Yin, 2014), this study relied on data from a variety of sources from the tribe and all seven local governments. The data included eight comprehensive plans, 41 intergovernmental agreements, 15 decisions in land use disputes, and nine interviews. The data also initially included tribal and local government zoning laws, land ownership history, and subdivision maps, but this data did not reveal any patterns to assist in answering the research questions. A review of the literature with an emphasis on the Swinomish experience assisted in the formation of the interview questions (Zaferatos, 1998). The researcher carefully crafted the interview questions to prompt participants to provide in-depth responses describing these relationships, while ensuring that the questions did not intentionally provoke negative responses that could cause rifts among the governments (Sandercock & Attali, 2013).

Unlike typical case studies, this study relied primarily on the written documents, and employed the interview data to triangulate and verify the written documents. Barry and Porter (2011) explained the importance of interpreting the meaning and power of the written text in order to understand the tensions and conflicts between indigenous and state-based governments as it relates to the field of planning. Planning consists of everyday negotiations that employ various values and policies about how to shape a place, but "the enabling moment of those negotiations and their everyday practice, is inevitably established and mediated through text" (p. 176). These written documents serve as conceptual frameworks for how the cumulative daily acts of planners and government officials are reflective of the larger relationships between indigenous and state-based governments. The intergovernmental agreements, litigation, and comprehensive plans are reflections of past land use and planning practices (Pezzoli, Hibbard, & Huntoon, 2009). CPT requires an examination of this information in order to improve planning practices in the future.

With respect to the interviews, this study relied on stratified purposeful sampling to invite individuals to participate (Patton, 2002). In order to hear political and practical viewpoints about land use planning, the following three categories of individuals were invited to participate: elected officials,

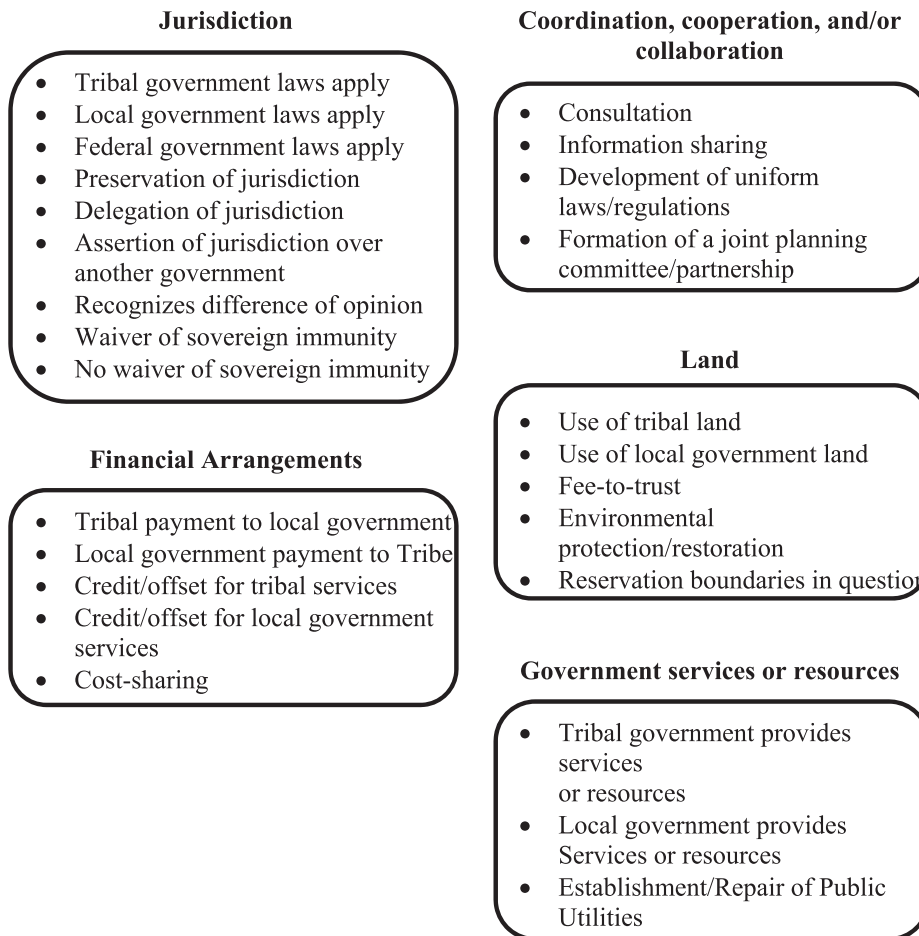


Figure 3. Coding scheme for intergovernmental agreements and land use litigation. Source: Author.

planners, and government relations staff. Incorporation of their perspectives served to advance the communicative aspects of CPT and to gain insight into how these individuals interpret the meaning behind the intergovernmental agreements, litigation, and comprehensive plans (Forester, 1980; Innes, 1995; Stein & Harper, 2012). The categories consisting of elected officials, planners, and government relations staff correlate to the strata used in this study. This study used official government websites to identify the individuals that held these positions. Because some governments had some of these positions vacant, a total of 18 individuals were invited to participate in this study; three were from the Tribe and 15 were from local governments. Nine individuals agreed to participate. These nine participants represented five of the eight governments. They also consisted of four elected officials, three planners, and two government relations staff. Three participants were from the tribal government and six were from local governments. Obtaining participants from the different positions and different governments ensured variation in participant selection to serve as an accurate representation of the viewpoints of those seated in tribal and local governments.

After all the data were collected and reviewed, the researcher created a preliminary list of codes and applied the codes first to the intergovernmental agreements and land use litigation (Miles & Huberman, 1994). During the coding process, new codes were created to account for data that did not fit existing

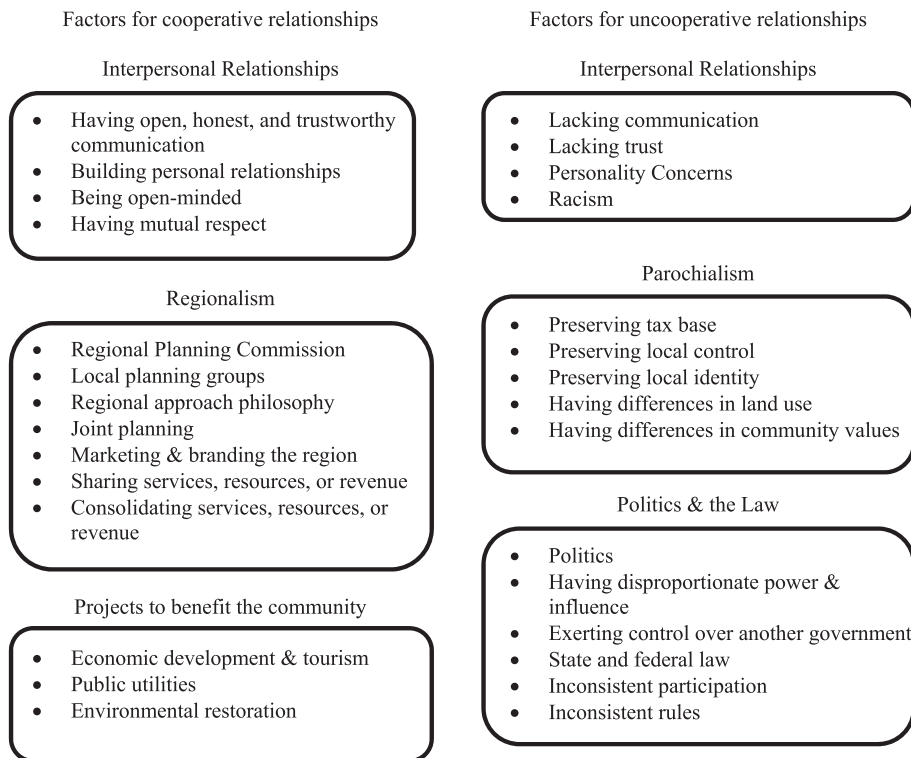


Figure 4. Coding scheme for interviews and comprehensive plans. Source: Author.

codes. The researcher then analyzed each type of data independently and then together to see if common themes emerged within each data-set and within the data sets combined. The coding process for intergovernmental agreements and land use litigation assumed that intergovernmental agreements corresponded with cooperative relationships, and land use litigation corresponded with uncooperative relationships. Figure 3 depicts the final coding scheme for the intergovernmental agreements and land use litigation. The researcher then coded the interviews and comprehensive plans using the same coding process. Unlike the coding process for intergovernmental agreements and land use litigation, the researcher relied on the surrounding context of the interview transcripts and the comprehensive plans to determine whether particular codes corresponded to cooperative or uncooperative relationships. Figure 4 depicts the final coding scheme for the interviews and comprehensive plans.

Results

This research set out to gain a better understanding of two aspects of land use planning on Indian reservations: 1) the relationships between tribal and local governments, and 2) the factors that might lead to cooperative or uncooperative relationships. Corresponding with CPT's emphasis on examining the social and historical roots of development and planning practices (Huxley, 2000; Matthews, 2012; Pezzoli, Hibbard, & Huntoon, 2009), an examination of the comprehensive plans, intergovernmental agreements, land use litigation, and interviews helped to gain an understanding of current and future governmental relationships as these relate to planning. Applying the codes to the data and analyzing the results revealed several common themes among and within each of these data types (Yin, 2014).

Table 1. Coding frequencies for intergovernmental agreements and land use litigation.

Codes and subcodes	Agreements	Litigation
Jurisdiction		
Tribal government laws apply	16	7
Local government laws apply	16	4
Federal government laws apply	8	6
Preservation of jurisdiction	18	0
Delegation of jurisdiction	4	0
Assertion of jurisdiction over another government	0	12
Recognizes difference of opinion	2	0
Waiver of sovereign immunity	26	3
No waiver of sovereign immunity	2	1
Coordination, cooperation, and/or collaboration		
Consultation	10	0
Information sharing	16	0
Development of uniform laws/regulations	8	2
Formation of a joint planning committee/partnership	7	2
Financial arrangements		
Tribal payment to local government	26	0
Local government payment to Tribe	5	0
Credit/offset for tribal services	7	0
Credit/offset for local government services	0	0
Cost-sharing	4	0
Land		
Use of tribal land	4	7
Use of local government land	3	1
Fee-to-trust (removing land from local tax rolls)	10	2
Environmental protection/restoration	6	4
Reservation boundaries in question	0	4
Government services or resources		
Tribal government provides services or resources	22	5
Local government provides services or resources	26	3
Establishment/repair of public utilities	28	4

Themes of intergovernmental agreements and land use litigation

Four main themes emerged from a review of the intergovernmental agreements and land use litigation: jurisdiction, cooperation, financial arrangements, and land. First, both the agreements and litigation focused heavily on jurisdictional issues – governmental authority to make decisions and be bound by legal proceedings. Sixteen of the agreements addressed whether tribal laws or local government laws applied, and 18 contained a clause that specified that the agreement did not intend to delegate jurisdictional authority to another government. Significantly, in 26 of the agreements, the governments agreed to waive their sovereign immunity. This meant that if one government thought that the other government violated the agreement, the governments both granted permission to ultimately resolve the issue in court or through arbitration. This is significant because not only does it acknowledge that each government may be immune from suit unless it expressly waives it, but it also signifies a commitment from each government to follow through with the terms of the agreements.

Even more significantly, in twelve of the land use decisions the assertion of jurisdiction by one government over another government was central to the litigation. The act of power-wielding to the disadvantage of other stakeholders strikes at CPT’s social justice core (Forester, 1993). Decision-makers need to acknowledge their ability to wield this power and come to terms with the potentially destructive effects it can have in order to move away from paternalistic planning practices that create disparities along economic, ethnic, and cultural lines (Huxley, 2000; Sager, 2013). This theme also unearths the colonial roots of planning through attempts to replace tribal authority with local authority.

Second, many of the agreements addressed efforts of the governments to form cooperative inter-governmental relationships. Ten agreements called for consultation and 16 called for the governments to share land use and zoning information. This is in line with CPT's deliberative roots that emphasize the importance of stakeholders being informed and engaging in face-to-face dialogue (Innes & Booher, 2010). Eight of the agreements called for the development of uniform laws so that both the Tribe and the local governments would have similar land use laws. Seven of the agreements took this one step further and called for the formation of a joint planning committee or the formation of a joint planning partnership. These last two points align with the collaborative aspects of CPT's focus on working together to shape the built environment (Innes & Booher, 2014) and with the collaborative and communicative aspects of consensus based outcomes (Innes & Booher, 2014; Sager 2006; Stein & Harper, 2012).

Third, most of the agreements contained provisions for a financial arrangement. In 26 of the agreements the Tribe made a payment to the local government while in only five cases did the local governments make a payment to the Tribe. In four cases the Tribe and local government agreed to share in the costs of a particular project. On face value, there may be equitable concerns. However, in many of these agreements where the Tribe made payments, the local governments agreed to not object to the Tribe's efforts to place more tribal land into trust status. This is in line with CPT's call for justice, preservation of rights, and the fair distribution of resources (March, 2010).

Fourth, unlike the other themes, which predominantly arose in either the agreements or in the litigation, land themes occurred fairly consistently in both data types. Subcodes involving the restoration of tribal fee land into trust status, environmental protection and restoration, and questions concerning the reservation boundaries occurred in the agreements and litigation at rates similar to the subcodes relating to the use of tribal land and use of local government land. While this could be a natural result because the agreements and litigation were selected based on their relevance to land use, the frequency of fee-to-trust and reservation boundary subcodes relates directly back to the first code, jurisdiction. Placing land into trust status and recognizing reservation boundaries can assist tribes in asserting greater control and authority within their communities (Applegate, 2013). Table 1 contains the coding frequencies for intergovernmental agreements and land use litigation.

Themes of comprehensive plans and interviews

As with the agreements and litigation, the data from the comprehensive plans and interviews readily polarized into associations with cooperative and uncooperative intergovernmental relationships. Four main themes emerged from the interviews and the comprehensive plans: interpersonal relationships, regionalism and parochialism, community projects, and politics. First, the interviews and comprehensive plans characterized interpersonal relationships with terms such as trust and communication. A lack of communication and trust or issues with personality conflicts was often associated with uncooperative relationships. Five of the interview participants mentioned interpersonal relationships and four of the participants mentioned potential personality conflicts between tribal and local government staff. These themes tie directly back to the communicative and deliberative aspects of CPT with an emphasis on the need for communication and dialogue with face-to-face communication (Innes, 1995; Innes & Booher, 2010).

Second, the comprehensive plans and interview participants both made frequent reference to regional approaches to planning as well as parochial approaches. As used in this study, regionalism refers to an ideology where individuals see beyond boundaries and jurisdictions to realize benefits for the greater community. On the other hand, parochialism refers to an ideology where individuals focus on small sections of an issue or territory rather than considering the wider context. Significantly,

Table 2. Coding frequencies for interviews of elected officials, planners, and government relations staff, and comprehensive plans: factors for positive cooperation.

Codes and subcodes	Interviews				
	EO	Pl.	GR	Total	CP
Interpersonal relationships					
Having open, honest, and trustworthy communications	2	2	1	5	3
Building personal relationships	2	1	2	5	1
Being open-minded	1	0	1	2	0
Having mutual respect	2	0	0	2	1
Regionalism					
Regional planning commission	2	1	0	3	4
Local planning groups	0	1	0	1	4
Regional approach philosophy	3	2	2	7	4
Joint planning	1	0	0	1	4
Marketing and branding the region	2	0	0	2	1
Sharing services, resources, or revenue	3	3	2	8	6
Consolidating services, resources, or revenue	2	0	0	2	1
Projects to benefit the community					
Economic development & tourism	2	1	1	4	2
Public utilities	2	1	0	3	2
Environmental restoration	0	1	1	2	3

Note: EO, elected officials; Pl., planners; GR, government relations staff; CP, comprehensive plans.

Table 3. Coding frequencies for interviews of elected officials, planners, and government relations staff, and comprehensive plans: factors for uncooperative relationships.

Codes and subcodes	Interviews				
	EO	Pl.	GR	Total	CP
Interpersonal relationships					
Lacking communication	1	0	2	3	1
Lacking trust	0	1	1	2	0
Personality concerns	2	1	1	4	0
Racism	2	0	0	2	0
Parochialism					
Preserving tax base	1	2	1	4	5
Preserving local control	2	3	0	5	3
Preserving local identity	2	2	0	4	3
Politics and the law					
Politics	0	3	1	4	0
Having differences in land use	2	2	0	4	5
Having differences in community values	0	1	0	1	0
Having disproportionate power and influence	1	0	0	1	1
Exerting control over another government	1	2	1	4	1
State and federal law	2	0	1	3	2
Inconsistent participation	0	0	1	1	0
Inconsistent rules	0	1	1	2	1

Note: EO, elected officials; Pl., planners; GR, government relations staff; CP, comprehensive plans.

eight of the interviews and six of the comprehensive plans mentioned sharing services, resources, or revenue. A regional approach to planning was associated with cooperative relationships and a parochial approach was associated with uncooperative relationships. This concept ties back to CPT's collaborative elements of working together to shape the built environment (Innes & Booher, 2014).

Third, the interviews and comprehensive plans mentioned community projects such as economic development and tourism initiatives, public utilities, and environmental restoration. These projects were exclusively associated with cooperative relationships. This theme relates to CPT's deliberative roots where open dialogue among parties can produce positive results and innovative solutions that all stakeholders can support (Deyle & Wiedenman, 2014; Innes & Booher, 2014; Stein & Harper, 2012).

Fourth, the interviews and comprehensive plans mentioned a series of political issues such as CPT's warnings of power-wielding at the expense of those with less power (Huxley, 2000; Innes & Booher, 2014; Matthews, 2012; Sager, 2006). Four interviews and one comprehensive plan mentioned exerting control over another government. Four interviews and five comprehensive plans mentioned differences in land use. Two interviews and one comprehensive plan mentioned inconsistent rules. While these differences may not necessarily lead to uncooperative relationships, the interview participants and comprehensive plans identified these factors as being associated with uncooperative relationships. Tables 2 and 3 contain the coding frequencies for interviews of elected officials, planners, government relations staff, and the comprehensive plans. Table 2 focuses on the factors associated with cooperative relationships and Table 3 focuses on the factors associated with uncooperative relationships.

Factors that lead to cooperative relationships

The scholarly community constantly warns researchers to be wary of drawing cause and effect correlations from the data (Yin, 2014). This is especially the case with the intergovernmental agreements because the driving force to enter the agreements may not be apparent on the surface. While land use litigation may be more readily apparent by examining the issue of a particular case, the driving force that caused the breakdown in intergovernmental relationships that lead to the litigation may be equally elusive. However, in this study, the interview data assisted in triangulating the data found in the intergovernmental agreements, land use litigation, and comprehensive plans. Considering the social and historical roots of planning on the reservation to provide context, quotes from planners, government relations staff, and elected officials reaffirm the findings that emerged from an analysis of the coded data.

Overall, the data from the comprehensive plans, intergovernmental agreements, and interviews revealed the following six factors which are associated with cooperative relationships: 1) strengthening positive interpersonal relationships, 2) having a regional approach to planning, 3) working on community projects, 4) waiving sovereign immunity, 5) including agreements on jurisdiction, and 6) compensating each other for government services.

Strengthening positive interpersonal relationships

The interviews and comprehensive plans placed an emphasis on building and maintaining positive interpersonal relationships as a key to building and maintaining positive intergovernmental relationships. When discussing transforming negative relationships to positive relationships, interview participant P1 explained: "I think it's going to end when people get to know one another – not as a tribe or as a community or as an ethnic group, but as people. That's when it changes" (Webster, 2014, p. 114). Open and honest dialogue employing the concepts from the communicative aspects of CPT can help the stakeholders accomplish this goal (Innes & Booher, 2010).

Having a regional approach to planning

Themes associated with sharing services, resources, or revenue were present in many of the interviews, comprehensive plans, and intergovernmental agreements. The agreements included several references to a commitment to share information and to consult with each other on land use issues. The interview participants and comprehensive plans expressed goals to increase regional and joint planning as a means to increase cooperative intergovernmental relationships. Interview participant P2 explained: "If we only think about ourselves, we wouldn't be as efficient or effective with our own resources, so

we need to think broader in terms of our planning” (Webster, 2014, p. 97). Working together to cooperate on joint projects employing the collaborative aspects of CPT can help the stakeholders focus on improving the built environment and the delivery of shared services throughout the community as a whole (Innes & Booher, 2014).

Working on community projects

All the interview participants referenced at least one type of project the Tribe and local governments could work on together to benefit the community and increase positive intergovernmental cooperation. One type of project mentioned in the interviews was environmental restoration projects, which were also referenced in six of the intergovernmental agreements. Other projects included bike trails, walking paths, and parks. When discussing such projects, interview participant P5 stated:

I think one where we both have something at stake, where it’s not one group trying to tell another group how to do something – where we both have something to gain out of it – some mutual acceptance that we both have money in the pool, and we can work together to make this work (Webster, 2014, p. 97).

Much like the regional approach to planning, employing concepts from the collaborative aspects of CPT can help the stakeholders accomplish shared goals within the community as a whole (Innes & Booher, 2014).

Waiving sovereign immunity

In general, tribes and local governments are immune from lawsuits unless they expressly waive that immunity. A waiver of sovereign immunity ensures that an agreement involving an otherwise immune party can be enforced in a court of law. If one of the parties breaches the agreement, then the other party can exercise their ability to have a court assist in resolving the dispute and enforcing the terms of the agreement. A waiver of sovereign immunity occurred in twenty-six of the intergovernmental agreements. While there certainly is an argument that can be made that a waiver of sovereign immunity should not be necessary in instances where governments are truly trying to form relationships based on mutual respect, perhaps that cannot always be expected when the governments have not always had positive relationships. In addition, granting waivers of immunity may signify evidence that the governments are so confident in their ability and willingness to abide by the terms of the agreement that they are not concerned with waiver provisions. In two of the agreements the parties expressly preserved their sovereign immunity. One agreement committed funds to repair a road and the other agreement spelled out the governments’ commitment to managing environmental resources. This second agreement served as a symbolic representation of the parties’ commitment to environmental preservation and memorialized their understandings of that given situation. Without knowing the background of what led to a waiver or a preservation of immunity, it is difficult to extrapolate a cause and effect conclusion from this subset of data. However, in this case study, the fact remains that in over half of the agreements, the parties waived their sovereign immunity and in only two cases did they preserve it.

Including agreements on jurisdiction

Sixteen of the agreements specified whether tribal laws or local government laws applied. Zaferatos (1998) explains that a key to success on the Swinomish Reservation rested on the fact that the Swinomish Tribe and Skagit County did not focus on which government had jurisdiction in a particular instance. In this case 18 of the agreements specified that the agreement did not intend to transfer jurisdiction. Combining that finding with the finding that 12 of the land use litigation decisions centered on an assertion of one government’s jurisdiction over another government, it supports the possibility that

an agreement spelling out each government's jurisdictional limitations might prevent such litigation in the future. For example, in a number of the intergovernmental agreements, the parties agreed that tribal ordinances addressing zoning, building, nuisance, health and land use regulations apply to tribal members and local ordinances addressing these issues do not apply to tribal members. Acknowledging each government's ability to govern within the shared space can lead to cooperative planning efforts. This fits within CPT's warning of the dangers of power wielding (Huxley, 2000; Innes & Booher, 2014; Matthews, 2012; Sager, 2006). By having the parties agree to the limits of their respective jurisdictions, there is less danger of having one government attempt to oppress and wield power over another government.

Compensating each other for government services

Many of the agreements, especially service agreements that are designed to compensate local governments for services provided to trust property, contain provisions that recognize each government provides services to the community. These agreements further describe formulas employed by governments to determine how much money one government pays the other government. Interview participant P7 explained:

In [our local government] we obviously have the Oneida Tribe as part of our community and it has the ability to put land in trust – which then if it does that, we lose revenue. That's why we have our Service Agreement (Webster, 2014, p. 104).

These agreements are a means for tribal and local governments to recognize each other's contributions to the community and find equitable ways to compensate each other for the services they each provide (Webster, 2015). Recognizing that more of these agreements involve the Tribe compensating the local governments than vice versa, as previously stated, it should be noted that many of these agreements contain non-monetary provisions that benefit the Tribe, such as concessions that the local governments will not object to the Tribe's efforts to have more land taken into trust status. Assuming the parties were not forced into these agreements and assuming the agreements were fairly negotiated, their compensation provisions fit within CPT's concern for justice and the fair distribution of resources (March, 2010).

Factors that lead to uncooperative relationships

Overall, the data from the intergovernmental agreements, land use litigation, interviews, and comprehensive plans revealed the following three factors are associated with cooperative relationships: 1) retaining negative interpersonal relationships, 2) employing a parochial approach to planning, and 3) exerting control over another government.

Retaining negative interpersonal relationships

While the comprehensive plans generally remained optimistic about building interpersonal relationships, five of the interview participants expressed concerns with the negative impacts that poor interpersonal relationships can have. Interview participant P5 explained: "If you don't trust each other, you don't have communication, if you don't communicate, then there's no cooperation possible" (Webster, 2014, p. 97). The data from this study indicates that when government officials and planners neglect to develop and maintain positive interpersonal relationships, the intergovernmental relationships suffer. CPT's communicative aspects support the conclusion that negative interpersonal relationships would eventually lead to negative intergovernmental relationships (Forester, 1980; Stein & Harper, 2012).

Employing a parochial approach to planning

The themes associated with parochialism emphasized a concentration on the impact of an issue on one community without regard for its impact on surrounding communities. Most prevalent included a preservation of local tax base, control, and identity. Within this theme arose a sense that one government may try to push its vision for how to develop the space without concern or consideration for what the other governments may have envisioned for that same space. Similarly, one government may make great efforts to promote its own identity and success without regard for the impacts these efforts may have on the other governments. Interview participant P5 stated:

Unless we can get into a situation where we are sharing revenue, we are sharing expense, we are sharing the tax benefits I think we are always going to have a certain level of parochialism that's going to stop us from being truly cooperative (Webster, 2014, p. 97).

This sentiment acknowledges that there may be untapped resources that tribal and local governments can take advantage of if they cooperate; but that failure to discuss these options and a desire to be concerned only with one's own affairs may mean that the community as a whole is missing out on potential opportunities. This runs contrary to CPT's deliberative aspects of producing innovative solutions to community problems (Deyle & Wiedenman, 2014; Innes & Booher, 2014; Stein & Harper 2012) and CPT's collaborative aspects of working together to shape the built environment (Innes & Booher, 2014).

Exerting control over another government

All four data sources support the conclusion that exerting control over a neighboring government is associated with uncooperative intergovernmental relationships. Many of the intergovernmental agreements paid specific attention to establishing jurisdictional limitations. Within these jurisdictional provisions, none of the agreements contained provisions that would have allowed for one government to exert control over another government. In contrast, 12 of the 15 land use litigation decisions involved instances where one government was attempting to assert control over another government. While only one of the comprehensive plans specified that this type of activity would lead to negative intergovernmental relationships, four interview participants stated that exerting control over another government leads to uncooperative relationships. Interview participant P2 explained:

I think it comes down to control. When other communities want to exert control, or sole control, they are the sole authority, and they decide what is in the best interest of everybody rather than try to find ways to collaborate and work together. That really causes resentment from other communities and they don't really want to find a way to work together. I think any time someone is trying to be authoritative, rather than working collectively, it leads to uncooperative relationships (Webster, 2014, p. 103).

This theme gets to the heart of CPT and the aim to eliminate paternal planning practices and account for unbalanced power relationships (Huxley, 2000; Innes & Booher, 2014; Matthews, 2012; Sager, 2006). This theme is also reminiscent of the colonial roots of planning because all the land use litigation involving assertion of authority over another government entailed attempts to displace tribal authority and replace it with a local government's authority. In this environment it would be hard to imagine circumstances where the stakeholders could cooperate.

Conclusion

When discussing planning within indigenous communities in Australia, Canada, New Zealand, and the USA, a review of the literature revealed that indigenous governments interact with state-based

governments in one of three ways. First, some indigenous governments undertake planning efforts on their own, separate and apart from any state-based planning initiatives (e.g. Hibbard & Lane, 2004). Second, some indigenous governments find ways to work with state-based governments to jointly manage their shared spaces (e.g. Proctor & Chaulk). Third, some indigenous governments serve as participants in the state-based planning initiatives (e.g. Lane & Hibbard). The majority of the literature dedicated to studying indigenous land use planning falls into this last category. Furthermore, this last category reveals a stark reality: state-based governments often control the planning process as well as the outcomes of that process (e.g. Mornton, Gunton & Day, 2012).

A cursory look at state-based control of the planning process reveals the colonial roots of planning (e.g. Hibbard, Lane, & Rasmussen, 2008). In these instances, the indigenous governments first lost their land title through “discovery” and “conquest.” The land they now claim is often just a mere remnant of the land they once held. It is over these last remaining vestiges that state-based governments still try to assert their authority and control over the planning process. For planning to be fair and just, this study revealed state-based governments cannot control the planning process and wield their power to the disadvantage of indigenous governments. Indigenous governments at these crossroads have a few options. They can continue to be token participants, they can engage in planning initiatives on their own, or they can attempt to work with their surrounding state-based governments to explore ways to work together cooperatively. This study set out to explore how to accomplish this last option.

In order to find ways to increase cooperative land use planning relationships within indigenous communities, this study examined the social and historical roots of planning on the Oneida Reservation as an instrumental qualitative case study. CPT calls for a greater understanding of the social and historical roots of planning in order to transform that knowledge into action (Matthews, 2012; Sager, 2006, 2013). CPT also provides some guidance for attaining positive social change that was especially relevant in this study including emphasizing the importance of communication among government staff, fairly distributing resources, and minimizing power wielding (Huxley, 2000; Innes & Booher, 2010, 2014; March, 2010; Matthews, 2012; Sager, 2006). Setting goals that include the factors that lead to cooperative relationships and avoiding those factors that lead to uncooperative relationships may help the Tribe and local governments foster positive intergovernmental relationships in the future.

If the Tribe and local governments want to increase cooperative land use planning on the Oneida Reservation, this study offers the following recommendations: concentrate on strengthening interpersonal relationships among government officials and planners from the Tribe and local governments, consider a more regional approach to planning practices, engage neighboring governments to pool resources and work on more projects that benefit the entire community, come to an agreement concerning the jurisdictional limitations of tribal and local governments, find ways to learn about tribal and local government services in order to find equitable ways to acknowledge and compensate each other for providing those services. If the Tribe and local governments want to avoid conflicts over land use planning, this study offers the following recommendations: find ways to stave off negative interpersonal relationships among government officials and planners from the Tribe and local governments, keep away from parochial approaches to planning that have the potential to place other governments at a disadvantage, and stop attempts to exert control over other governments – forcing them to comply with laws that are likely not applicable. One way to assist in this last endeavor relates back to the first series of recommendations – come to an agreement concerning the jurisdictional limitations of tribal and local governments.

For those tribes that share their reservations with local governments, much debate still looms about whether tribes should participate in local government planning initiatives or whether tribes should

engage them on a government-to-government basis (Hausam, 2013; Oeser, 2010; Rosser, 2006). For those tribes and local governments wanting to either begin discussions or improve existing discussions on these matters, this study revealed a series of recommendations to assist in that endeavor. Further study examining experiences of other indigenous communities could lead to a greater understanding of how different tribal and local governments address these issues. In addition, the field of planning as a whole can benefit from a better understanding of what factors may lead to increased cooperative planning practices.

Regardless of the causes that lead indigenous and state-based governments to attempt to engage in cooperative relationships, this study revealed that in the case of planning on the Oneida Reservation, tribal and local government officials and planners want to see an increase in cooperative planning efforts. The next step is for the government officials and planners to take this information and transform it into positive social change by improving cooperative land use relationships in the future. Hopefully, working together, they will be able to overcome the colonial and paternalistic roots of planning and hear each other's voices to make informed, cooperative decisions about how to shape this shared space.

Disclosure statement

No potential conflict of interest was reported by the author.

Notes on contributor

Rebecca M. Webster is an enrolled member of the Oneida Tribe of Indians of Wisconsin and serves the Tribe as a Senior Staff Attorney, providing legal advice for the Tribe's administration on government relations, jurisdiction concerns, and a wide variety of tribal land issues. She also serves as an adjunct instructor at the University of Wisconsin-Oshkosh. She received her BA, MPA, and JD from the University of Wisconsin-Madison and her PhD in Public Policy and Administration from Walden University.

ORCID

Rebecca M. Webster  <http://orcid.org/0000-0002-2129-1471>

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Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

To offer Kahletsyalusla and Kanolukwasla to Bruce Danforth, Assistant Development Division Director, on his retirement.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Brian A. Doxtator, Executive Assistant to the Treasurer

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

On January 18, 2016, Bruce Danforth, Assistant Development Division Director, provided a verbal resignation for retirement, and submitted a formal letter of retirement on February 5, 2016. The recognition is to provide Mr. Danforth with good words and compassion as he begins his retirement after many years of service to the Oneida Nation. The recognition uplifts our Strategic Direction to "Creating a Positive Organizational Culture."

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf OR print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Administer Oath of Office to James Martin, Floyd Hill and Kenneth House Sr. to the Oneida Veterans Affairs Committee.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor:

Kathleen M. Metoxen, Executive Tribal Clerk

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The posting was in the December 17, 2015 issue of the Kalihwisaks for (3) vacancies on the Oneida Nation Veterans Affairs Committee for (3) year term with the deadline of January 15, 2016. There were (4) applicants for the (3) vacancies on the Oneida Nation Veterans Affairs Committee. The appointment was made on the February 10, 2016 BC Agenda.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: Kathleen M. Metoxen, Executive Tribal Clerk
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The posting was in the December 17, 2015 issue of the Kalihwisaks for (1) vacancy on the SEOTS Board for a (2) year term with the deadline of January 15, 2016. There were (2) applicants for the (1) vacancy on the SEOTS Board. The appointment was made on the February 10, 2016 BC Agenda.

T

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Administer Oath of Office to Dylan Benton to the Oneida Library Board.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: Kathleen M. Metoxen, Executive Tribal Clerk
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The posting was in the December 17, 2015 issue of the Kalihwisaks for (1) vacancy on the Oneida Library Board to finish the term until 8/14/16 with the deadline of January 15, 2016. There was (1) applicant for the (1) vacancy on the Oneida Library Board. The appointment was made on the February 10, 2016 BC Agenda.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Administer Oath of Office to Heather Heurer and William King to the Oneida Pow Wow Committee.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor:

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The posting was in the December 17, 2015 issue of the Kalihwisaks for (1) vacancy on the Oneida Pow Wow Committee for a (3) year term with the deadline of January 15, 2016. There were (3) applicants for the (2) vacancies on the Oneida Pow Wow Committee. The appointment was made on the February 10, 2016 BC Agenda.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf OR print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: Kathleen M. Metoxen, Executive Tribal Clerk
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The posting was in the September 17, 2015 issue of the Kalihwisaks for (1) vacancy on the Oneida Personnel Commission to finish the term until 7/27/16 with the deadline of October 16, 2015. There was (1) applicant for the (1) vacancy on the Oneida Personnel Commission. On the November 10, 2015 BC Agenda the BC made a motion to re-post for another 30 days.

The posting was in the December 3, 2015 issue of the Kalihwisaks for (1) vacancy on the Oneida Personnel Commission to finish the term until 7/27/16 with the deadline of January 4, 2016. There were (5) applicants for the (1) vacancy on the Oneida Personnel Commission. On the January 27, 2016 BC Agenda a motion by the BC was made to table the appointment.

The posting was in the December 3, 2015 issue of the Kalihwisaks for (1) vacancy on the Oneida Personnel Commission to finish the term until 7/27/16 with the deadline of January 4, 2016. There were (5) applicants for the (1) vacancy on the Oneida Personnel Commission. The appointment was made on the February 10, 2016 BC Agenda.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf OR print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Administer Oath of Office to Neset Skenadore and Shanna Torres to the Oneida School Board.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: Kathleen M. Metoxen, Executive Tribal Clerk
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

One vacancy is due to a current resignation and the other is being filled from the elections.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approve February 10, 2016, regular meeting minutes

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="February 10, 2016, regular meeting minutes"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Heather Heuer, Information Management Specialist, BC Support Office
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

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Oneida Business Committee

Executive Session

9:00 a.m. Tuesday, February 9, 2016

Executive Conference Room, 2nd floor, Norbert Hill Center

Regular Meeting

9:00 a.m. Wednesday, February 10, 2016

BC Conference Room, 2nd floor, Norbert Hill Center

Minutes - DRAFT

EXECUTIVE SESSION

Present: Chairwoman Tina Danforth, Vice-Chairwoman Melinda J. Danforth, Treasurer Trish King, Council members: Fawn Billie, Tehassi Hill, David Jordan, Brandon Stevens, Jennifer Webster;

Not Present: Secretary Lisa Summers;

Arrived at: ;

Others present: Jo Anne House, Larry Barton, Nathan King, Arlinda Locklear, Scott Dacey;

REGULAR MEETING

Present: Chairwoman Tina Danforth, Vice-Chairwoman Melinda J. Danforth, Treasurer Trish King, Council members: Fawn Billie, Tehassi Hill, David Jordan, Brandon Stevens, Jennifer Webster;

Not Present: Secretary Lisa Summers;

Arrived at: ;

Others present: Jo Anne House, Heather Heuer, Florence Petri, Brad Graham, Bill Graham, Dawn Walschinski, Rhiannon Metoxen, Kathy Metoxen, Lisa Moore, Jessica Wallenfang, Nancy Barton, Leyne Orosco, Nic Reynolds, Larry Barton, Lora Skenandore, Danelle Wilson, Lisa Liggins, Wes Martin Jr., Cathy Metoxen, Mary Graves, Maureen Perkins, Gina Buenostro, Yvonne Jourdan, Susan House, Krystal John, Geraldine Danforth, Don White, Lloyd Powless, Mark Powless, Racquel Hill, Scott Denny, Norbert Hill Jr., Arlie Doxtator, Marlene Summers, Marsha Danforth, Priscilla Belisle, Tina Pospychala, Lois Strong, Jennifer Berg-Hargrove, Carol Elm, Barbara Erickson, Tom Danforth;

I. CALL TO ORDER AND ROLL CALL by Chairwoman Tina Danforth at 9:00 a.m.

For the record: Secretary Lisa Summers is out of the office on sick time. Councilwoman Jennifer Webster will be excused at 11:45 a.m.

II. OPENING by Councilman Tehassi Hill

III. ADOPT THE AGENDA (00:03:47)

Motion by Melinda J. Danforth to adopt the agenda with one change: [revise title of Executive Session – New Business Item XV.E.01. to “Approve employee resignation and follow-up”], seconded by Brandon Stevens.

Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

DRAFT**IV. OATHS OF OFFICE** *(No Requested Action)***V. MINUTES (00:04:35)****A. Approve January 27, 2016, regular meeting minutes**

Sponsor: Lisa Summers, Tribal Secretary

Motion by Fawn Billie to approve the January 27, 2016, regular meeting minutes, seconded by Tehassi Hill.
Motion carried with two abstentions:

Ayes: Fawn Billie, Tehassi Hill, Trish King, Brandon Stevens, Jennifer Webster
 Abstained: Melinda J. Danforth, David Jordan
 Not Present: Lisa Summers

B. Approve corrected August 12, 2015, regular meeting minutes

Sponsor: Lisa Summers, Tribal Secretary

Motion by David Jordan to approve the corrected August 12, 2015, regular meeting minutes, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Not Present: Lisa Summers

C. Approve corrected August 17, 2015, special meeting minutes

Sponsor: Lisa Summers, Tribal Secretary

Motion by David Jordan to approve the corrected August 17, 2015, special meeting minutes, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Not Present: Lisa Summers

VI. RESOLUTIONS**A. Adopt resolution titled Authorizing and Submitting a Grant Application to the U.S. Department of Justice for the FY 2016 Coordinated Tribal Assistance Solicitation Grant (00:06:40)**

Sponsor: Joanie Buckley, Division Director/Internal Services Division

Motion by Brandon Stevens to adopt resolution 02-10-16-A Authorizing and Submitting a Grant Application to the U.S. Department of Justice for the FY 2016 Coordinated Tribal Assistance Solicitation Grant, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Not Present: Lisa Summers

DRAFT**B. Adopt resolution titled FY 2016 Cultural Resource Fund Grant (3:22:18)**

Sponsor: Don White, Division Director/Governmental Services Division

Motion by Trish King to approve the add-on request for resolution titled FY 2016 Cultural Resource Fund Grant, seconded by Melinda J. Danforth. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

Motion by Fawn Billie to adopt resolution 02-10-16-B FY 2016 Cultural Resource Fund Grant with the following corrections: [change "Oneida Nation" to "Oneida Tribe of Indians of Wisconsin" and apply noted changes on the authorization form], seconded by Trish King. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

VII. APPOINTMENTS (00:09:00)**A. Appoint Casey Houtsinger to Southeastern Oneida Tribal Services Advisory Board**

Sponsor: Tina Danforth, Tribal Chairwoman

Motion by Melinda J. Danforth to appoint Casey Houtsinger to the Southeastern Oneida Tribal Services Advisory Board, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

B. Appoint Heather Heuer and William King to Oneida Pow Wow Committee

Sponsor: Tina Danforth, Tribal Chairwoman

Motion by Fawn Billie to appoint Heather Heuer and William King to the Oneida Pow Wow Committee, seconded by Melinda J. Danforth. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

C. Appoint Dylan Benton to Oneida Library Board

Sponsor: Tina Danforth, Tribal Chairwoman

Motion by David Jordan to appoint Dylan Benton to the Oneida Library Board, seconded by Melinda J. Danforth. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

D. Appoint James Martin, Floyd Hill, and Kenneth House Sr. to Oneida Nation Veterans Affairs Committee

Sponsor: Tina Danforth, Tribal Chairwoman

Motion by David Jordan to appoint James Martin, Floyd Hill, and Kenneth House Sr. to the Oneida Nation Veterans Affairs Committee, seconded by Fawn Billie. Motion carried with two opposed:

Ayes: Melinda J. Danforth, Fawn Billie, David Jordan, Trish King

Opposed: Tehassi Hill, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

DRAFT**VIII. STANDING COMMITTEES (00:12:34)****A. LEGISLATIVE OPERATING COMMITTEE**

Sponsor: Councilman Brandon Stevens, Chair

1. Accept January 20, 2016, Legislative Operating Committee meeting minutes

Motion by Brandon Stevens to accept the January 20, 2016, Legislative Operating Committee meeting minutes, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Not Present: Lisa Summers

B. FINANCE COMMITTEE

Sponsor: Tribal Treasurer Trish King, Chair

1. Approve February 1, 2016, Finance Committee meeting minutes

Motion by David Jordan to approve the February 1, 2016, Finance Committee meeting minutes, seconded by Jennifer Webster. Motion carried with one abstention:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Abstained: Melinda J. Danforth
 Not Present: Lisa Summers

C. COMMUNITY DEVELOPMENT & PLANNING COMMITTEE (No Requested Action)**D. QUALITY OF LIFE COMMITTEE (No Requested Action)****IX. GENERAL TRIBAL COUNCIL (00:15:02)****A. Petitioner Madelyn Genskow: Special GTC meeting to address six (6) resolutions**

- 1) Scheduling General Tribal Council Meetings
- 2) Fee to Trust Process
- 3) Elder Services Means Testing
- 4) Record Subcommittee Meetings
- 5) Governmental Services Chain of Command
- 6) Unclaimed Per Capita Payments

Sponsor: Lisa Summers, Tribal Secretary

EXCERPT FROM JANUARY 27, 2016: Motion by Lisa Summers to accept the financial analysis for resolution 4. Motion carried unanimously.

EXCERPT FROM NOVEMBER 25, 2015: (1) Motion by David Jordan to accept the financial analysis for resolution 3, seconded by Lisa Summers. Motion carried unanimously. (2) Motion by Lisa Summers to request the remaining financial analyses come back in sixty (60) days, seconded by Jennifer Webster. Motion carried unanimously.

EXCERPT FROM OCTOBER 14, 2015: Motion by Lisa Summers to accept the financial analyses for resolution 1 with the following change [correction in the Chief Financial Officer's memorandum with either the elimination of "TO: Tina Danforth, Treasurer" or replacement of "TO: Patricia King, Treasurer"] and resolution 2, seconded by David Jordan. Motion carried unanimously.

EXCERPT FROM SEPTEMBER 23, 2015: Motion by Melinda J. Danforth to accept the update on this item and to place this petition and six (6) resolutions on the March 19, 2016 Special General Tribal Council meeting agenda, and to request the financial analyses on all six (6) resolutions be submitted

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to the Tribal Secretary's Office in a timely manner, seconded by Lisa Summers. Motion carried unanimously.

EXCERPT FROM SEPTEMBER 9, 2015: Motion by Jennifer Webster to accept the legal analysis for resolution 5) Governmental Services Chain of Command, seconded by Lisa Summers. Motion carried unanimously.

EXCERPT FROM AUGUST 26, 2015: (1) Motion by Brandon Stevens to accept the legal analyses for resolution 3, 4, and 6, seconded by Lisa Summers. Motion carried unanimously. (2) Motion by Lisa Summers to defer the legal analysis for resolution 5 to be completed by the September 9, 2015, regular Business Committee meeting and to defer the financial analyses for resolution 3, 4, and 6 Unclaimed Per Capita Payments to the September 23, 2015, regular Business Committee meeting, seconded by Fawn Billie. Motion carried unanimously.

EXCERPT FROM JULY 8, 2015: Motion by David Jordan to defer the remaining legal and financial analyses to the second regular Business Committee meeting in August 2015, seconded by Brandon Stevens. Motion carried unanimously.

EXCERPT FROM JUNE 24, 2015: Motion by David Jordan to accept the legal analysis for resolution 1 and note that the remaining analyses are due back at the July 8, 2015, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

EXCERPT FROM MAY 13, 2015: Motion by David Jordan to accept the legal analysis for resolution 2, seconded by Trish King. Motion carried unanimously.

EXCERPT FROM APRIL 22, 2015: Motion by Lisa Summers to accept the legislative analyses for resolutions 1-6 and to provide an additional sixty (60) days for the Law and Finance Offices to complete their portions of the analyses, seconded by Jennifer Webster. Motion carried unanimously.

EXCERPT FROM FEBRUARY 25, 2015: (1) Motion by Tehassi Hill to accept the verified petitions from Petitioner Madelyn Genskow: Request Special GTC meeting to address six (6) resolutions, seconded by Jennifer Webster. Motion carried unanimously. (2) Motion by Tehassi Hill to send the verified petitions to the Law, Finance, Legislative Reference and Direct Report Offices for the legal, financial, legislative, and administrative analyses to be completed, seconded by Fawn Billie. Motion carried unanimously. (3) Motion by Jennifer Webster to direct Law, Finance, and Legislative Reference Offices to submit the analyses to the Secretary's Office within sixty (60) days and that a progress report be submitted in forty-five (45) days, seconded by Lisa Summers. Motion carried unanimously. (4) Motion by Lisa Summers to direct the Direct Report Offices to submit appropriate administrative analyses to the Secretary's Office within thirty (30) days, seconded by Fawn Billie. Motion carried unanimously.

Motion by David Jordan to accept the financial analyses for resolution 5) Governmental Services Chain of Command and resolution 6) Unclaimed Per Capita Payments, seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

B. Petitioner Madelyn Genskow: Special GTC meeting to address three (3) resolutions

1) Oneida Business Committee Accountability

2) Repeal Judiciary Law

3) Open Records and Open Meetings Law

Sponsor: Lisa Summers, Tribal Secretary

EXCERPT FROM NOVEMBER 25, 2015: (1) Motion by David Jordan to accept the legal analysis for resolution 3, seconded by Lisa Summers. Motion carried unanimously. (2) Motion by Lisa Summers to request the Finance Office to submit the appropriate financial analyses for these resolutions within sixty (60) days, seconded by Fawn Billie. Motion carried unanimously.

EXCERPT FROM NOVEMBER 10, 2015: Motion by Tehassi Hill to deny the request by Madelyn Genskow to only place the petition, "Special GTC meeting to address three (3) resolutions", on the March 19, 2016, special General Tribal Council meeting agenda, seconded by Brandon Stevens. Motion carried unanimously.

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EXCERPT FROM OCTOBER 28, 2015: Motion by Lisa Summers to accept the legal analysis for resolution 2, noting it was not actually due until the November 25, 2015, regular Business Committee meeting, seconded by Trish King. Motion carried unanimously.

EXCERPT FROM OCTOBER 14, 2015: Motion by Lisa Summers to accept the legal analysis for resolution 1 and to note the remaining legal analyses are not to until the November 25, 2015, regular Business Committee meeting, seconded by David Jordan. Motion carried unanimously.

EXCERPT FROM SEPTEMBER 9, 2015: Motion by Jennifer Webster to accept the update from Chief Counsel and to provide an additional sixty (60) days for the legal analyses of resolution 1-3, seconded by Lisa Summers. Motion carried unanimously.

EXCERPT FROM JUNE 24, 2015: Motion by David Jordan to accept the legislative analyses for resolutions 1-3 of the petition and to provide an additional sixty (60) days for the Law and Finance Offices to submit the appropriate analyses, seconded by Tehassi Hill. Motion carried unanimously.

EXCERPT FROM JUNE 10, 2015: Motion by Tehassi Hill to accept the status report from the Legislative Operating Committee as information, seconded by Jennifer Webster. Motion carried unanimously.

EXCERPT FROM APRIL 22, 2015: Motion by Jennifer Webster to accept the verified petition submitted by Madelyn Genskow; to send the verified petition to the Law, Finance, Legislative Reference and Direct Report Offices for the legal, financial, legislative and administrative analyses to be completed; to direct the Law, Finance, and Legislative Reference Offices to submit the analyses to the Tribal Secretary's office within sixty (60) days and that a progress report is submitted in forty-five (45) days; and to direct the Direct Report offices to submit the appropriate administrative analyses to the Tribal Secretary's office within thirty (30) days, seconded by Lisa Summers. Motion carried unanimously.

Motion by David Jordan to accept the financial analyses for resolution 1) Oneida Business Committee Accountability, resolution 2) Repeal Judiciary Law, and resolution 3) Open Records and Open Meetings Law, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

Councilman Tehassi Hill departs at 9:31 a.m.

Councilman Tehassi Hill returns at 9:44 a.m.

X. UNFINISHED BUSINESS (00:23:23)**A. Review GTC directive to consider budget modification of \$125,000 from the CEO position line to the Elder Home Repair line in FY 2016 budget**

Sponsor: Trish King, Tribal Treasurer

EXCERPT FROM JANUARY 13, 2016: Motion by Lisa Summers for the Business Committee to submit a new request to the Finance Committee to bring back a recommendation on how to allocate the \$125,000 to the Elder Home Repair line, seconded by Brandon Stevens. Motion carried unanimously.

Motion by Jennifer Webster to approve the \$199,000 to be taken from the Executive Contingency line and transferred to the Supportive Services line to be used strictly for Elder member's major home repairs based on health and safety reasons, seconded by Trish King. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

DRAFT**XI. TABLED BUSINESS (00:53:12)****A. Appoint Mary Graves to the Oneida Personnel Commission**

Sponsor: Tina Danforth, Tribal Chairwoman

EXCERPT FROM JANUARY 27, 2016: Motion by Fawn Billie to table this item, seconded by Lisa Summers. Motion carried with one abstention.

Motion by Jennifer Webster to take this item from the table, seconded by David Jordan. Motion carried unanimously:

Ayes:	Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present:	Lisa Summers

Motion by David Jordan to appoint Mary Graves to the Oneida Personnel Commission. Motion fails for lack of support.

Motion by Jennifer Webster to appoint Leland Wigg-Ninham to the Oneida Personnel Commission. Motion fails for lack of support.

Motion by Jennifer Webster to appoint Sylvia Cornelius to the Oneida Personnel Commission. Motion fails for lack of support.

Motion by David Jordan to appoint Mary Graves to the Oneida Personnel Commission. Motion fails for lack of support.

Motion by Jennifer Webster to appoint Bradley Graham to the Oneida Personnel Commission, seconded by Melinda J. Danforth. Motion carried with one opposed and three abstentions:

Ayes:	Melinda J. Danforth, David Jordan, Jennifer Webster
Opposed:	Trish King
Abstained:	Fawn Billie, Tehassi Hill, Brandon Stevens
Not Present:	Lisa Summers
For the record:	Councilman Brandon Stevens stated I abstained for family conflict of interest, but as well as just to further go on, we are amending the Comprehensive Policy to reflect how this process would change in the near future on what happens next in these instances which have come up and will come up if we don't address them.

XII. NEW BUSINESS (1:25:33)**A. Approve request to post two (2) vacancies on the Oneida Election Board and for the terms to be carried out until August 14, 2016, and November 12, 2017**

Sponsor: Lisa Summers, Tribal Secretary

Motion by David Jordan to approve the request to post two (2) vacancies on the Oneida Election Board and for the terms to be carried out until August 14, 2016, and November 12, 2017, seconded by Jennifer Webster.

Motion carried unanimously:

Ayes:	Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present:	Lisa Summers

DRAFT**B. Approve request to post four (4) vacancies on the Anna John Resident Centered Care Community Board**

Sponsor: Lisa Summers, Tribal Secretary

Motion by Jennifer Webster to approve the request to post four (4) vacancies on the Anna John Resident Centered Care Community Board, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

Treasurer Trish King departs at 10:28 a.m.

C. Approve request to post one (1) vacancy on the Oneida Personnel Commission and for the term to be carried out until June 16, 2020

Sponsor: Lisa Summers, Tribal Secretary

Motion by David Jordan to approve the request to post one (1) vacancy on the Oneida Personnel Commission and for the term to be carried out until June 16, 2020, seconded by Jennifer Webster. Motion carried with one abstention:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Jennifer Webster

Abstained: Brandon Stevens

Not Present: Trish King, Lisa Summers

D. Retro-approve limited waiver of sovereign immunity – Gannett Publishing Services – contract # 2015-0797 to original sign date

Sponsor: Joanie Buckley, Division Director/Internal Services Division

Motion by Jennifer Webster to retro-approve limited waiver of sovereign immunity – Gannett Publishing Services – contract # 2015-0797 to original sign date of August 12, 2015, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Brandon Stevens, Jennifer Webster

Not Present: Trish King, Lisa Summers

XIII. TRAVEL (1:31:18)**A. TRAVEL REPORTS (No Requested Action)****B. TRAVEL REQUESTS****1. Approve travel request – Councilman Brandon Stevens – National Indian Child Welfare Association (NICWA) 34th Annual Conference – St. Paul, MN – April 3-7, 2016**

Motion by Melinda J. Danforth to approve the travel request – Councilman Brandon Stevens – National Indian Child Welfare Association (NICWA) 34th Annual Conference – St. Paul, MN – April 3-7, 2016, seconded by Fawn Billie. Motion carried with one abstention:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Jennifer Webster

Abstained: Brandon Stevens

Not Present: Trish King, Lisa Summers

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- 2. Approve travel request – Vice-Chairwoman Melinda J. Danforth, Secretary Lisa Summers, Councilwoman Fawn Billie, and respective Assistants – Public Law 280 Training – Baraboo, WI – March 8-10, 2016**

This item was voted on; however, no formal motion was made. This item is being forwarded to the February 24, 2016, regular Business Committee meeting for formal action.

Treasurer Trish King returns at 10:40 a.m.

- 3. Approve travel request – Vice-Chairwoman Melinda J. Danforth – Crimes Against Children in Indian Country Conference – Wisconsin Dells, WI – March 21-24, 2016**

Motion by Jennifer Webster to approve the travel request – Vice-Chairwoman Melinda J. Danforth (outside of the Business Committee meeting) and Secretary Lisa Summers – Crimes Against Children in Indian Country Conference – Wisconsin Dells, WI – March 21-24, 2016, seconded by Fawn Billie. Motion carried with one abstention:

Ayes:	Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Abstained:	Melinda J. Danforth
Not Present:	Lisa Summers

Councilman David Jordan departs at 10:53 a.m.

- 4. Approve procedural exception to Travel and Expense Policy – five (5) Child Support Agency Staff – Eastern Regional Interstate Child Support Association Conference – Myrtle Beach, SC – May 1-5, 2016**

Sponsor: Melinda J. Danforth, Tribal Vice-Chairwoman and Don White, Division Director/Governmental Services Division

Motion by Brandon Stevens to approve the procedural exception to Travel and Expense Policy – five (5) Child Support Agency Staff – Eastern Regional Interstate Child Support Association Conference – Myrtle Beach, SC – May 1-5, 2016, seconded by Melinda J. Danforth. Motion carried with one opposed:

Ayes:	Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens
Opposed:	Jennifer Webster
Not Present:	David Jordan, Lisa Summers

Motion by David Jordan to recess at 11:03 p.m. until 1:30 p.m., seconded by Tehassi Hill. Motion carried unanimously:

Ayes:	Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present:	Lisa Summers

Meeting called to order by Chairwoman Tina Danforth at 1:31 p.m.

Vice-Chairwoman Melinda J. Danforth, Secretary Lisa Summers, Councilman Tehassi Hill, and Councilman Brandon Stevens not present.

XIV. REPORTS (2:06:06) (This section of the agenda is scheduled to begin at 1:30 p.m.)

Councilman Brandon Stevens arrives at 1:32 p.m.

Vice-Chairwoman Melinda J. Danforth arrives at 1:35 p.m.

Councilman Tehassi Hill arrives at 1:37 p.m.

DRAFT**A. OPERATIONAL REPORTS****1. Accept Oneida Housing Authority FY '16 1st quarter report**

Sponsor: Scott Denny, Housing Operations Manager & Interim Executive Director/Oneida Housing Authority

Motion by Jennifer Webster to accept the Oneida Housing Authority FY '16 1st quarter report, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present: Lisa Summers

2. Accept Human Resources Department FY '16 1st quarter report

Sponsor: Geraldine Danforth, Area Manager/Human Resources Department

Motion by David Jordan to accept the Human Resources Department FY '16 1st quarter report, seconded by Trish King. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present: Lisa Summers

Councilman Tehassi Hill departs at 2:22 p.m.

Councilman Tehassi Hill returns at 2:25 p.m.

3. Accept Governmental Services Division FY '16 1st quarter report

Sponsor: Don White, Division Director/Governmental Services Division

Motion by Jennifer Webster to accept the Governmental Services Division FY '16 1st quarter report, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present: Lisa Summers

B. CORPORATE REPORTS *(No Requested Action)***C. BOARDS, COMMITTEES, AND COMMISSIONS****1. Defer Oneida Police Commission FY '16 1st quarter report – Bernie John Stevens, Chair**

Liaison: Lisa Summers, Tribal Secretary *(No Report Submitted)*

EXCERPT FROM JANUARY 27, 2016: Motion by Jennifer Webster to defer the Oneida Police Commission FY '16 1st quarter report to the February 10, 2016, regular Business Committee meeting, seconded by Lisa Summers. Motion carried unanimously.

Motion by David Jordan to defer the Oneida Police Commission FY '16 1st quarter report to the February 24, 2016, regular Business Committee meeting, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present: Lisa Summers

Motion by David Jordan to suspend Oneida Police Commission stipends until the FY '16 1st quarter report is submitted, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present: Lisa Summers

DRAFT

- 2. Accept Oneida Nation Commission on Aging FY '16 1st quarter report – Wes Martin Jr., Chair**
Liaison: Melinda J. Danforth, Tribal Vice-Chairwoman

Motion by Brandon Stevens to accept the Oneida Nation Commission on Aging FY '16 1st quarter report, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present: Lisa Summers

- 3. Accept Oneida Election Board FY '16 1st quarter report – Racquel Hill, Chair**
Liaison: Melinda J. Danforth, Tribal Vice-Chairwoman

Motion by David Jordan to accept the Oneida Election Board FY '16 1st quarter report, seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present: Lisa Summers

- 4. Accept Oneida Gaming Commission FY '16 1st quarter report – Mark A. Powless, Chair**
Liaison: Brandon Stevens, Councilman

Motion by David Jordan to accept the Oneida Gaming Commission FY '16 1st quarter report, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
Not Present: Lisa Summers

XV. EXECUTIVE SESSION (1:54:40)**A. REPORTS**

- 1. Accept Chief Counsel report – Jo Anne House, Chief Counsel**

Motion by Melinda J. Danforth to accept the Chief Counsel report, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, Trish King, Brandon Stevens, Jennifer Webster
Not Present: David Jordan, Lisa Summers

- 2. Accept Intergovernmental Affairs & Communications update – Nathan King, Director/ Intergovernmental Affairs & Communications (*This item is scheduled at 10:00 a.m. on February 9, 2016*)**

Motion by Jennifer Webster to accept the Intergovernmental Affairs & Communications update, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, Trish King, Brandon Stevens, Jennifer Webster
Not Present: David Jordan, Lisa Summers

Councilman David Jordan returns at 10:57 a.m.

DRAFT**B. STANDING ITEMS****1. Land Claims Strategy**

Sponsor: Nathan King, Director/Intergovernmental Affairs & Communications

Motion by Melinda J. Danforth to accept the Land Claims Strategy report, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

C. AUDIT COMMITTEE

Sponsor: Councilman Tehassi Hill, Chair

1. Approve Gaming Contracts audit and lift confidentiality requirement to allow Tribal Members to view the audit

Motion by Jennifer Webster to approve the Gaming Contracts audit and lift confidentiality requirement to allow Tribal Members to view the audit, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

2. Approve Information Technology audit and lift confidentiality requirement to allow Tribal Members to view the audit

Motion by David Jordan to approve the Information Technology audit and lift confidentiality requirement to allow Tribal Members to view the audit, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

3. Approve Slots audit and lift confidentiality requirement to allow Tribal Members to view the audit

Motion by David Jordan to approve the Slots audit and lift confidentiality requirement to allow Tribal Members to view the audit, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster

Not Present: Lisa Summers

D. UNFINISHED BUSINESS *(No Requested Action)*

DRAFT**E. NEW BUSINESS****1. Approve employee resignation and follow-up**

Sponsor: Trish King, Tribal Treasurer

Motion by Trish King to accept the employee resignation, seconded by Jennifer Webster. Motion carried with one abstention:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Abstained: Melinda J. Danforth
 Not Present: Lisa Summers

Motion by Trish King to assign Treasurer Trish King to follow-up with the Human Resources Department in the next steps in processing the resignation, seconded by Jennifer Webster. Motion carried with one abstention:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Abstained: Melinda J. Danforth
 Not Present: Lisa Summers

Motion by Trish King to defer the follow-up regarding this position to the next Business Committee Work Meeting on February 17, 2016, seconded by David Jordan. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Not Present: Lisa Summers

2. Approve two (2) requests regarding Economic Development Initiative

Sponsor: Trish King, Tribal Treasurer

Motion by Melinda J. Danforth to request Troy Parr to present the transition plan regarding the Economic Development Initiative at the February 17, 2016, Business Committee Work Meeting, seconded by Trish King. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Not Present: Lisa Summers

3. Approve limited waiver of sovereign immunity – Micros Fidelio Worldwide LLC.-Oracle Technical Support Services Agreement – contract # 2016-0052

Sponsor: Louise Cornelius, Gaming General Manager

Motion by Jennifer Webster to approve the limited waiver of sovereign immunity – Micros Fidelio Worldwide LLC.-Oracle Technical Support Services Agreement – contract # 2016-0052, seconded by Fawn Billie. Motion carried with one abstention:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Jennifer Webster
 Abstained: Melinda J. Danforth
 Not Present: Lisa Summers

DRAFT

XVI. ADJOURN

Motion by David Jordan to adjourn at 3:30 p.m., seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Melinda J. Danforth, Fawn Billie, Tehassi Hill, David Jordan, Trish King, Brandon Stevens, Lisa Summers, Jennifer Webster

Not Present: Lisa Summers

Minutes prepared by Heather Heuer, Information Management Specialist
Minutes approved as presented/corrected on _____.

Lisa Summers, Secretary
ONEIDA BUSINESS COMMITTEE

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approval of a resolution that authorizes and supports the submission of the 2016 Summer Tribal Youth Program grant to the State of Wisconsin/Department of Natural Resources.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Sylvia Cornelius, Project Manager/EHS
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

An approved and signed resolution is a requirement of the funding agency - State of Wisconsin/Department of Natural Resources.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

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.

BC Resolution # _ - _ - _

Authorizing and Submitting a Grant Application to the State of Wisconsin/Department of Natural Resources for the 2016 Summer Tribal Youth Program Grant

- 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 Tribe of Indians of Wisconsin has determined that the overall goal of the Oneida Tribe is to protect, maintain and improve the standard of living and the environment in which the Oneida people live; and
- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is qualified to carry out the responsibilities of the Summer Tribal Youth Program; and
- WHEREAS,** the Oneida tribe of Indians of Wisconsin is interested in developing a Summer Tribal Youth Program; and
- WHEREAS,** the Oneida Environmental, Health and Safety Division is eligible to receive funding from the Summer Tribal Youth Program grant; and

NOW THEREFORE BE IT RESOLVED, that the Oneida Tribe of Indians of Wisconsin requests grant funding available from the Wisconsin Department of Natural Resources under the "Summer Tribal Youth Grant Program" and hereby authorizes the Environmental Project Manager to act on behalf of the Oneida Tribe of Indians of Wisconsin to submit an application to the State of Wisconsin for financial aid and summer youth program purposes; sign documents; take necessary action to undertake, direct and complete the approved project; and submit reimbursement claims along with necessary supporting documentation for reimbursement.

BE IT FUTHER RESOLVED, the Oneida Tribe of Indians of Wisconsin will meet the requirements of the Summer Tribal Youth Program including all reports and the financial obligations of our 50% commitment to the program costs.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approve Resolution: Administrative Procedures Act Adoption

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: _____
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Please see the attached memorandum.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
 Oneida, WI 54155
 (920) 869-4376
 (800) 236-2214
<http://oneida-nsn.gov/LOC>



Committee Members

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

Memorandum

To: Oneida Business Committee
From: Brandon Stevens, LOC Chairperson
Date: February 24, 2016
Re: Administrative Procedures Act Adoption

Please find attached the following for your consideration:

1. Resolution: Administrative Procedures Act Adoption
2. Statement of Effect: Administrative Procedures Act Adoption Extension
3. Administrative Procedures Act (redline)
4. Administrative Procedures Act (clean)
5. Fiscal Impact Statement

Overview

On January 7, 2013 the Oneida General Tribal Council (GTC) adopted resolution GTC-01-07-13-A, Adoption of the Administrative Procedures Act Amendments and the Legislative Procedures Act. With the adoption of the Judiciary Law through resolution GTC-01-07-13-B, the GTC repealed the hearing procedures found in the Administrative Procedures Act (APA) effective March 1, 2015, with the adoption of the Judiciary Law, resolution GTC-01-07-13-B. Although the Judiciary Law was adopted, certain boards, committees and commissions of the Tribe continued to have hearing body authority through various Tribal laws and are required to hold their hearing in accordance with the Administrative Procedures Act under Tribal law. These hearing bodies include the Child Protective Board, the Election Board, the Environmental Resource Board, Oneida Gaming Commission, Land Commission, Pardon and Forgiveness Committee, Personnel Commission, Oneida Police Commission, Oneida Nation School Board, Oneida License Commission and Trust and Enrollment Committee.

On February 25, 2015, the Oneida Business Committee (OBC) adopted emergency amendments in resolution BC-02-25-15-B: Administrative Procedures Act Amendments Emergency Adoption. These amendments repealed the outstanding sections of the APA and put a hearing process in place for those hearing bodies that were required to hold hearings in accordance with the APA and did not have other hearing rules in place. These emergency amendments took effect March 1, 2015 for a period of six (6) months. These emergency amendments were extended once through resolution BC-08-26-15-C for another six (6) month period and are set to expire on March 1, 2016.

The attached Resolution will adopt a permanent Administrative Procedures Act to replace the emergency amendments.

A public meeting was held on January 7, 2016 in accordance with the Legislative Procedures Act and no comments were received.

Requested Action

Approve the Resolution: Administrative Procedures Act Adoption.

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.

BC Resolution # ___-___-___ Administrative Procedures Act Adoption

- 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,** GTC Resolution 01-07-13-A adopted amendments to the Administrative Procedures Act (APA) and adopted the Legislative Procedures Act (LPA); and
- WHEREAS,** GTC Resolution 01-17-13-B adopted the Judiciary Law and repealed the hearing procedures found in the APA, effective March 1, 2015; and
- WHEREAS,** although the Judiciary Law was adopted, certain boards, committees and commissions of the Tribe continue to have hearing body authority through various Tribal laws; and
- WHEREAS,** some of these hearing bodies, including but not limited to, the Gaming Commission, Environmental Resource Board and Land Commission, are required to hold their hearings in accordance with the APA; and
- WHEREAS,** after March 1, 2015, the APA no longer contained hearing body procedures; and
- WHEREAS,** the Oneida Business Committee adopted resolution BC-02-25-15: Administrative Procedures Act Amendments Emergency Adoption to put a hearing process in place for those hearing bodies that are required to hold hearings but do not have other hearing rules in place; and
- WHEREAS,** the Oneida Business Committee adopted resolution BC-08-26-15 to extended the emergency amendments an additional six (6) months and they are set to expire March 1, 2016; and
- WHEREAS,** the attached Administrative Procedures Act amendments would enact permanent requirements for hearing bodies to follow when conducting hearings; and
- WHEREAS,** allow hearing bodies to develop additional procedures so long as those procedures do not conflict with the APA and are noticed to the public; and
- WHEREAS,** establish procedural requirements for hearings; and
- WHEREAS,** authorize the hearing bodies to issue fines, orders and/or penalties that comply with the Indian Civil Rights Act; and

WHEREAS, allow a party to appeal the hearing body's decision to the Tribe's Court of Appeals; and

WHEREAS, a public meeting for the proposed amendments was held on January 7, 2016 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the attached Administrative Procedures Act is hereby adopted and becomes effective March 1, 2016.

Oneida Tribe of Indians of Wisconsin Legislative Reference Office

Krystal L. John, Staff Attorney
Douglass A. McIntyre, Staff Attorney
Taniquele J. Thurner, Legislative Analyst
Maureen Perkins, Legislative Analyst



P.O. Box 365
Oneida, WI 54155
(920) 869-4375
(800) 236-2214
<https://oneida-nsn.gov/Laws>

Statement of Effect

Administrative Procedures Act Adoption

Summary

This Resolution adopts the Administrative Procedures Act (APA). The amendments implement hearing procedures for those bodies required to hold hearings in accordance with the Administrative Procedures Act. This Resolution identifies an effect date of March 1, 2016.

Submitted by: Douglass A. McIntyre, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

The Administrative Procedures Act (APA) hearing procedures were repealed pursuant to GTC Resolution GTC-01-07-13-B effective March 1, 2015. Certain boards, committees and commissions of the Tribe continue to have hearing body authority through various Tribal laws and are required to hold their hearings in accordance with the Administrative Procedures Act under Tribal law. These hearing bodies include the Child Protective Board, the Election Board, the Environmental Resource Board, Oneida Gaming Commission, Land Commission, Pardon and Forgiveness Committee, Personnel Commission, Oneida Police Commission, Oneida Nation School Board, Oneida License Commission and Trust and Enrollment Committee.

On February 25, 2015, the Oneida Business Committee (OBC) adopted resolution BC-02-25-15-B, Administrative Procedures Act Amendments Emergency Adoption, to begin effect March 1, 2015 for a period of six (6) months. These amendments repealed the outstanding sections of the APA and put a hearing process in place for those hearing bodies that were required to hold hearings in accordance with the APA and did not have other hearing rules in place. The extension of the emergency amendments would keep the hearing process in place for those hearing bodies. These emergency amendments were extended once through resolution BC-08-26-15-C for another six (6) month period. This extension is set to expire on March 1, 2016.

The adoption of the APA would:

- Require hearing bodies to follow the Law when conducting hearings;
- Allow hearing bodies to develop additional procedures so long as those procedures do not conflict with the APA and are noticed to the public;
- Establish procedural requirements for hearings, including:
 - Specifying requirements for a complaint;
 - Identifying how a complaint and summons can be served;

- Authorizing hearing bodies to establish a regular time to hold pre-hearings and hearings;
- Authorizing hearing bodies to designate officer and alternates to serve on the hearing body;
- Restricting hearing officers and parties from engaging in ex parte communications;
- Specifying when evidence is used and how it can be obtained and presented, or objected to;
- Requiring a pre-hearing to be conducted, in part, to allow determine dispositive motions, identify the need for witnesses and/or evidence;
- Implementing a scheduling order and address matters that will clarify, simplify or settle the case or facilitate a just, speedy and inexpensive disposition;
- Specifying time requirements for setting hearing dates.
- Authorize the hearing bodies to issue fines, orders and/or penalties; that comply with the Indian Civil Rights Act.
- Allow a party to appeal the hearing body's decision to the Tribe's Court of Appeals.

A public meeting on the proposed amendments was held on January 7, 2016 pursuant to the Legislative Procedures Act. No comments were given.

Conclusion

Adoption of the amendments to these Laws will not conflict with any Tribal law or policy.

For OBC Consideration (redline to prior law)
2016 02 24

Chapter 1 Administrative Procedures Act

1.1. Purpose and Policy
1.2. Adoption, Amendment, Repeal
1.3. Definitions

1.4. Complaints and Notice
1.5. Procedures
1.6. Judgments and Appeals

1
2

<i>Analysis by the Legislative Reference Office</i>			
Title	Administrative Procedures Act (APA)		
Drafter	Lynn Franzmeier/Doug McIntyre	Analyst	Candice E. Skenandore
Reason for Request	Ensure that Tribal boards, committees and commissions have hearing procedures that are noticed so a person is presented with a fair opportunity to file a claim that arises under Tribal law [See 1.1-2].		
Purpose	The APA provides hearing procedures for boards, committees and commissions that do not have established hearing procedures in place [See 1.1-1].		
Authorized/ Affected Entities	Tribal boards, committees and commissions that are authorized, by Tribal law, to conduct hearings; anyone bringing or defending an action before such a Tribal hearing body; anyone identified as a respondent; witness; and the Court of Appeals [See 1.4-1, 1.1-1, 1.4-2, 1.4-3 (a), 1.5-5 (b) & 1.6-2]		
Due Process	A party can appeal a hearing body's decision to the Tribe's Court of Appeals [See 1.6-2]		
Related Legislation	The following are some Tribal laws and policies that reference the APA when describing how a hearing is conducted: All-Terrain Vehicle Law [49.6-2]; Building Code [66.24-1]; Condominium Ordinance [68.26-2]; Oneida Nation Gaming Ordinance [21.12-8 (g)]; Hunting, Fishing and Trapping Law [45.15-3]; On-Site Waste Disposal Ordinance [46.5-1 (a), (b)(2) & (c)(2)]; Protection and Management of Archeological & Historical Resources [12.5-3]; Real Property Law [67.16-3 (a) (3)]; Oneida Vendor Licensing [56.7-1]; Well-Abandonment Law [43.7-3] and Employee Protection Policy [4-7]		
Policy Mechanism	The hearing body can issue fines, orders and/or penalties so long as they comply with the Indian Civil Rights Act [See 1.6-1].		

3
4

Overview

5 The APA once housed the process for adopting Tribal legislation as well as the hearing
6 procedures for Tribal boards, committees and commissions (hearing bodies) that have hearing
7 authority, including the Oneida Appeals Commission. On January 7, 2013, the GTC 1) adopted
8 the Legislative Procedures Act (LPA) which transferred the Tribal legislation process from the
9 APA to the LPA and 2) adopted the Judiciary which repealed the hearing procedures for the
10 Oneida Appeals Commission set forth in the APA effective March 1, 2015 [See GTC
11 Resolutions 01-07-13-A & 01-07-13-B]. Because other Tribal laws reference the APA as a guide
12 to be used for hearing procedures of various Tribal hearing bodies and because these Tribal
13 hearing bodies continued to have hearing authority after the APA was set to expire, the Oneida
14 Business Committee (OBC) adopted emergency amendments to the APA which provided a
15 consistent process for these hearing bodies to conduct hearings. These emergency amendments
16 became effective on March 1, 2015; were extended for six months and are set to expire on March
17 1, 2016.

18 The following amendments to the APA are currently in effect and are being considered
19 for permanent adoption. These amendments:

- 20 ▪ Require hearing bodies to follow the APA when conducting hearings unless another
21 Tribal law establishes hearing procedures for the specific hearing body *[See 1.4-1]*. The
22 APA will not pertain to the Oneida Personnel Commission, Oneida Police Commission
23 or Oneida Election Board because Tribal law dictates how their hearings are conducted
24 *[See Oneida Judiciary Rules of Civil Procedure 153.4-6, Oneida Nation Law
25 Enforcement Ordinance 37.9-1 and Oneida Election Law 2.5-6]*. In addition, the APA
26 specifically excludes the Tribe’s Judiciary and Family Court *[See 1.3-1 (f)]*.
- 27 ▪ Allow hearing bodies to develop additional hearing body procedures so long as those
28 procedures do not conflict with the APA and are noticed to the public *[See 1.4-1]*.
- 29 ▪ Establishing procedural requirements for hearings, including:
- 30 ▪ Specifying what information must be included in the complaint as well as identify
31 how a complaint and summons can be served and that service must be made
32 within 30 days of filing the complaint *[See 1.4-2 & 1.4-3]*.
- 33 ▪ Authorizing hearing bodies to establish a regular time to hold pre-hearings and
34 hearings as well as designate officer and alternates to serve on the hearing body
35 *[See 1.5-1]*.
- 36 ▪ Restricting hearing officers and parties from engaging in ex parte communications
37 *[See 1.5-2]*.
- 38 ▪ Specifying when evidence is used and how it can be obtained and presented, or
39 objected to. *[See 1.5-3]*.
- 40 ▪ Require a pre-hearing to be conducted within 45 days after notice is served *[See
41 1.5-4]*. The pre-hearing allows the hearing body or hearing officer to determine
42 dispositive motions; identify the need for witnesses and/or evidence; implement a
43 scheduling order and address matters that will clarify, simplify or settle the case
44 or facilitate a just, speedy and inexpensive disposition *[See 1.5-4]*.
- 45 ▪ Require a hearing, if necessary, to be conducted within 60 days after the pre-
46 hearing or within 60 days after it is decided to not hold a pre-hearing *[See 1.5-6]*.
- 47 ▪ Authorize the hearing bodies to issue fines, orders and/or penalties that comply with the
48 Indian Civil Rights Act *[See 1.6-1]*.
- 49 ▪ Allow a party to appeal the hearing body’s decision to the Tribe’s Court of Appeals in
50 accordance with the Judiciary law and any applicable rules of procedure *[See 1.6-2]*.

Considerations

The LOC may want to consider the following:

- 53 ▪ Amendments require a pre-hearing to be conducted within 45 days after the notice is
54 served as well as require a hearing be held, if necessary, within 60 days after the pre-
55 hearing was conducted or the decision that a pre-hearing is not needed *[See 1.5-1 and
56 1.5-5]*. The amendments do not address allowing hearing bodies to extend these
57 timelines. The LOC may want to consider whether or not to allow hearing bodies to
58 extend the 45 day pre-hearing and/or 60 day hearing timelines if all parties agree, or in
59 specific circumstances when additional time is necessary in the interests of justice.
- 60 ▪ Amendments will allow the hearing body to issue fines, orders or penalties for those who
61 violate the APA but there are no enforcement provisions for hearing bodies that violate
62 this Law.
- 63 ▪ The APA does not state whether or not a hearing body can issue subpoenas.

Miscellaneous

67 A public meeting was held January 7, 2016. Please refer to the fiscal impact statement
68 for any financial impacts.

69
70
71 ~~1.1-1. Authority. The Oneida Tribe of Indians of Wisconsin has the authority and jurisdiction~~
72 ~~to enforce this act as well as the responsibility as a government to protect the health, safety,~~
73 ~~welfare, and economy of the Oneida Reservation lands and all persons who either reside on the~~
74 ~~reservation or who are visitors and/or are conducting business within the exterior boundaries of~~
75 ~~the reservation. The Oneida Tribe shall ensure due process of law for the designated citizens~~
76 ~~through adoption of this act, pursuant to Article VI of the Oneida Tribal Constitution, as~~
77 ~~amended.~~

78
79 ~~1.2-1. Purpose. The Oneida Business Committee, various committees, entities and~~
80 ~~administrative bodies of the Oneida Tribe shall act in a responsible and consistent manner when~~
81 ~~enacting, approving, revising, reviewing, interpreting, implementing, and administering the laws,~~
82 ~~directions, rules, programs, and policies of the Oneida Tribe as adopted. The following~~
83 ~~principles shall be the framework of this Act:~~

- 84 (a) ~~Fundamental fairness, justice, and common sense.~~
85 (b) ~~Record keeping that is responsible, organized, accessible, and understandable.~~
86 (c) ~~Deliberative bodies and decision makers which are familiar with the evidence and~~
87 ~~facts of the cases presented to them as well as issuing clear and concise written opinions;~~
88 ~~and~~
89 (d) ~~Provisions for appeals of administrative errors and contested issues.~~

90
91 **1.3-1. Adoption, Amendment, Repeal**

92 (a) ~~This law was adopted by the Oneida General Tribal Council by resolution GTC 8-19-91-A~~
93 ~~and amended by GTC 1-07-13-A.~~

94 (b) ~~This law may be amended by the Oneida General Tribal Council.~~

95 (c) ~~Should a provision of this law or the application thereof to any person or circumstances be~~
96 ~~held as invalid, such invalidity shall not affect other provisions of this law which are considered~~
97 ~~to have legal force without the invalid portions.~~

98 (d) ~~Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly~~
99 ~~conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent~~
100 ~~with or is contrary to this law. Specifically, the following are repealed:~~

101 (a) ~~BC #7-5-95-K (Amendment to the Administrative Procedures Act to address public~~
102 ~~hearing process)~~

103 (b) ~~BC# 2-2-88-A (Public hearing process for laws and policies)~~

104 (e) ~~This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of~~
105 ~~Wisconsin.~~

106
107 **1.4-1. Definitions.** (a) ~~"AGENCY": Any tribal entity, board, commission, committee,~~
108 ~~department, or officer authorized by the Oneida Tribe to propose ordinance/rules for adoption by~~
109 ~~the Oneida Business Committee or a decision maker for the contested cases. The term "Agency"~~
110 ~~shall not include the Oneida Business Committee or a tribal appeals body.~~

111 (b) ~~"CONFIDENTIALITY": State or quality of being confidential; treated as private and not for~~
112 ~~publication.~~

- 113 ~~(c) "CONTESTED CASES": A proceeding before an "Agency" in which an opportunity for a~~
 114 ~~hearing before said "Agency" is required by law prior or subsequent to the determination of the~~
 115 ~~"Agency" of the legal rights, duties, or privileges or specific parties unless otherwise provided~~
 116 ~~for by tribal law. This shall include the revocation, suspension, or modification of a license or~~
 117 ~~permit when a grant of such application is contested by a person directly affected by said~~
 118 ~~licensing or permitting.~~
- 119 ~~(d) "DECLARATORY RULING": A written ruling made by a tribal decision-making body~~
 120 ~~which removes doubts or puts an end to conflicting decisions in regard to what law is in relation~~
 121 ~~to a particular matter.~~
- 122 ~~(e) "DELIBERATIVE BODY": A body that weighs, examines, and consults the reasons for and~~
 123 ~~against a contemplated act or course of conduct or a choice of acts or means in order to form an~~
 124 ~~opinion.~~
- 125 ~~(f) "EMERGENCY": An unexpected or unforeseen occurrence or condition; a sudden or~~
 126 ~~unexpected occasion for action; pressing necessity.~~
- 127 ~~(g) "LICENSE" or "PERMIT": The approval, permission, or allowance of an individual or~~
 128 ~~group to engage in an activity that is lawfully adopted by the Oneida Tribe.~~
- 129 ~~(h) "LICENSING" or "PERMITTING": The process that refers to the grant, denial, renewal,~~
 130 ~~revocation, suspension, annulment, withdrawal, or modification of a license or permit.~~
- 131 ~~(i) "ONEIDA BUSINESS COMMITTEE" (OBC): The representative body of the Oneida Tribe~~
 132 ~~elected by the Oneida General Tribal Council pursuant to Article III of the Oneida Tribal~~
 133 ~~Constitution.~~
- 134 ~~(j) "ONEIDA GENERAL TRIBAL COUNCIL": The ultimate governing body of the Oneida~~
 135 ~~Tribe composed of enrolled tribal members as described in Article III of the Oneida Tribal~~
 136 ~~Constitution.~~
- 137 ~~(k) "ORDINANCE": A tribal law that applies to and governs persons, activities, and properties~~
 138 ~~subject to tribal jurisdiction.~~
- 139 ~~(l) "RESERVATION": All land within the exterior boundaries of the Reservation of the Oneida~~
 140 ~~Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat.~~
 141 ~~566, and any lands added thereto pursuant to federal law.~~
- 142 ~~(m) "RESERVATION ENVIRONMENT" or "RESERVATION RESOURCES": Land, surface~~
 143 ~~water, ground water, fish, animals, flora, fauna, air, wildlife, and capital improvements on or~~
 144 ~~near the reservation.~~
- 145 ~~(n) "RULE/REGULATION": Any order or directive, or regulation of general applicability~~
 146 ~~enacted into law and approved by the Oneida Business Committee that exhibits the following:~~
- 147 ~~(1) The violation of which may result in a fine, penalty, or other civil administrative~~
 148 ~~sanction;~~
- 149 ~~(2) May establish, change, or revoke a procedure, practice, or requirement of~~
 150 ~~administration hearing;~~
- 151 ~~(3) May establish, change, or revoke requirements relating to benefits or privileges~~
 152 ~~conferred by law;~~
- 153 ~~(4) May establish, change, or revoke standards for assistance, suspension, or revocation~~
 154 ~~of licenses;~~
- 155 ~~(5) The amendment or repeal of a prior ordinance/rule;~~
- 156 ~~(6) Does not include the following:~~
- 157 ~~(A) statements concerning internal management of an area, nor;~~
- 158 ~~(B) Declaratory rulings issued pursuant to this Act as now or hereafter amended.~~
- 159 ~~(o) "SECRETARY": Secretary of the Oneida Business Committee.~~

~~(p) "SPONSORING AGENCIES": Any tribal agency that prepares an ordinance/rule or other matter under this Act for action by the Oneida Business Committee.~~

~~**1.5-1. Inspection of Agency Orders, Decisions, and Opinions** Each agency shall keep on file for public inspection all final orders, decisions, and opinions in contested cases as well as an index to said cases, decisions, orders, or opinions except that said public inspection shall be limited by applicable federal law or tribal laws of confidentiality. In addition, said agencies shall forward all agency orders, decisions, or opinions to the "Secretary" who shall keep said records in one centralized area.~~

1.1. Purpose and Policy

~~**1.1-1. Purpose.** The purpose of this Law is to provide procedures for boards, committees and commissions that conduct hearings for disputes arising under Tribal law and have no procedures in place under other Tribal law. This Law shall not apply to hearings held before the Family Court or any court of the Tribe's Judiciary. This Law shall not be construed to create hearing rights where no hearing rights exist under Tribal law~~

~~**1.1-2. Policy.** It is the policy of the Tribe that the hearing procedures of boards, committees and commissions shall be noticed to ensure all individuals are presented with a fair opportunity to file any claim that may arise under Tribal law.~~

1.2. Adoption, Amendment, Repeal

~~**1.2-1.** This Law was adopted by the Oneida Business Committee by resolution BC _____.~~

~~**1.2-2.** This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.~~

~~**1.2-3.** Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Law which are considered to have legal force without the invalid portions.~~

~~**1.2-4.** In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law shall control.~~

~~**1.2-5.** This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.~~

1.3. Definitions

~~**1.3-1.** This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.~~

~~(a) "Decision" shall mean the written conclusion of the hearing body concerning the facts, alleged violations of Tribal law and penalties.~~

~~(b) "Deliberations" shall mean the confidential process during which the hearing officers discuss the issues presented before the hearing body.~~

~~(c) "Dispositive motion" shall mean a request to the hearing body to entirely dispose of one (1) or more claims in favor of the party making the request without need for a further hearing.~~

~~(d) "Evidence" shall mean documentation or testimony presented to the hearing body which supports a party's claim.~~

~~(e) "Ex parte communication" shall mean oral or written, off-the-record communication made to or by the hearing officers without notice to the parties that is directed to the merits or outcome of the hearing.~~

~~(f) "Hearing body" shall mean the member or members of a board, committee or~~

208 commission that hear and decide the case or motions presented as part of a case.
209 “Hearing body” shall not include the Family Court or any court of the Tribe’s Judiciary.
210 (g) “Scheduling order” shall mean the hearing body’s order establishing the dates of the
211 hearing and the deadlines for discovery and submitting witness lists.
212 (h) “Summons” shall mean an order to appear before a hearing body because a petitioner
213 has filed a complaint.

214 **1.4. Complaints and Notice**

215 1.4-1. Whenever a claim arises under Tribal law, a hearing body shall hear the complaint in
216 accordance with the procedures established under this Law, unless another Tribal law has
217 established hearing procedures for that specific hearing body. Nothing in this Law shall be
218 construed to prevent a hearing body from establishing additional hearing body procedures, as
219 long as those procedures do not conflict with this Law and are noticed to the public by the
220 hearing body.

221 1.4-2. A petitioner(s) may file a complaint with the hearing body, the complaint shall include:

- 222 (a) The name and contact information of each petitioner;
223 (b) The name and contact information, if known, of the respondent(s)
224 (c) The alleged violation that resulted in the complaint and the Tribal law that has been
225 violated;
226 (d) The date, time, place and description of the alleged violation;
227 (e) The nature of the relief requested.

228 1.4-3. Notice. The complaint, along with a summons, shall be served upon the respondent(s)
229 within thirty (30) days after the complaint is filed with the hearing body.

230 (a) The summons shall contain the date, time and place the respondent(s) is required to
231 appear, along with a notice that failure to appear may result in a default judgment against
232 him or her.

233 (b) Anyone who is not a party to the action and is at least eighteen (18) years of age may
234 serve the notice. Notice shall be served in the following order of progression, unless
235 personal service is more practical than by mail:

- 236 (1) Mail with delivery confirmation, using U.S. mail or a private carrier.
237 (2) Personal service, by hand delivering a copy of the complaint and summons to
238 the party named in the complaint.
239 (3) Publication, in the Kalihwisaks and another paper located in an area where
240 the subject was last known to have resided. The publication shall be designated
241 as a legal notice, stating the name and last-known address of the subject being
242 located.

243 **1.5. Procedures**

244 1.5-1. Designated Hearing Dates. The hearing body may establish a regular time to hold pre-
245 hearings and hearings. The hearing body shall designate officers and may designate alternates to
246 serve on a hearing body.

247 1.5-2. Ex Parte Communications. Hearing officers and parties shall not engage in ex parte
248 communications.

249 1.5-3. Evidence. A party shall include evidence as part of his/her original filings or obtain the
250 evidence through discovery. A party may attempt to present the hearing body with evidence
251 later in the proceedings if the opposing party does not object.

- 252 (a) Copies. If a party submits documentation as evidence, the party shall present an
253 original for the record and copies to each of the hearing officers and the opposing party.
254
255

256 (b) Objections. The opposing party may object to any evidence submitted.
257 (c) Acceptance into the record. The hearing body makes the final determination whether
258 to accept evidence into the record. The hearing body may admit and consider evidence
259 that is commonly accepted and has a direct connection to the case.

260 1.5-4. Pre-Hearings. Pre-hearings shall be conducted within forty-five (45) days after notice
261 has been served. The purpose of a pre-hearing is for the hearing body or a hearing officer to:

262 (a) Hear and determine dispositive motions. The parties may present any dispositive
263 motions and raise any issues that may affect the conduct of the hearing, including, but not
264 limited to excluding evidence. If either party makes a dispositive motion:

265 (1) The party making the motion shall reference the applicable law and state with
266 clarity why the hearing body should grant the motion. The party making the
267 motion may present a proposed written decision for the hearing body to consider.

268 (2) The opposing party shall respond and state with clarity why the hearing body
269 should not grant the motion. The opposing party may request an adjournment to
270 prepare a written response to oral dispositive motions.

271 (3) The hearing body may ask any questions of the parties in order to clarify the
272 issues.

273 (b) Identify the need for any witnesses and/or evidence.

274 (c) Implement a scheduling order.

275 (d) Address any matters which will assist in the clarification, simplification or settlement
276 of the case or that may facilitate the just, speedy and inexpensive disposition of the
277 matter.

278 1.5-5. Hearing Procedures. Within sixty (60) days after a pre-hearing is conducted, or within
279 sixty (60) days after it has been determined that a pre-hearing will not be conducted, the hearing
280 body shall conduct a hearing, if necessary. If a hearing is conducted, it shall substantially
281 comply with the following:

282 (a) Opening Statements. Each party shall state with clarity why the hearing body should
283 decide in his/her favor based on the facts and the laws presented.

284 (b) Witnesses. Each party may call any witness to testify.

285 (1) Each party shall be responsible for ensuring his or her witness(es) appears at
286 the hearing.

287 (2) A witness(es) may rely only on evidence on record.

288 (3) A witness(es) is subject to cross examination by the opposing party.

289 (4) The hearing body may ask questions of any witness or request clarification of
290 any documents during the proceeding.

291 (c) Rebuttal. Parties may present a witness(es) or introduce evidence that has not been
292 previously presented in order to refute or rebut the opposing party's evidence or a witness
293 statement.

294 (d) Closing Statements. Each party summarizes the evidence and the testimony he or she
295 presented in order to rebut evidence or witness testimony presented by the opposing
296 party.

297 (e) Deliberations. After the hearing, the hearing body shall schedule a time for
298 deliberations. Deliberations are confidential and shall not be subject to reproduction and
299 shall not be part of the case record. During deliberations, the hearing body shall place an
300 emphasis on logic and reasoning in order to make sound decisions. The hearing body
301 may adopt a proposed written decision and issue the decision during the hearing.

302 1.5-6. Decisions. The hearing body may issue an oral decision on a matter, but the decision
303 shall not be final until the hearing body issues a written decision. The hearing body shall issue a

304 written decision within ten (10) business days after a pre-hearing or hearing. Should any party
305 fail to appear at any scheduled pre-hearing or hearing or contest a complaint, the hearing body
306 may issue a default judgment in favor of the opposing party.

307 (a) The decision shall include:

308 (1) Findings of fact and conclusions of law;

309 (2) Reference to specific provision of Tribal law violated;

310 (3) Disposition of any dispositive motions;

311 (4) In the case of a decision issued after a pre-hearing, a scheduling order if the
312 hearing body does not grant a dispositive motion; and

313 (5) Reference to the parties' appeal rights.

314 (b) If the hearing body does not reach a unanimous decision, hearing officers may draft
315 concurring and/or dissenting opinions.

316 (c) Notification to Parties. The hearing body shall ensure the final decision is sent to the
317 parties via mail with delivery confirmation, using U.S. mail or a private carrier, within
318 one (1) business day following the issuance of the decision. Time lines for an appeal are
319 calculated based on receipt of the written decision.

321 **1.6. Judgments and Appeals**

322 1.6-1. *Judgments* A hearing body, subsequent to a hearing, may issue fines, orders and/or
323 penalties that comply with the Indian Civil Rights Act and may include, but not be limited to, the
324 following:

325 (a) An order directing a violator or person in non-compliance of/with a Tribal law or
326 regulation to pay a monetary fine for the violation, and/or actual damages and/or punitive
327 damages.

328 (b) In the case of damages caused by minors, an order requiring the parent, custodian, or
329 guardian to pay for damages and/or plan designed for restitution in lieu of monetary
330 compensation to be fulfilled by the minor.

331 (c) An order directing the violator or non-complying person to cease and desist from
332 further violation or non-compliance and to cure said violation within a specified period.

333 (d) An order requiring appropriate exclusion and/or mandated community service and/or
334 denial of specific Tribal benefits.

335 (e) Unless precluded by law, informal disposition, signed by both parties, may also be
336 made of any contested case by stipulation, agreed settlement, consent order, or default.

337 (f) An order placing a lien upon property owned by a person within jurisdiction of the
338 Tribe.

339 1.6-2. *Appeals* A party may appeal a decision of a hearing body to the Court of Appeals in
340 accordance with the Judiciary law and any applicable rules of procedure.

341 *End.*

344 Emergency Adoption BC-02-25-15-B

345 Emergency Adoption BC-08-26-15-C

346

Chapter 1 Administrative Procedures Act

1.1. Purpose and Policy
1.2. Adoption, Amendment, Repeal
1.3. Definitions

1.4. Complaints and Notice
1.5. Procedures
1.6. Judgments and Appeals

1.1. Purpose and Policy

1.1-1. *Purpose.* The purpose of this Law is to provide procedures for boards, committees and commissions that conduct hearings for disputes arising under Tribal law and have no procedures in place under other Tribal law. This Law shall not apply to hearings held before the Family Court or any court of the Tribe's Judiciary. This Law shall not be construed to create hearing rights where no hearing rights exist under Tribal law

1.1-2. *Policy.* It is the policy of the Tribe that the hearing procedures of boards, committees and commissions shall be noticed to ensure all individuals are presented with a fair opportunity to file any claim that may arise under Tribal law.

1.2. Adoption, Amendment, Repeal

1.2-1. This Law was adopted by the Oneida Business Committee by resolution BC _____.

1.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

1.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Law which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law shall control.

1.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

1.3. Definitions

1.3-1. This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Decision" shall mean the written conclusion of the hearing body concerning the facts, alleged violations of Tribal law and penalties.

(b) "Deliberations" shall mean the confidential process during which the hearing officers discuss the issues presented before the hearing body.

(c) "Dispositive motion" shall mean a request to the hearing body to entirely dispose of one (1) or more claims in favor of the party making the request without need for a further hearing.

(d) "Evidence" shall mean documentation or testimony presented to the hearing body which supports a party's claim.

(e) "Ex parte communication" shall mean oral or written, off-the-record communication made to or by the hearing officers without notice to the parties that is directed to the merits or outcome of the hearing.

(f) "Hearing body" shall mean the member or members of a board, committee or commission that hear and decide the case or motions presented as part of a case. "Hearing body" shall not include the Family Court or any court of the Tribe's Judiciary.

(g) "Scheduling order" shall mean the hearing body's order establishing the dates of the hearing and the deadlines for discovery and submitting witness lists.

(h) “Summons” shall mean an order to appear before a hearing body because a petitioner has filed a complaint.

1.4. Complaints and Notice

1.4-1. Whenever a claim arises under Tribal law, a hearing body shall hear the complaint in accordance with the procedures established under this Law, unless another Tribal law has established hearing procedures for that specific hearing body. Nothing in this Law shall be construed to prevent a hearing body from establishing additional hearing body procedures, as long as those procedures do not conflict with this Law and are noticed to the public by the hearing body.

1.4-2. A petitioner(s) may file a complaint with the hearing body, the complaint shall include:

- (a) The name and contact information of each petitioner;
- (b) The name and contact information, if known, of the respondent(s)
- (c) The alleged violation that resulted in the complaint and the Tribal law that has been violated;
- (d) The date, time, place and description of the alleged violation;
- (e) The nature of the relief requested.

1.4-3. *Notice.* The complaint, along with a summons, shall be served upon the respondent(s) within thirty (30) days after the complaint is filed with the hearing body.

(a) The summons shall contain the date, time and place the respondent(s) is required to appear, along with a notice that failure to appear may result in a default judgment against him or her.

(b) Anyone who is not a party to the action and is at least eighteen (18) years of age may serve the notice. Notice shall be served in the following order of progression, unless personal service is more practical than by mail:

- (1) Mail with delivery confirmation, using U.S. mail or a private carrier.
- (2) Personal service, by hand delivering a copy of the complaint and summons to the party named in the complaint.
- (3) Publication, in the Kalihwisaks and another paper located in an area where the subject was last known to have resided. The publication shall be designated as a legal notice, stating the name and last-known address of the subject being located.

1.5. Procedures

1.5-1. *Designated Hearing Dates.* The hearing body may establish a regular time to hold pre-hearings and hearings. The hearing body shall designate officers and may designate alternates to serve on a hearing body.

1.5-2. *Ex Parte Communications.* Hearing officers and parties shall not engage in ex parte communications.

1.5-3. *Evidence.* A party shall include evidence as part of his/her original filings or obtain the evidence through discovery. A party may attempt to present the hearing body with evidence later in the proceedings if the opposing party does not object.

- (a) Copies. If a party submits documentation as evidence, the party shall present an original for the record and copies to each of the hearing officers and the opposing party.
- (b) Objections. The opposing party may object to any evidence submitted.
- (c) Acceptance into the record. The hearing body makes the final determination whether to accept evidence into the record. The hearing body may admit and consider evidence that is commonly accepted and has a direct connection to the case.

1.5-4. *Pre-Hearings*. Pre-hearings shall be conducted within forty-five (45) days after notice has been served. The purpose of a pre-hearing is for the hearing body or a hearing officer to:

(a) Hear and determine dispositive motions. The parties may present any dispositive motions and raise any issues that may affect the conduct of the hearing, including, but not limited to excluding evidence. If either party makes a dispositive motion:

(1) The party making the motion shall reference the applicable law and state with clarity why the hearing body should grant the motion. The party making the motion may present a proposed written decision for the hearing body to consider.

(2) The opposing party shall respond and state with clarity why the hearing body should not grant the motion. The opposing party may request an adjournment to prepare a written response to oral dispositive motions.

(3) The hearing body may ask any questions of the parties in order to clarify the issues.

(b) Identify the need for any witnesses and/or evidence.

(c) Implement a scheduling order.

(d) Address any matters which will assist in the clarification, simplification or settlement of the case or that may facilitate the just, speedy and inexpensive disposition of the matter.

1.5-5. *Hearing Procedures*. Within sixty (60) days after a pre-hearing is conducted, or within sixty (60) days after it has been determined that a pre-hearing will not be conducted, the hearing body shall conduct a hearing, if necessary. If a hearing is conducted, it shall substantially comply with the following:

(a) Opening Statements. Each party shall state with clarity why the hearing body should decide in his/her favor based on the facts and the laws presented.

(b) Witnesses. Each party may call any witness to testify.

(1) Each party shall be responsible for ensuring his or her witness(es) appears at the hearing.

(2) A witness(es) may rely only on evidence on record.

(3) A witness(es) is subject to cross examination by the opposing party.

(4) The hearing body may ask questions of any witness or request clarification of any documents during the proceeding.

(c) Rebuttal. Parties may present a witness(es) or introduce evidence that has not been previously presented in order to refute or rebut the opposing party's evidence or a witness statement.

(d) Closing Statements. Each party summarizes the evidence and the testimony he or she presented in order to rebut evidence or witness testimony presented by the opposing party.

(e) Deliberations. After the hearing, the hearing body shall schedule a time for deliberations. Deliberations are confidential and shall not be subject to reproduction and shall not be part of the case record. During deliberations, the hearing body shall place an emphasis on logic and reasoning in order to make sound decisions. The hearing body may adopt a proposed written decision and issue the decision during the hearing.

1.5-6. *Decisions*. The hearing body may issue an oral decision on a matter, but the decision shall not be final until the hearing body issues a written decision. The hearing body shall issue a written decision within ten (10) business days after a pre-hearing or hearing. Should any party fail to appear at any scheduled pre-hearing or hearing or contest a complaint, the hearing body may issue a default judgment in favor of the opposing party.

(a) The decision shall include:

- (1) Findings of fact and conclusions of law;
 - (2) Reference to specific provision of Tribal law violated;
 - (3) Disposition of any dispositive motions;
 - (4) In the case of a decision issued after a pre-hearing, a scheduling order if the hearing body does not grant a dispositive motion; and
 - (5) Reference to the parties' appeal rights.
- (b) If the hearing body does not reach a unanimous decision, hearing officers may draft concurring and/or dissenting opinions.
- (c) Notification to Parties. The hearing body shall ensure the final decision is sent to the parties via mail with delivery confirmation, using U.S. mail or a private carrier, within one (1) business day following the issuance of the decision. Time lines for an appeal are calculated based on receipt of the written decision.

1.6. Judgments and Appeals

1.6-1. *Judgments* A hearing body, subsequent to a hearing, may issue fines, orders and/or penalties that comply with the Indian Civil Rights Act and may include, but not be limited to, the following:

- (a) An order directing a violator or person in non-compliance of/with a Tribal law or regulation to pay a monetary fine for the violation, and/or actual damages and/or punitive damages.
- (b) In the case of damages caused by minors, an order requiring the parent, custodian, or guardian to pay for damages and/or plan designed for restitution in lieu of monetary compensation to be fulfilled by the minor.
- (c) An order directing the violator or non-complying person to cease and desist from further violation or non-compliance and to cure said violation within a specified period.
- (d) An order requiring appropriate exclusion and/or mandated community service and/or denial of specific Tribal benefits.
- (e) Unless precluded by law, informal disposition, signed by both parties, may also be made of any contested case by stipulation, agreed settlement, consent order, or default.
- (f) An order placing a lien upon property owned by a person within jurisdiction of the Tribe.

1.6-2. *Appeals* A party may appeal a decision of a hearing body to the Court of Appeals in accordance with the Judiciary law and any applicable rules of procedure.

End.

ONEIDA TRIBE OF INDIANS Page 89 of 229 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 • Toll Free: 1-800-236-2214
FAX # (920) 869-4024

MEMORANDUM

DATE: February 16, 2016
FROM: Rae Skenandore, Project Manger
TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer
RE: **Financial Impact of the Administrative Procedures Act Amendments**

I. Background

Due to the complex legislative history, background is being provided on several separate pieces of Legislation. The APA originally defined the legislative and hearing body processes. Resolution GTC-01-07-13-A adopted the Legislative Procedures Act (LPA) which removed the legislative process from the Administrative Procedures Act (APA). On November 15, 2013 the Legislative Operating Committee (LOC) requested the following from the Legislative Reference Office (LRO):

- Research Tribal Boards, Committees and Commissions to find out which are also hearing bodies.
- Identify where the hearing body authority comes from.

After that research was completed, the following was proposed:

- An Administrative Court be developed which would assume the hearing body authority of each of those entities; so that all disputed administrative matters would be heard in the same forum.

On September 17, 2014, the Administrative Court was added back to the active files list with Jennifer Webster as the sponsor. The last action on the Administrative Court was on December 2, 2015 was the following

- Motion by Jennifer Webster to defer the Administrative Court to the Legislative Reference Office for a legislative analysis and to the Finance Office for a fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.

The Administrative Rulemaking Law was submitted to the LOC on April 13, 2012 and carried over to the current session. The purpose is to provide a consistent process for adopting and amending Administrative Rules.

With the adoption of the Judiciary, the APA was set to be repealed as of March 1, 2015. Emergency amendments were adopted on February 25th, 2015 and extended on August 26, 2015 to provide procedures for boards, committees and commissions that conduct hearings for disputes arising under Tribal law and have no procedures in place under other Tribal law. Those amendments are now up for permanent adoption.

II. Executive Summary of Findings

The amendments simply maintain the process and structure needed by existing Tribal hearing bodies that are separate from the Judiciary and have no procedures in place under other Tribal law. As noted above, LOC is in the process of developing an administrative court and the accompanying legislation needed. At that time, an administrative court under the Judiciary would absorb most of the Tribal hearing body authority. No new personnel will be needed and there are no other startup costs to the permanent adoption of the APA amendments. The law can be implemented immediately upon approval.

III. Financial Impact

No fiscal impact.

III. 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.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approve Resolution: Administrative Rulemaking Law

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: _____
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Please see the attached memorandum.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
 Oneida, WI 54155
 (920) 869-4376
 (800) 236-2214
<http://oneida-nsn.gov/LOC>



Committee Members

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

Memorandum

To: Oneida Business Committee
From: Brandon Stevens, LOC Chairperson
Date: February 24, 2016
Re: Administrative Rulemaking Law

Please find the following attached backup documentation for your consideration of the new Administrative Rulemaking Law:

1. Resolution: Administrative Rulemaking Law
2. Statement of Effect: Administrative Rulemaking Law
3. Administrative Rulemaking Law Legislative Analysis
4. Administrative Rulemaking Law (clean)
5. Administrative Rulemaking Law Fiscal Impact Statement

Overview

This Resolution adopts a new Administrative Rulemaking Law that:

- Allows authorized agencies to prepare their own rules, conduct the required public meetings; receive comments during the public comment periods, and review/consider all comments received. [17.4 and 17.6]
- Provides a rule officially goes into effect after the Legislative Operating Committee (LOC) certifies that it was promulgated in accordance with this Law – it does not have to be adopted by Oneida Business Committee (OBC) or General Tribal Council (GTC) resolution [17.7], except that the OBC is still responsible for adopting emergency rules before they go into effect. [17.9]
- Requires the OBC to review a rule once it has been certified by the LOC. This Law sets out a detailed process for the OBC to repeal/change a rule within a certain amount of time after it has been certified. [17.7]
- Includes a standard of review – i.e. identifying when a person can appeal decisions and actions taken pursuant to a rule, and when a judge can reverse or modify an action. [17.11 and 17.12]
- Identifies requirements for seeking judicial review of a rule (i.e. seeking to have the Judiciary determine whether a rule is valid) – and enabling the Judiciary to strike down part or all of a rule if it violates the Tribe's constitution or is otherwise unlawful, or if the Rule exceeds the authorized agency's rulemaking authority.

In accordance with the Legislative Procedures Act, a public meeting was held regarding these amendments on January 7, 2016 and the comments received during that process were consider by the LOC at the LOC meeting held on February 3, 2016.

Requested Action

Approve the Resolution: Administrative Rulemaking Law

BC Resolution _____
Administrative Rulemaking Law

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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 Tribe’s current laws and policies delegate authority to various Tribal entities to interpret, implement and/or enforce Tribal laws and policies, but there is no consistent process required for exercising that authority; and

WHEREAS, the Oneida Business Committee recognizes a need to create a standardized process to govern how Tribal entities exercise the authority that is delegated to them by law; and

WHEREAS, this Law establishes one consistent process for how Tribal entities may promulgate rules in furtherance of the responsibilities delegated to them to interpret, implement and/or enforce Tribal laws and policies; and

WHEREAS, the process established by this Law would require public meetings and public comment periods for all rules, and

WHEREAS, this Law requires the Legislative Operating Committee to review and certify a rule before it can become effective, and requires the Oneida Business Committee to review a rule after it has been certified by the Legislative Operating Committee; and

WHEREAS, this Law sets out a process for the Oneida Business Committee to amend Rules after they have been enacted, if it determines that it is necessary; and

WHEREAS, a public meeting on the proposed Law was held on January 7, 2016 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the Administrative Rulemaking Law is hereby adopted; and

Resolution _____
Page 2

33 **NOW BE IT FURTHER RESOLVED**, that all forms of exercised authority that would be
34 considered rules under this Law remain in effect in their current form, but will become subject
35 to the requirements of this Law for any subsequent amendments; and

36 **NOW BE IT FINALLY RESOLVED**, Tribal entities shall submit that all forms of exercised
37 authority that would be considered rules under this Law to the Legislative Operating
38 Committee within six (6) months of the date of this Resolution so that the LOC may publish
39 them on the Oneida Register.

40

**Oneida Tribe of Indians of Wisconsin
Legislative Reference Office**

Krystal L. John, Staff Attorney
Douglass A. McIntyre, Staff Attorney
Taniquele J. Thurner, Legislative Analyst
Maureen Perkins, LTE Legislative Analyst



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

Statement of Effect

Resolution: Administrative Rulemaking Law

Summary

This Resolution adopts the Administrative Rulemaking (Law). This is a new Law that:

- Allows authorized agencies to prepare their own rules, conduct the required public meetings; receive comments during the public comment periods, and review/consider all comments received. [17.4 and 17.6]
- Provides a rule officially goes into effect after the Legislative Operating Committee (LOC) certifies that it was promulgated in accordance with this Law – it does not have to be adopted by Oneida Business Committee (OBC) or General Tribal Council (GTC) resolution [17.7], except that the OBC is still responsible for adopting emergency rules before they go into effect. [17.9]
- Requires the OBC to review a rule once it has been certified by the LOC. This Law sets out a detailed process for the OBC to repeal/change a rule within a certain amount of time after it has been certified. [17.7]
- Includes a standard of review – i.e. identifying when a person can appeal decisions and actions taken pursuant to a rule, and when a judge can reverse or modify an action. [17.11 and 17.12]
- Identifies requirements for seeking judicial review of a rule (i.e. seeking to have the Judiciary determine whether a rule is valid) – and enabling the Judiciary to strike down part or all of a rule if it violates the Tribe's constitution or is otherwise unlawful, or if the Rule exceeds the authorized agency's rulemaking authority.

Submitted by Krystal L. John, Staff Attorney, Legislative Reference Office

Analysis from Legislative Reference Office

This Law is one of the LOC's priorities. It provides a detailed process for entities that are authorized agencies to adopt new rules and to amend current rules. An entity is an authorized agency under this law if a law other than the Administrative Rulemaking Law delegates the entity authority to interpret, implement and/or enforce the said law. Currently entities and departments that are delegated authority under laws of the Tribe implement that authority in a variety of different ways including notice only to the OBC and required approval of the OBC. This Law unifies that process.

This Law's rulemaking process applies to all new rules being developed and includes a

“grandfather” provision, which allows all rules currently in place (whether formally called “rules,” “standard operating procedures,” or anything else that would amount to rulemaking authority under this Law) to remain in place. This Law’s rulemaking process would apply to these rules if/when they are amended in the future.

There is also a requirement that all current rules, which includes citation schedules, must be submitted to the LOC within six (6) months of the date this Law is adopted to be included on the Oneida Register. This will create a centralized location for all laws and rules

This Law will supersede all provisions in other laws that include processes for the promulgation of administrative rules that contradict with the process contained in this Law. Because this law supersedes those provisions, it is not necessary to immediately amend those Laws, but as they naturally come up for amendment, any conflicting processes should be removed and replaced with a reference to the Administrative Rulemaking Law. Nearly all of the Tribe’s laws and policies contain some sort of delegation of authority that this law considers rulemaking authority.

Conclusion

Adoption of this Resolution would not conflict with Tribal law.

Chapter 17
Administrative Rulemaking
Thotih<=& lutyank<slu-nShe>
they are the leaders, they are making the laws, policies and rules

<i>Analysis by the Legislative Reference Office</i>					
Title	Administrative Rulemaking Law (the Law)				
Requester	LOC (previous term)	Drafter	Krystal John	Analyst	Tani Thurner
Reason for Request	To ensure consistency in how Tribal boards, committees, commissions, departments and officials develop and implement Rules in furtherance of the laws they are delegated authority to implement/enforce.				
Purpose	This Law is being requested in order to develop a consistent process for promulgating Tribal Rules, which are created to further the goals established by a Tribal law.				
Authorized/ Affected Entities	Legislative Operating Committee (LOC) and Legislative Reference Office (LRO) are given duties under this Law; all Tribal entities, departments and officials with “Rulemaking Authority” are affected when developing/amending Rules.				
Due Process	Judicial Review of Rules				
Related Legislation	The Legislative Procedures Act (LPA) identifies a similar process for the promulgation and adoption of Tribal laws.				
Enforcement	Judicial Review of Rules, Rules can be challenged if they are not promulgated in accordance with this Law.				

Overview

The Tribe currently has a law in place (the LPA) that establishes a process and requirements for adopting and amending Tribal laws. This Law establishes a process and requirements for adopting and amending Rules promulgated in furtherance of those laws.

The purpose and policy of this Law are to provide a process for adopting and amending Administrative Rules (Rules) that is efficient, effective and democratic, and to ensure that Authorized Agencies act responsibly and consistently when enacting and revising Rules. [17.1]

Attached to the Law is a chart which sets out the process for creating Rules. This is intended to be adopted as part of the Law.

What is a Rule?

A Rule is “a set of requirements enacted by an Authorized Agency in order to implement, interpret and/or enforce a law of the Tribe, which includes citation fee and penalty schedules.” [17.3-1(f)] Rules have the same force and effect as the law they were developed under, and must be followed by both the general public and the Authorized Agency promulgating the Rule. [17.4-1(b)]

Generally, laws set out broad requirements; but more specific, detailed requirements are needed to actually carry out the law. Various Tribal laws delegate authority to specific Tribal “agencies” (i.e. boards, committees, commissions, departments or officers of the Tribe) to administer and/or enforce that law; and this Law authorizes those agencies to develop and adopt Rules, in furtherance of those responsibilities.

An “Authorized Agency” is any Tribal board, committee, commission, department or officer that has “Rulemaking Authority” – i.e. authority delegated in a Tribal law to implement, interpret and/or enforce that law. [17.3-1(a)&(g)]

24 This Law does not apply to standard operating procedures, defined as “statements,
25 interpretations, decisions, internal rules, regulations, internal policies, procedures or other
26 matters concerning internal management of an agency, which do not affect the private rights or
27 interests of individuals outside of the agency.” [17.4-1(a)]

28 Although not stated in this Law, it is intended that existing Tribal policies, which have
29 been adopted by the Oneida Business Committee (OBC) will be reorganized and re-classified as
30 laws or Rules, meaning that any existing policies may also delegate Rulemaking Authority.

31 **Rules already in effect**

32 Any Rules adopted after this Law goes into effect are valid only if adopted “in substantial
33 compliance” with this Law. Any Rules already in effect when this Law is adopted will remain in
34 effect unless the OBC directs that they be updated; but if they are ever amended, those
35 amendments must follow this law’s requirements. [17.4-3]

36 Although not stated in the Law, it is intended that the adopting Resolution would require
37 authorized agencies to forward any existing Rules to the Legislative Reference Office, to be
38 published on the Oneida Register within a certain period of time after this Law is adopted.

39 **Overview: The Rulemaking Process**

40 The Rulemaking process is similar to the lawmaking process, except:

- 41 • Instead of the LOC, each Authorized Agency is responsible for preparing its own Rules,
42 conducting the required public meetings; receiving comments during the public comment
43 periods, and reviewing/considering all comments received. [17.4 and 17.6]
- 44 • A Rule goes into effect after the LOC certifies it – it does not have to be adopted by OBC or
45 GTC resolution. [17.7] The OBC does not review a Rule until after it has gone into effect
46 (except for emergency Rules – see below), but this Law adds a detailed process for the OBC
47 to repeal/change a Rule within a certain period of time after it has been enacted. [17.7] If the
48 OBC and the authorized agency do not agree on the changes to be made to a Rule; the OBC
49 may direct the LOC to prepare a revised Rule, which would then be adopted by the OBC.
- 50 • This Law provides for standards of review for actions and decisions taken pursuant to a Rule,
51 adding that Authorized Agencies are recognized as subject matter experts in their areas, so
52 Tribal hearing bodies are required to uphold to an Authorized Agency’s actions and decisions
53 except in certain listed circumstances. [17.12]
- 54 • This Law also authorizes the Judiciary to issue declaratory judgments to determine the
55 validity of a Rule, just like it can for a law. However, actions to challenge a Rule on the basis
56 that it was not promulgated as required by this Law, can only be brought within one year
57 after the Rule’s effective date. [17.11-1]

58 **Who can propose/request that a Rule be developed?**

59 Only Authorized Agencies may promulgate Rules; and they may only promulgate Rules
60 interpreting a law that the Authorized Agency has been delegated authority to administer or
61 enforce. Rules may not exceed the Rule Making Authority given to the Authorized Agency by
62 that law. This Law does not confer Rulemaking Authority. [17.4-1]

63 **Public Meeting/Comment Requirements for Rules**

64 This Law requires public meetings to be held before a Rule can be enacted. The public
65 meetings are similar to those conducted for laws, except the Authorized Agency (instead of the
66 LOC) is responsible for publishing notice, conducting the meeting; and receiving and
67 considering all comments submitted during the public comment period [17.6-2]. Unlike laws, the
68 Public Meetings for Rules must be audio recorded. [17.6-2(f)]

69 After a public comment period ends, the Agency must fully consider all public comments

70 received; and must prepare a memo identifying every comment received, along with the
71 Agency’s response to each comment. This memo accompanies the proposed Rule when it is
72 submitted to the LOC for certification, and to the OBC for review. [17.10-1(c)]

73 **Submission Materials**

74 When a Rule is presented for public comment, LOC certification or OBC review, it is
75 required to be accompanied by supporting materials, which are combined into one summary
76 report, which must provide an overview of the Rule, [17.5-2] and include:

- 77 • A **statement of effect** – this is a legislative and legal analysis, prepared by the Legislative
78 Reference Office (LRO) upon request from the Agency [17.5-2(d)]; which explains the
79 effects the Rule would have on the Tribe. [17.2-5(h)]
- 80 • A **financial analysis** –prepared by the Authorized Agency, this must include a report from
81 every entity that may be financially affected by the Rule. [17.3-1(c)] If an entity does not
82 provide the requested information within 10 business days the financial analysis may still be
83 submitted, noting which entities did not respond to their request. [17.5-2(e)(1)]
- 84 • **Public Comment Changes.** As part of the summary report, an Authorized Agency must
85 include “a description of any changes made to the proposed Rule based on the public
86 comment period (if applicable).” Agencies are not required to identify any changes made that
87 were not based on the public comment period. [17.5-2.]

88 **LOC Certification**

89 Each Authorized Agency ultimately adopts its own Rules (except emergency Rules and
90 OBC amendments – see below), and determines a Rule’s effective date, but a Rule can only
91 become effective after the LOC certifies that all the requirements of this Law were met. [17.8]
92 Once a Rule is ready for adoption, the Agency submits it, along with the following, to the LOC:

- 93 • the summary report
- 94 • a memo showing the procedural timeline when the requirements of this Law were met
- 95 • supporting documentation, as listed in the Law,
- 96 • A memo identifying every public comment received and the agency’s response to each.
- 97 • The effective date for the new Rule or amendments to go into effect. [17.10-1.]

98 Then, if the Rule was promulgated in accordance with this Law, the LOC issues a written
99 certification, and publishes the Rule on the Oneida Register. [17.7-2] If the LOC is “unable to
100 certify” that the Agency has complied with this Law, the LOC must return the Rule to the
101 Agency with specific feedback as to what procedural requirements were not met. [17.7-2]

102 **OBC Review of Rules**

103 This OBC only reviews a Rule after it has been certified by the LOC and enacted.

- 104 • After certifying a Rule, the LOC forwards the Rule and supporting materials to the OBC for
105 review.
- 106 • If the OBC has any concerns or requested revisions, the Authorized Agency “shall work
107 with” the OBC to “address any concerns.”
- 108 • The Rule remains in effect as adopted by the Agency, unless:
 - 109 ○ The OBC deems it necessary to repeal the Rule, in which case any Rule in effect prior to
110 the repealed Rule is immediately reinstated, or
 - 111 ○ The OBC provides the agency with written notice of intent to repeal or amend the Rule
112 within 30 days after receiving notice of the Rule, and a revised Rule is adopted within six
113 months afterwards. [17.7-3(b)]
 - 114 ▪ If the Agency and the OBC agree upon the necessary changes, the Agency must
115 process the amendments and adopt an amended Rule with those changes.

116 ▪ If the Agency and OBC do not reach an agreement as to necessary changes, the OBC
117 may direct the LOC to revise the Rule. Then, the LOC, instead of the Authorized
118 Agency, will process the changes directed by the OBC, and if necessary, will hold
119 another public meeting. When the amended Rule is ready for adoption, the LOC
120 forwards it to the OBC for consideration – this appears to mean that it must be
121 adopted by the OBC.

122 If either the OBC or Agency adopts a revised Rule within the six-month period, they
123 must provide a final version of the Rule to the LOC. The LOC must then update the Oneida
124 Register with the Rule. [17.7-3(f)]

125 If neither the OBC nor Agency adopts a revised Rule within the six-month period, then
126 the OBC is prevented from repealing or amending that Rule. [17.7-3]

127 **Emergency Rules**

128 This Law allows for Rules to be enacted on an emergency basis. Like emergency laws, an
129 emergency Rule can be adopted without a public comment period being held first, and would go
130 into effect for up to six months, with a one-time opportunity for an extension of up to six more
131 months. Unlike emergency laws, a financial analysis is required to be submitted to the OBC
132 when it considers adopting the emergency Rule, but the standard 10-day deadline for entities to
133 submit a response as to how they may be affected by the emergency Rule “may” be reduced to
134 two days. [17.9]

135 As with emergency laws, an emergency Rule is first submitted to the LOC, which
136 forwards it to the OBC; but for emergency Rules, the LOC is not required to forward the
137 proposal to the OBC - if the LOC determines there is not a valid emergency, it may decline the
138 request for an emergency Rule. [17.9-1] This Law does not allow for appeals of the LOC’s
139 decision to not forward an emergency Rule to the OBC for consideration.

140 Like emergency laws, emergency Rules are adopted by the OBC. However, this Law
141 adds that emergency Rule extensions are effective upon OBC adoption by motion. [17.9-3] This
142 appears to mean that the OBC could adopt an extension to an emergency Rule without a
143 resolution, which is typically required for adoption of emergency laws and extensions.

144 This Law specifically authorizes the OBC to make changes to a proposed emergency Rule
145 before adopting it, and adds that if the Authorized Agency does not “support” any revisions
146 made by the OBC, “such concerns may be addressed when the Authorized Agency begins the
147 process for enactment of the permanent Rule.” [17.9-2]

148 **Contesting a Rule**

149 This Law allows for the Judiciary to render a declaratory judgment as to whether a Rule
150 is valid, in the same way it does for laws, as provided in 150.5-2(e) of the Judiciary Law. [17.11-
151 1] There is a one-year statute of limitations for contesting a Rule by claiming that it was not
152 promulgated in accordance with this Law. [17.11-3]

153 **Standard of Review for Actions taken Pursuant to Administrative Rules**

154 When hearing appeals or contests of an action taken pursuant to Rules, the Tribal hearing
155 body is required to “recognize that the Authorized Agency is accepted by the Tribe as the subject
156 matter expert in the given field and shall provide the Authorized Agency with deference by
157 upholding the action unless it finds the action” does any of the following:

- 158 • Violates the Tribal Constitution
- 159 • Exceeded the agency’s Rulemaking Authority
- 160 • Was unlawful, clearly erroneous, arbitrary or capricious, or
- 161 • Exhibited a procedural irregularity which would be considered a harmful error, that may have

162 contributed to the final decision; and the decision would have been different otherwise.
163 If the Tribal hearing body finds that the appeal or action did any of these, then it must either
164 reverse or modify the action taken; or remand the matter for further consideration, if the action
165 was at the second level of appeal. [17.12]

166 **New Responsibilities**

- 167 • **New Entity Responsibilities:** Every Tribal entity (including officers) that is delegated
168 authority by law to implement or enforce a Tribal law is now responsible for developing their
169 own Rules, and for each Rule they are responsible for: conducting public comment periods,
170 reviewing all public comment received; preparing a fiscal analysis and various reports;
171 including memos identifying the procedural timeline, identifying/responding to every public
172 comment received, and ultimately, adopting their Rules. [17.5-2 and 17.10-1]
- 173 • **New LOC Responsibilities:**
 - 174 ○ Developing a template for Rules, which Authorized Agencies must comply with (the
175 template is not subject to the procedural requirements of this Law, which appears to
176 mean this is not a delegation of Rulemaking Authority to the LOC). [17.5-1]
 - 177 ○ Reviewing and either certifying a Rule and forwarding it to the OBC, or sending a
178 rejected Rule back to the agency with specific feedback as to which procedural
179 requirements were not fulfilled. [17.7]
 - 180 ○ Publishing certified/final Rules on the Oneida Register. [17.7-2(a) and 17.7-3(f)]
 - 181 ○ Reviewing emergency Rules to determine if there is a valid emergency. [17.9-1]
 - 182 ○ Preparing amendments to Rules, including conducting any necessary public meetings,
183 when the OBC directs amendments to a Rule but the Authorized Agency does not
184 agree with those amendments. [17.7-3(c)(2)]
 - 185 ○ Creating and updating administrative histories for each Rule. [17.10-2]
 - 186 ○ Publishing pre-existing and emergency Rules on the Register. [17.7-3(e) and 17.9-5]
- 187 • **New LRO Responsibilities:**
 - 188 ▪ Creating/maintaining a record of all proposed and adopted Rules. [17.10-1]
 - 189 ▪ Preparing statements of effect for all Rules, upon request of the Agency. [17.5-2(d)]

190 **Other**

191 This Law requires Rules to follow the same numbering format as laws. [17.5-1]

192 The LPA was adopted by General Tribal Council (GTC) and can only be amended by
193 GTC; this Law would be adopted by the Oneida Business Committee (OBC) and could only be
194 amended or repealed by the OBC. [17.2-1 and 17.2-2]

195 A public meeting was held on January 7, 2016 and any comments received during the
196 Public Meeting and public comment period have been reviewed by the LOC, and any changes
197 based on the public meeting and public comment period, if any, have been incorporated into this
198 draft.

200 **Considerations**

201 Other Law

- 202 • When the LPA is next amended, it is also recommended that the definition of the Oneida
203 Register be revised to state that it includes agency “Rules” instead of agency regulations, to
204 reflect this Law. Similarly, future amendments to other Tribal laws and policies should also
205 include changes to ensure they are consistent with terminology related to Rules, policies, and
206 laws, and with the requirements of this Law.
- 207 • The language used in some laws may be ambiguous, meaning it is not clear whether the law

208 actually delegates authority to establish certain types of Rules. It may be beneficial to review
209 all other laws and identify how each will be affected by this Law; and/or to clarify the
210 delegation of authority as set out in each law.

211 Policy Calls

212 • Under section 17.9, Emergency Rules are first submitted to the LOC, who must determine
213 whether there is a valid emergency, and if they determine that there is, then they must forward
214 the materials to the OBC, who must then determine whether there is a valid emergency, before
215 doing anything. It is not clear why the LOC must first review the Rule to determine whether
216 there is a valid emergency, if the OBC is then going to do the same thing again. Especially in
217 an emergency situation where a Rule must be implemented quickly. This is a policy call.

218 Other

219 • This Law gives Rulemaking Authority to Authorized Agencies, i.e. Tribal boards, committees
220 and commissions, officers and departments. However, it is not clear if this would include OBC
221 standing committees, because although those might be called committees, they are not elected
222 by the membership or appointed by the OBC, and some only consist of OBC members.
223 Recommended: clarify whether the intent is for this to apply to standing committees, which
224 would include the LOC, Audit Committee, Finance committee, Quality of Life Committee and
225 the CDPC.

226 • There are various provisions in this Law which are difficult to read (confusing organization,
227 run-on sentences, or redundant and repetitive provisions.) Historically, the Tribe has worked to
228 develop Laws that were streamlined and direct, so that laypersons could clearly understand the
229 intent and requirements. If this is still a goal, it is recommended that this Law be reviewed to
230 determine whether the language of any provisions or sections should be simplified. For
231 example, 17.6-2(g) and 17.7-1 contain run-on sentences, and section 17.7-3 is overly
232 complicated and may be difficult for a layperson to read.

233 • Many of the words in the definitions section are capitalized throughout the Law. It is not clear
234 why these words are capitalized, as this is not standard drafting practice. However, if it is the
235 intent of the OBC to change this standard practice and require that all defined words be
236 capitalized in future legislation, then this Law still should be reviewed to ensure all words are
237 consistently capitalized – and to ensure that words which are not defined are not capitalized –
238 for example, “Administrative Record”, and the word “Section” in 17.3-1.

239 • Sections 17.2 and 17.3 are not completely compliant with the exact wording required by the
240 LPA.

241 ○ Section 16.11-1(b) of the LPA states “The following shall be the wording of Section 2,
242 unless other sections are necessary to convey needed information [...]”. The required
243 language is then used in section 2 except that 17.2-3 says “does not” instead of “shall
244 not” and 17.2-4 says “controls” instead of “shall control”.

245 ○ For section 3, the LPA [16.11-1(c)] states “the section wording shall be as follows” –
246 and this Law includes the language that follows except 17.3-1 includes the words “are
247 to be” instead of “shall be.”

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Chapter 17
Administrative Rulemaking
Thotih·tú lutyani·slu·nihe?

they are the leaders, they are making the laws, policies and rules

17.1. Purpose and Policy
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17.1. Purpose and Policy

17.1-1. *Purpose.* The purpose of this Law is to provide a process for the adoption and amendment of administrative Rules.

17.1-2. *Policy.* It is the policy of the Tribe to ensure:

(a) There is an efficient, effective and democratic process for enacting and revising administrative Rules.

(b) That Authorized Agencies act in a responsible and consistent manner when enacting and revising the administrative Rules.

10

17.2. Adoption, Amendment, Repeal

17.2-1. This Law was adopted by the Oneida Business Committee by resolution _____.

17.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

17.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

17.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law control.

17.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

23

17.3. Definitions

17.3-1. This Section governs the definitions of words and phrases used within this Law. All words not defined herein are to be used in their ordinary and everyday use.

(a) “Authorized Agency” means any board, committee, commission, department, or officer of the Tribe that has been granted Rulemaking Authority.

(b) “Business Day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Tribe.

(c) “Financial Analysis” means an estimate of the total fiscal year financial effects associated with a proposed Rule prepared by the Authorized Agency proposing the Rule. It includes startup costs, personnel, office, documentation costs, an estimate of the amount of time necessary for an individual or agency to comply with the Rule after implementation.

(d) “Entity” means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida

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38 Business Committee or elected by the majority of the Tribe’s eligible voters and also any
39 department of the Tribe.

40 (e) “Oneida Register” means the free legal periodical published on the Tribe’s website
41 by the Legislative Operating Committee which contains, at a minimum, agency Rules,
42 proposed legislation and notices, and either the Oneida Code of Laws or directions to
43 obtain free access to the Oneida Code of Laws.

44 (f) “Rule” means a set of requirements enacted by an Authorized Agency in order to
45 implement, interpret and/or enforce a law of the Tribe, which includes citation fee and
46 penalty schedules.

47 (g) “Rulemaking Authority” means the delegation of authority to Authorized Agencies
48 found in the Tribe’s laws other than this Law which allows Authorized Agencies to
49 implement, interpret and/or enforce a law of the Tribe.

50 (h) “Statement of Effect” means a legislative and legal analysis which explains the
51 effects that adopting a Rule would have on the Tribe.

52 (i) “Tribe” means the Oneida Tribe of Indians of Wisconsin.

53

54 **17.4. General**

55 17.4-1. *Administrative Rulemaking.* Only Authorized Agencies may promulgate Rules; this
56 Law does not confer Rulemaking Authority. Authorized Agencies shall adhere to the
57 Rulemaking procedures as provided in this Law. Authorized Agencies may promulgate Rules
58 interpreting the provisions of any law enforced or administered by it; provided that, a Rule may
59 not exceed the Rulemaking Authority granted under the law for which the Rule is being
60 promulgated.

61 (a) This Law does not apply to standard operating procedures, which for the purposes of
62 this section are statements, interpretations, decisions, internal rules, regulations, internal
63 policies, procedures or other matters concerning internal management of an agency,
64 which do not affect the private rights or interests of individuals outside of the agency.

65 (b) Rules developed pursuant to this Law have the same force and effect as the law
66 which delegated the Authorized Agency Rulemaking Authority and must be followed by
67 both the general public and the Authorized Agency promulgating the Rule.

68 17.4-2. *Authorized Agency Solicitation of Comment on General Subject Matter.* For the purpose
69 of soliciting public comment, an Authorized Agency may hold a public meeting on the general
70 subject matter of a possible or anticipated Rule before preparing a proposed Rule. However, a
71 public meeting under this subsection does not satisfy the requirements of Section 17.6 hereof
72 with respect to promulgation of a specific proposed Rule.

73 17.4-3. *Substantial Compliance.* Any Rule hereafter adopted is valid only if adopted in
74 substantial compliance with this Law, however Rules already in effect at the time of this Law’s
75 adoption remain in effect unless directed to be updated based on this Law’s requirements by the
76 Oneida Business Committee. Any amendments made to Rules already in effect must follow the
77 requirements of this Law.

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79 **17.5. Preparation of Proposed Rules**

80 17.5-1. *Form and Style.* The Legislative Operating Committee shall create a template for Rules
81 with which Authorized Agencies shall comply; the said template is not subject to the procedural
82 requirements of this Law.

83 (a) At a minimum, all Rules must be numbered in the following consistent manner “1-
84 1(a)(1)(A)(i)” where:

85 (1) “1-1” means the first section.

86 (2) “(a)” means the first subsection.

87 (3) “(1)” means the second subsection.

88 (4) “(A)” means the third subsection.

89 (5) “(i)” means the fourth subsection.

90 (6) All other numbering after the fourth subsection must be in a logical manner.

91 17.5-2. *Summary Report.* The Authorized Agency shall prepare a summary report regarding
92 each proposed Rule, which must be attached to the proposed Rule when presented for public
93 comment and for approval through the Oneida Legislative Operating Committee and ultimately
94 the Oneida Business Committee. The summary report must include:

95 (a) the name of the proposed Rule;

96 (b) a reference to the law that the proposed Rule interprets, along with a list of any other
97 related laws or rules that may be affected by the proposed Rule;

98 (c) a brief summary of the proposed Rule and any changes made to the proposed Rule
99 based on the public comment period required by Section 17.6 hereof, if applicable;

100 (d) a Statement of Effect for the Rule which the Legislative Reference Office shall
101 prepare upon request by the Authorized Agency; and

102 (e) the Financial Analysis, for which the Authorized Agency shall send a written request
103 to each Entity that may be affected by the proposed Rule soliciting information on how
104 the proposed Rule would financially affect the Entity; each Entity’s response indicating
105 its financial affects must be included in the Financial Analysis.

106 (1) If an Authorized Agency does not receive a response from one (1) or more
107 Entities regarding its request for the Entities’ financial effects of the Rule within
108 ten (10) business days of the date of the request, it may submit a Financial
109 Analysis noting which Entities were non-responsive to its request.

110

111 **17.6. Public Comment Period on Proposed Rules**

112 17.6-1. A proposed Rule, except a Rule promulgated under the emergency Rules exemptions
113 under Section 17.9, must be preceded by a public comment period, which must include a public
114 meeting. Nothing in this Section prohibits or restricts the holding of any other type of
115 community meeting which may be used to gather input on Rules.

116 17.6-2. *Public Meetings.* When a public meeting on a proposed Rule is scheduled by an
117 Authorized Agency, it must be held in accordance with the following requirements.

118 (a) The Authorized Agency shall set a date for the public meeting and have the notice
119 published in the Kalihwisaks and on the Oneida Register not less than ten (10) business
120 days prior to the meeting.

121 (b) The notice must include:

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122 (1) information for electronically accessing the summary report required under
123 Section 17.5-2 and a statement that hard copies will be available with the Entity;
124 (2) the date, time, and place of the scheduled public meeting; and
125 (3) the name, address, phone number, and other appropriate information to
126 submit written comments on the Rule and the time period during which the
127 Authorized Agency shall accept comments.

128 (c) The Authorized Agency shall hold a public meeting at the date, time and place
129 designated in the meeting notice.

130 (d) The Authorized Agency holding the public meeting shall have a representative to
131 preside at the meeting who shall briefly describe the Rule which is the subject of the
132 public meeting and the nature of the Rule's requirements, and then open the meeting for
133 comments. The Authorized Agency's presiding representative is not required to
134 comment or respond to comments at the meeting, but may, at his/her discretion, offer
135 clarity.

136 (e) *Registration.* The Authorized Agency shall create and bring to the public meeting a
137 sign-in sheet; persons attending the public meeting shall register at the meeting by
138 signing the sign-in sheet.

139 (f) The Authorized Agency shall audio record the public meeting and persons who
140 provide oral comments shall state their name for the record.

141 (g) The Authorized Agency shall hold the record open for the submission of written
142 comments for a minimum of five (5) business days following the public meeting,
143 provided that, the Authorized Agency may extend the comment period as it deems
144 appropriate by posting an amended Notice of Public Meeting based on the notice
145 requirements found in Section 17.6-2(b) at any time prior to the close of the original
146 public comment period which identifies the extended comment period ending date.

147 17.6-3. *Public Comments.* The Authorized Agency shall fully consider all comments received
148 during the public comment period and during any public meeting held regarding a proposed
149 Rule.

150
151 **17.7. Oneida Legislative Operating Committee Certification of Procedural Compliance**
152 **and Business Committee Review**

153 17.7-1. After a public meeting is held and the public comment period has expired, the
154 Authorized Agency shall submit the proposed Rule and the items it must contribute for the
155 administrative record pursuant to Section 17.10 to the Legislative Operating Committee, which is
156 responsible for certifying that promulgation of the Rule complies with the procedural
157 requirements contained in this Law.

158 17.7-2. Upon receipt of a complete submission, as required by this Section, the Legislative
159 Operating Committee shall take one (1) of the following actions:

160 (a) If the Legislative Operating Committee is able to certify that the Authorized Agency
161 has complied herewith, it shall forward items (b) and (c) of the Administrative Record
162 under Section 17.10 received by the Legislative Operating Committee to the Oneida
163 Business Committee with a written certification that the requirements of this Law have
164 been fulfilled, and shall publish the Rule on the Oneida Register; or

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165 (b) If the Legislative Operating Committee is not able to certify that the Authorized
166 Agency has complied herewith, it shall return the proposed Rule to the Authorized
167 Agency with specific feedback as to which procedural requirements were not fulfilled by
168 the Authorized Agency.

169 17.7-3. The Oneida Business Committee shall review the proposed Rule, the summary report,
170 the memorandum containing the public comments that were received, both orally and written,
171 and the Authorized Agency's response to each comment, and the Legislative Operating
172 Committee's certification of compliance. If upon review the Oneida Business Committee has
173 any concerns and/or requested revisions to the Rule, the Authorized Agency shall work with the
174 Oneida Business Committee to address any concerns.

175 (a) Unless the Oneida Business Committee repeals the Rule, the Rule will remain in
176 effect while the Authorized Agency and the Oneida Business Committee jointly work to
177 amend the existing Rule.

178 (1) Should the Oneida Business Committee repeal the Rule adopted by the
179 Authorized Agency, the Rule that was in effect immediately previous to those
180 repealed, if any, will be automatically reinstated and effective immediately upon
181 the repeal of the Rule adopted by the Authorized Agency.

182 (b) If the Authorized Agency does not receive written notice from the Oneida Business
183 Committee of intent to repeal or amend the Rule within thirty (30) days of the date the
184 Oneida Business Committee is provided notice of the Rule, the Rule will remain in effect
185 as submitted and certified by the Legislative Operating Committee.

186 (c) Should the Oneida Business Committee pursue amendments to the Rule, the
187 amendments must be completed through one (1) of the following actions within six (6)
188 months from the date the amendments are initiated by the Oneida Business Committee:

189 (1) if the Authorized Agency and the Oneida Business Committee reach an
190 agreement as to the content of the amendments, the Authorized Agency shall
191 adopt the revised Rule that has been discussed with and agreed upon by the
192 Oneida Business Committee. Provided that, if substantial revisions are requested
193 by the Oneida Business Committee, where the consideration of a substantial
194 revision is in the Authorized Agency's best informed discretion, the Authorized
195 Agency shall hold an additional public comment period, which would restart the
196 process beginning in Section 17.6 hereof ; or

197 (2) if the Authorized Agency and the Oneida Business Committee do not reach
198 an agreement as to the content of the amendments, the Oneida Business
199 Committee may defer the Rule to the Legislative Operating Committee for
200 revisions as directed by the Oneida Business Committee. If substantial revisions
201 are requested by the Oneida Business Committee, where the consideration of a
202 substantial revision is in the Legislative Operating Committee's best informed
203 discretion, the Legislative Operating Committee shall hold an additional public
204 comment period according to the requirements contained in Section 17.6 with the
205 Legislative Operating Committee taking the place of the Authorized Agency.
206 When the Rule is ready for adoption, the Legislative Operating Committee shall
207 forward it to the Oneida Business Committee for consideration.

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208 (d) If a revised Rule is not adopted by either the Authorized Agency or the Oneida
209 Business Committee within six (6) months from the date the amendments are initiated by
210 the Oneida Business Committee, the Rule originally adopted by the Authorized Agency
211 will remain in effect.

212 (e) If revisions are made to the Rule by either the Authorized Agency or the Oneida
213 Business Committee, such party making the revisions shall provide a final version of the
214 Rule to the Legislative Operating Committee. Upon receipt, the Legislative Operating
215 Committee shall update the Oneida Register with the final version of the Rule.
216

217 **17.8. Effective Date of Rules**

218 17.8-1. The Authorized Agency shall determine a Rule’s effective date, provided that a Rule
219 may not become effective until the Legislative Operating Committee has provided the
220 Authorized Agency with the written certification required by Section 17.7-2(a). A failure to
221 publish an approved Rule by its effective date does not change the effective date of the Rule.
222

223 **17.9. Emergency Rules**

224 17.9-1. An Authorized Agency may present the Oneida Legislative Operating Committee with a
225 proposed emergency Rule without a public comment period being held if it finds there is an
226 emergency situation that requires the enactment or amendment of a Rule for the immediate
227 preservation of the public health, safety, or general welfare of the Reservation population and the
228 enactment or amendment is required sooner than would be possible under the normal
229 Rulemaking process. The Authorized Agency shall submit to the Legislative Operating
230 Committee the proposed emergency Rule with reasoning to justify the emergency and a
231 summary report, provided that the deadline for Entities’ submission of financial impacts pursuant
232 to Section 17.5-2(e)(1) may be reduced to a minimum of two (2) business days. Upon receipt,
233 the Legislative Operating Committee shall review the submission and take one (1) of the
234 following actions:

- 235 (a) reject the proposed emergency Rule on the basis that there is not a valid emergency;
236 or
237 (b) accept that there is a valid basis for an emergency and forward the emergency Rule to
238 the Oneida Business Committee.

239 17.9-2. If the proposed emergency Rule is forwarded to the Oneida Business Committee, the
240 Oneida Business Committee shall review the proposed emergency Rule, the summary report and
241 the reasoning suggested for the emergency situation and take one (1) of the following actions:

- 242 (a) reject the proposed emergency Rule on the basis that there is not a valid emergency;
243 or
244 (b) accept that there is a valid basis for an emergency and adopt, by motion, the
245 emergency Rule, provided that, if the Oneida Business Committee deems it necessary, it
246 may make revisions to the emergency Rule.

247 (1) If the Oneida Business Committee makes revisions to the emergency Rule
248 that the Authorized Agency does not support, such concerns may be addressed
249 when the Authorized Agency begins the process for enactment of the permanent
250 Rule.

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251 17.9-3. An emergency Rule becomes effective immediately upon its adoption by the Oneida
 252 Business Committee and remains in effect for a period of up to six (6) months, with an
 253 opportunity for a one-time emergency extension of up to six (6) months. Requests for the one-
 254 time emergency extension may be brought by the Authorized Agency directly to the Oneida
 255 Business Committee for consideration and shall become effective upon the Oneida Business
 256 Committee's approval and adoption by motion. An emergency Rule will:

257 (a) expire when six (6) months have passed since the emergency Rule went into effect
 258 and an emergency Rule extension has not been approved; or

259 (b) expire when six (6) months have passed since the emergency Rule extension went
 260 into effect; or

261 (c) no longer be in effect when a Rule is permanently adopted in the emergency Rule's
 262 place before the emergency Rule expires under (a) or (b).

263 17.9-4. As soon as possible after emergency adoption, and if permanent adoption is desired, the
 264 Authorized Agency shall follow the regular procedures as provided under this Law to adopt the
 265 permanent Rule.

266 17.9-5. The Legislative Operating Committee shall publish the emergency Rule on the Oneida
 267 Register.

268

269 **17.10. Creating and Maintaining an Administrative Record of Rules**

270 17.10-1. The Legislative Reference Office, with information the Authorized Agencies shall
 271 provide, shall create and maintain a complete record of all proposed and adopted Rules, which
 272 must include the following:

273 (a) A memorandum provided by the Authorized Agency containing the Rule's procedural
 274 timeline including the dates the requirements of this Law were fulfilled by the Authorized
 275 Agency and any supporting documentation, which includes, but is not limited to:

276 (1) Drafts of the Rule considered for the required Public Meeting;

277 (2) The Public Meeting notice;

278 (3) If the Rule is being amended, redline drafts from the currently effective Rule;

279 (4) Minutes from the agency's meeting during which the proposed Rule was
 280 considered as an agenda item, or, if the Authorized Agency is not a board,
 281 committee or commission, a memo from the Entity's highest level of management
 282 approving the proposed Rules; and

283 (5) Any other supporting information that may be requested by the Legislative
 284 Reference Office;

285 (b) The summary report required under Section 17.5-2 provided by the Authorized
 286 Agency;

287 (c) A memorandum provided by the Authorized Agency containing the public comments
 288 that were received, both orally and written, and the Authorized Agency's response to
 289 each comment; and

290 (d) The effective dates of the original Rules and any Rule amendments subsequently
 291 made as established by the Authorized Agency.

292 17.10-2. Prior to publishing approved Rules on the Oneida Register under either Section 17.7-
 293 3(f) or 17.9-5, the Legislative Operating Committee shall create and/or update the administrative
 294 history on each Rule which must include the original effective date of the Rule and the effective

295 date of any amendments made to the Rule.

296

297 **17.11. Judicial Review of a Rule**

298 17.11-1. The Judiciary may render a declaratory judgment to determine the validity of a Rule in
299 the same manner that the Judiciary may do so for a Law; as identified in section 150.5-2(e) of the
300 Judiciary Law. Provided that, no Rule may be contested based on non-compliance with the
301 procedural requirements of this Law after one (1) year has elapsed from the effective date of the
302 Rule.

303 17.11-2. Upon the Authorized Agency's receipt of notice that an appeal has been filed regarding
304 a Rule of the said agency, the Authorized Agency that promulgated the Rule shall request the
305 Administrative Record of the Rule created under Section 17.10 and shall submit the said record
306 to the Oneida Judiciary.

307

308 **17.12. Standard of Review for Actions Taken by Authorized Agencies**

309 17.12-1. Any Tribal body hearing an appeal or contest of an action taken pursuant to Rules
310 created under Authorized Agencies delegated authority and the requirements of this Law, upon
311 consideration of the Rule and the circumstances regarding the action taken may take any one (1)
312 of the following actions:

313 (a) Uphold the action taken;

314 (b) Reverse or modify the action taken;

315 (c) If at the second level of appeal, remand the matter for further consideration.

316 17.12-2. When hearing an appeal or contest of an action as described in this Section, the Tribal
317 hearing body shall recognize that the Authorized Agency is accepted by the Tribe as the subject
318 matter expert in the given field and shall provide the Authorized Agency with deference by
319 upholding the action unless it finds that the action:

320 (a) Amounts to a violation of the Tribe's Constitution;

321 (b) Was in excess of the Authorized Agency's Rulemaking Authority or is otherwise
322 unlawful;

323 (c) Was clearly erroneous in view of the entire administrative and factual records; or

324 (d) Was arbitrary or capricious; or

325 (e) Exhibited a procedural irregularity which would be considered a harmful error that
326 may have contributed to the final decision and if said irregularity were not present, the
327 decision would have been different.

328

329 *End.*

330

331

ADMINISTRATIVE RULEMAKING PROCESS

Authorized agencies may develop rules. Tribal entities become authorized agencies when a law other than the Administrative Rulemaking Law delegates them rulemaking authority.

Public Meeting and Comment Required

The Authorized Agency must provide a public comment meeting and accept comments for 5 business days following the meeting. The public meeting must be noticed a minimum of 10 business days prior to the meeting. Among other things, the notice must include information on how to obtain the proposed rule's summary report, which must include (1) the rule's name; (2) the law the rule interprets; (3) rule summary; (4) statement of effect from the Legislative Reference Office (LRO); and (5) a financial analysis.

LOC Certificate of Procedural Compliance

After the authorized agency considers the public meeting comments and makes any necessary revisions, it shall forward the rule and summary report to the Legislative Operating Committee (LOC) to request a certificate of procedural compliance with this Law's requirements. Is the LOC able to issue the certificate?

NO

The LOC shall return the rule to the authorized agency with an explanation of which procedural requirements were not fulfilled. The rule may be resubmitted to the LOC once procedural defects are corrected.

YES

The rule immediately becomes effective and the LOC shall forward the rule and summary report to the Oneida Business Committee (OBC). Does the OBC have any concerns with the rule?

OBC Notice and Consideration

NO

If the OBC does not present any concerns and/or requested revisions to the authorized agency within 30 days, the rules remain in effect as approved and must be sent to the LOC to be published on the Oneida Register.

YES

If the OBC has any concerns and/or requested revisions, it must present them to the authorized agency within 30 business days of its notice of the rule. (All amendments must be made within 6 months of when the OBC initiated amendments. If not complete, the rule remains in effect.) Does the OBC repeal the rule?

If the OBC has Concerns related to the Rule

NO

The authorized agency's rule remains in effect while it works with the OBC to resolve any issues with the rule and amend the rule. Do the authorized agency and the OBC agree on the amendments?

YES

If the proposed rule is an amendment, the rules in place immediately prior go back into effect while the authorized agency works with the OBC to amend the rule. Do the authorized agency and the OBC agree on the amendments?

NO

The OBC shall defer the rule to the LOC for the directed amendments. In the LOC's opinion, were substantial revisions made to the rule?

YES

In the authorized agency's opinion, were substantial revisions made to the rule?

NO

Once the rule is ready, the LOC shall forward the rule to the OBC for consideration. If approved, the OBC shall adopt the rule and the LOC shall update the Oneida Register.

YES

The LOC must provide another public comment period. Once the comments are considered and the rule is ready, the LOC shall forward the rule to the OBC for consideration. If approved, the OBC shall adopt the rule and the LOC shall update the Oneida Register.

NO

The authorized agency must approve the revised rule and provide a copy to the LOC to be posted on the Oneida Register. The rule becomes effective immediately upon the authorized agencies approval.

YES

The authorized agency must provide another public comment period, which restarts the process at LOC certificate of procedural compliance.

ONEIDA TRIBE OF INDIANS Page 113 of 229 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 • Toll Free: 1-800-236-2214
FAX (920) 869-4024

MEMORANDUM

DATE: February 16, 2016
FROM: Rae Skenandore, Project Manger
TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer
RE: **Financial Impact of the Rulemaking Law**

I. Background

This is a new law that was originally introduced on April 13, 2012 and again activated on September 17, 2014. The purpose of this Law is to provide a process for the adoption and amendment of administrative rules. A public meeting was held on December 3, 2015. The following provides a summary of the elements of the law;

- \$ Authorized agencies must prepare rules in the form and style designated by the Legislative Operating Committee (LOC).
- \$ A summary report including the following must be submitted to LOC for certification.
 - o Name
 - o Reference to law
 - o Summary of proposed rule
 - o Statement of effect (prepared by LOC)
 - o Financial analysis including the impact to associated agencies
- \$ For non-emergency proposed rules, the authorized agency must conduct a public meeting and hold the rule open for a public comment period.
 - o Public meetings must include a 10 day notice
 - o Notice of the public meeting must be placed in the Kalihwisaks and the Oneida Register.
 - o The authorized agency must have a representative preside at the meeting.
 - o An audio recording must be made of the comments.
 - o The authorizing agency shall fully consider all comments received.
- \$ The authorizing agency must submit the rules and all back up materials to LOC for certification.
- \$ If certified, the materials are submitted to the Oneida Business Committee for review.

- \$ The law contains processes to address any Business Committee concerns.
- \$ Legislative Reference Office (LRO) is responsible for creating and maintaining an administrative record of rules
- \$ Also included is the designation of the effective dates, emergency rules, judicial review and standards of review for actions taken.

II. Executive Summary of Findings

The law places specific requirements on an authorized agency to develop rules in the furtherance of laws and polices they are delegated the authority to implement and enforce. An authorized agency is defined in the law as any board, committee, commission, department, or officer of the Tribe that has been granted rulemaking authority. Based on the definition, it is unclear if the authorizing agency will have the appropriate access to staff, building, equipment, etc. to fulfill the requirements laid out in the law. Also, it is unclear if an administrative court will need to be established prior to the implementation of the law.

Staff/Personnel

Under Rulemaking, the authorizing agency is responsible for preparing the rules, sending notice and conducting a public meeting, recording and receiving comments, considering the comments received, preparing the package according to the LOC requirements and submitting them for certification. It is unclear who would be performing the administrative duties if there were no staff designated to the agency. Any additional costs in stipends for a board committee or commission to develop the rules during a regular, special, or emergency meeting are indeterminable. Finance holds some concerns that an authorizing agency will conduct a financial analysis of their own rules. An objective approach to the analysis should be considered.

Notification

The law requires that notification of a public meeting be given at least 10 days prior to the meeting and include both the Oneida Register and the Kalihwisaks. The register is managed by LRO and there are no additional costs to upload the information. According to the editor of the Kalihwisaks, placement of the notification in the paper would be considered a submission and there would be no additional costs.

Location

Holding a public meeting at a location that is readily accessible to the membership is ideal and can easily be accomplished at many locations within the Tribe. However, holding a meeting during non-working hours provides more challenges to security and access and there may be additional costs for either staff time or a rental fee for a Tribal building such as Parish Hall or the Cliff Webster Recreation Center. The added requirement of recording the meeting comments also presents a challenge. It is not known if the various authorizing agencies will have the

equipment necessary to record comments or the personnel available to transcribe the public comments.

Documentation

Existing staff within the Legislative Reference Office (LRO) will be responsible for the recordkeeping of the administrative rules. No personnel will be needed within LRO and there are no other documentation costs.

Administrative Court

It is unknown if the authorizing agencies rules will all fall under the existing civil and appellate courts for Judicial review or if an administrative court will need to be established prior to the implementation of the law. Without a specific plan for the development of an administrative court, no estimated costs can be determined.

Timeline

It is unclear if the various authorizing agencies will have the ability to meet the requirements of rulemaking process without additional budgeted funds for staff, rental fees, or equipment costs. Also, the timeline and costs associated with an administrative court are unknown. Therefore, a timeline for implementation is also indeterminable.

III. Financial Impact

The fiscal impact of implementing this law is indeterminate at this time.

III. 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.

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.

BC Resolution # _ - _ - _ Administrative Rulemaking Law

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 Tribe's current laws and policies delegate authority to various Tribal entities to interpret, implement and/or enforce Tribal laws and policies, but there is no consistent process required for exercising that authority; and

WHEREAS, the Oneida Business Committee recognizes a need to create a standardized process to govern how Tribal entities exercise the authority that is delegated to them by law; and

WHEREAS, this Law establishes one consistent process for how Tribal entities may promulgate rules in furtherance of the responsibilities delegated to them to interpret, implement and/or enforce Tribal laws and policies; and

WHEREAS, the process established by this Law would require public meetings and public comment periods for all rules, and

WHEREAS, this Law requires the Legislative Operating Committee to review and certify a rule before it can become effective, and requires the Oneida Business Committee to review a rule after it has been certified by the Legislative Operating Committee; and

WHEREAS, this Law sets out a process for the Oneida Business Committee to amend Rules after they have been enacted, if it determines that it is necessary; and

WHEREAS, a public meeting on the proposed Law was held on January 7, 2016 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the Administrative Rulemaking Law is hereby adopted; and

NOW BE IT FURTHER RESOLVED, that all forms of exercised authority that would be considered rules under this Law remain in effect in their current form, but will become subject to the requirements of this Law for any subsequent amendments; and

NOW BE IT FINALLY RESOLVED, Tribal entities shall submit that all forms of exercised authority that would be considered rules under this Law to the Legislative Operating Committee within six (6) months of the date of this Resolution so that the LOC may publish them on the Oneida Register.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Adopt resolution entitled Amending BC resolution 09-24-14-H Appointing Representative to the State of WI Special Committee on State-Tribal Relations

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Submitted by: Lisa Liggins, Executive Assistant to Tribal Secretary
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The Legislature of the State of Wisconsin has created the Special Committee on State-Tribal Relations in accordance with Wis. Stat. 13.83(3) and the committee is made up of Tribal leaders and members of the Wisconsin Legislature.

BC Resolution 09-24-14-H appointed Melinda J. Danforth, Vice Chairwoman, to sit on the Special Committee on State-Tribal Relations and she'd like to transfer her seat on this special committee to Lisa Summers, Tribal Secretary.

Lisa Summers is agreeable with this change and Intergovernmental Affairs and Communications has also been made aware.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

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.

BC Resolution # _ - _ - _ Amending Resolution 09-24-14-H Appointing Representative to the State of Wisconsin Special Committee on State-Tribal Relations

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

WHEREAS, the 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, the Legislature of the State of Wisconsin has created the Special Committee on State-Tribal Relations in accordance with Wis. Stat. 13.83(3); and

WHEREAS, the committee is made up of Tribal leaders and members of the Wisconsin Legislature; and

WHEREAS, the Special Committee on State-Tribal Relations studies issues related to American Indians and the American Indian tribes and bands in this state and develop specific recommendations and legislative proposals relating to these issues, *Wis. Stat. 13.83(3)(a)*; and

WHEREAS, BC Resolution 09-24-14-H appointed Melinda J. Danforth, Vice Chairwoman, to sit on this special committee;

WHEREAS, the Vice Chairwoman wishes to transfer her seat on this special committee to Lisa Summers, Secretary;

NOW THEREFORE BE IT RESOLVED that the Oneida Business Committee ratifies the appointment of Lisa Summers, Secretary, to sit on the Special Committee on State-Tribal Relations.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Accept the February 3, 2016 LOC Meeting Minutes

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: Submitted by: Doug McIntyre, Staff Attorney/LRO
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The purpose of this request is to ask the OBC to accept the attached February 3, 2016 LOC meeting minutes. In accordance with the LOC Bylaws, all minutes shall be submitted to the Tribal Secretary's Office within 30 calendar days after approval by the LOC [See LOC Bylaws, 4-2(a)].

Action Requested:

Accept the LOC meeting minutes of February 3, 2016.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidation.org

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
 Oneida, WI 54155
 (920) 869-4376
 (800) 236-2214
<http://oneida-nsn.gov/LOC>



Committee Members

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

LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

February 3, 2016 1:30 p.m.

PRESENT: Brandon Stevens, Fawn Billie, Tehassi Hill, and David P. Jordan.

EXCUSED: Jennifer Webster

OTHERS PRESENT: Taniquelle Thurner, Krystal John, Douglass McIntyre, Maureen Perkins, Rae Skenandore, Michelle Mays, Bonnie Pigman, Cheryl Vandenberg, Leyne Orosco, and Nicolas Reynolds.

I. Call to Order and Approval of the Agenda

Brandon Stevens called the February 3, 2016 Legislative Operating Committee meeting to order at 1:34 p.m.

Motion by Tehassi Hill to approve the agenda; seconded by Fawn Billie. Motion carried unanimously.

II. Minutes to be approved

1. January 20, 2016 LOC Meeting Minutes

Motion by Tehassi Hill to approve the January 20, 2016 LOC meeting minutes; seconded by Fawn Billie. Motion carried unanimously.

III. Current Business

1. Administrative Procedures Act Amendments

Motion by Tehassi Hill to direct the Legislative Reference Office to prepare an adoption packet for the Administrative Procedures Act Amendments to be forwarded to the Oneida Business Committee for consideration when ready; seconded by Fawn Billie. Motion carried unanimously.

2. Community Support Fund Policy Amendments

Motion by Fawn Billie to accept the draft of the Community Support Fund Policy Amendments, to forward to the Legislative Reference Office for an updated analysis and to the Finance Department for a fiscal impact statement; seconded by Tehassi Hill. Motion carried unanimously.

3. Mortgage and Foreclosure Law

Motion by David P. Jordan to forward the Mortgage and Foreclosure Law to the Legislative Reference Office for a legislative analysis and to the Finance Department for a fiscal impact statement; seconded by Tehassi Hill. Motion carried unanimously.

4. Per Capita Law Amendments

Motion by Tehassi Hill to defer the Per Capita Law Amendments to a work meeting with the Trust/Enrollment Department, the Finance Department, Law Office and the sponsor and bring back to the LOC within the next 30 days; seconded by David P. Jordan. Motion carried unanimously.

5. Administrative Rulemaking Law (00:00-56:00)

Motion by David P. Jordan to direct the Legislative Reference Office to make the noted changes to the Administrative Rulemaking Law and defer the remainder of the policy consideration to a meeting with the sponsor; to update the Legislative Analysis and to prepare an adoption packet for Oneida Business Committee consideration; seconded by Tehassi Hill. Motion carried unanimously.

6. Comprehensive Policy Governing Boards, Committees and Commissions Amendments (56:12-57:06)

Motion by David P. Jordan to accept the Public Meeting comments and defer consideration of the comments to a work meeting to be held on Friday February 5, 2016 at 10:00 am; seconded by Tehassi Hill. Motion carried unanimously.

7. Higher Education Scholarship (57:13-01:05:36)

Motion by David P. Jordan to send the Higher Education Scholarship draft to the Oneida Business Committee to consider forwarding to the next available General Tribal Council for adoption; seconded by Fawn Billie. Motion carried unanimously.

Motion by Fawn Billie to request the Higher Education Department to prepare a presentation to accompany the law to the General Tribal Council consideration; seconded by Tehassi Hill. Motion carried unanimously.

IV. New Submissions**V. Additions****VI. Administrative Updates****VII. Executive Session****VIII. Recess/Adjourn**

Motion by Tehassi Hill to adjourn the February 3, 2016 Legislative Operating Committee meeting at 3:09 p.m.; seconded by David P. Jordan. Motion carried unanimously.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header: Standing Committees

Accept as Information only

Action - please describe:

BC approval of Finance Committee Meeting Minutes of February 15, 2016

3. Supporting Materials

Report Resolution Contract

Other:

1. FC Mtg Minutes of 2/15/16

3.

2. FC E-Poll approving 2/15/16 Minutes

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison: Trish King, Tribal Treasurer

Primary Requestor: Denise Vigue, Executive Assistant /Finance Administration
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Oneida Business Committee approval is required to approve all Finance Committee meeting actions as the FC is a standing committee of the OBC.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



ONEIDA FINANCE COMMITTEE

February 15, 2016 – 10:00 A.M.

Business Committee Executive Conference Room

REGULAR MEETING MINUTES

Members Present:

Patricia King, Treasurer/FC Chair	Larry Barton, CFO/FC Vice-Chair
David Jordan, BC Council Member	Jenny Webster, BC Council Member
Patrick Stensloff, Purchasing Director	Chad Fuss, Gaming AGM/FC Alternate
Wesley Martin, Jr., Community Elder Member	

Others Present: Paul Witek and Denise Vigue, FC recording secretary

I. Call to Order: The meeting was called to order by the FC Chair at 10:00 A.M.

II. Approval of Agenda: FEBRUARY 15, 2016

Motion by Wesley Martin, Jr. to approve the Finance Committee agenda for Feb. 15, 2016. Seconded by Patrick Stensloff. Motion carried unanimously.

III. Approval of Minutes: FEBRUARY 1, 2016 (approved via FC E-Poll on 2/2/16)

Motion by David Jordan to ratify the FC E-Poll action of Feb. 2, 2016 approving the Finance Committee meeting minutes of Feb. 1, 2016. Seconded by Patrick Stensloff. Motion carried unanimously.

IV. Tabled Business: No Tabled Business

V. Capital Expenditures: No items submitted

VI. New Business:

1. Miron Pre-Construction Invoices
Paul Witek, Engineering Dept.

Paul Witek was present to discuss these final payment requests to Miron Construction on their work on the casino project at both the Main and West Mason Street Casinos. Their work is complete and the project is also completed with the exception of the parking lot work that will be completed in the spring.

Motion by Larry Barton to approve the Miron pre-construction final invoices in the total amount of \$7,000.00. Seconded by Jennifer Webster. Motion carried unanimously.

VII. Donation Requests:

1. MOPH Annual Convention
Requestor: George G. Greendeer, MOPH Member

No one present to discuss this donation request; Wes noted that this is an opportunity to assist the purple heart combat veterans with their annual convention; it is being held at the Radisson; discussion of maximum support under the FC Donation Line of \$2,500.00 and funds are available if the requestor resubmits request for maximum amount.

Motion by David Jordan to approve from the Finance Committee Donation Line \$2,000.00 with an approval of an additional \$500.00; contingent upon the requestor resubmitting paperwork with a request for \$2,500.00. Seconded by Wesley Martin, Jr. Motion carried unanimously.

VIII. Executive Session: None

IX. Follow Up: None

X. FYI and /or Thank You:

1. FYI: Green Bay Water Utility
Paula King Dessart, BC Main Office

There were a few questions on what payment is for, past bills or current ones and if it is part of service agreements. Denise will ask Nathan King to provide more details.

Motion by Larry Barton to accept the Green Bay Water Utility payment information as FYI. Seconded by David Jordan. Motion carried unanimously.

2. FYI: Everi (6) free trial games
David Emerson, Slots Dept. Director

Chad Fuss explained these are 3 month free trial games at the main casino that will be received this coming summer; if games are profitable, slots will return to the FC after the trial expires to request purchase of them.

Motion by Wesley Martin, Jr. to accept the Everi (6) free trial games information as FYI. Seconded by Larry Barton. Motion carried unanimously.

3. Thank You: Oneida United Methodist Church
Pam Cottrell, OUMC Treasurer

Motion by Jennifer Webster to accept the Oneida United Methodist Church thank you and follow-up report as FYI. Seconded by David Jordan. Motion carried unanimously.

XI. Adjourn: Motion by Wesley Martin, Jr. to adjourn. Seconded by David Jordan. Motion carried unanimously. The meeting ended at 10:16 A.M. The next Finance Committee meeting is scheduled for Monday, Feb. 29, 2016 at 10:00 A.M. in the BC Executive Conference Room.

Minutes taken and transcribed by:
Denise Vigue, Executive Assistant in Finance
& Finance Committee Recording Secretary

Finance Committee- E-Poll Minutes Approval Date: February 15, 2016

Oneida Business Committee- FC Minutes- Approval Date: _____

Oneida Tribe of Indians of Wisconsin

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 possible.

MEMORANDUM

TO: Finance Committee
CC: Business Committee
FR: Denise Vigue, Executive Assistant
DT: February 16, 2016
RE: **E-Poll Results of: FC Meeting Minutes of February 15, 2016**

An E-Poll vote of the Finance Committee was conducted to approve the February 15, 2016 Finance Committee meeting minutes. The results of the completed E-Poll are as follows:

E-POLL RESULTS:

There was a Majority 5 YES votes from Larry Barton, David Jordan, Chad Fuss, Wesley Martin, Jr., and Patrick Stensloff to approve the Feb. 15, 2016 Finance Committee Meeting Minutes.

The minutes will be placed on the next BC agenda of **Feb. 24, 2016** for approval and the next Finance Committee agenda of **Feb. 29, 2016** to ratify this E-Poll action.

Yawλko

* Per the Finance Committee By-Laws Article III-Meetings, 3-4 Quorum. Four (4) members of the Finance Committee shall constitute a quorum & 3-6 Voting. (d) The Finance Committee shall act by a majority of vote of the quorum present at any meeting.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Please accept the December 10, 2015 Quality of Life Committee Meeting Minutes.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Nicolas A. Reynolds/Executive Assistant
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Quality of Life Committee

Meeting Notes

I. Call to Order and Roll Call (___:___ am/pm)

- | | |
|---|--|
| <input checked="" type="checkbox"/> Fawn Billie, QoL Chair | <input checked="" type="checkbox"/> Tehassi Hill, QoL Vice Chair |
| <input checked="" type="checkbox"/> Trish King, OBC Treasurer | <input checked="" type="checkbox"/> Lisa Summers, OBC Secretary |
| <input checked="" type="checkbox"/> Brandon Stevens, OBC Councilman | |

Others in Attendance: Nicolas Reynolds, Mari Kriescher, Jackie Smith, Tina Jorgensen.

II. Approve the agenda

MOTION: by Tehassi Hill to approve the agenda, second by Lisa Summers. Motion carried unanimously.

III. Minutes to be approved

- A. November 12, 2015 Meeting Notes

MOTION: by Lisa Summers to approve the notes, second by Tehassi Hill. Motion carried unanimously.

IV. Old Business

- A. Farm To School Initiative Final Update

PRESENTATION NOTES: SMART Goals are those which Bill is working on with the school. There is a need to get healthier foods in the schools, get kids to try the foods, youth day on the farm, initiatives to tackle the issue.

DISCUSSION NOTES: 54218 did a collaboration with GB parks & rec and went to parks and did activities, workouts, etc. with the kids. May have partnered with the YMCA. The team that Bill is working with is in transition, but he can bring that suggestion.

MOTION: by Lisa Summers to accept the update, second by Tehassi Hil. Motion carried unanimously.

V. New Business

- A. Reducing Health Risk by Exercising 30 Minutes at Work—Tina Jorgensen

PRESENTATION: The results of the HRA's have been released as of last Friday. We have lowered our participation rate even though the composite score went up a point or two. Our employees are not getting healthier. We also increased our self-funded health costs in spite of the participation-based program meant to reverse this trend. The Wellness Council has explored various ideas, and is looking for physical activity time for employees. There are policies that prevent this type of activity. We are asking for procedural exception to Time & Attendance Policy to allow employees 30 minutes to exercise as paid time. We will do a pre-assessment with pilot participants and a post-assessment. By increasing activity for 20 minutes a day, sleep improves, less absenteeism, employees are more fully present. Studies show a 15% of total medical cost

is sedentary employees. If you add obesity into, it increases and the Oneida Tribe is spending \$8 million dollars a year in medical costs associated with sedentary and obese employees. We should allow employees to exercise as part of their work day. Gaming GM is interested and is looking to see how they can accommodate. Gaming may be able to pay employees at start of shift or end of shift to prevent interruption of schedules. Time and Attendance will not allow this to happen currently. We are looking at a grant to purchase treadmills for the three areas for the pilot program. Treadmill placement would be decided based on the actual departments that want to participate. A past pilot program was derailed due to inflexibility in the policy by T&A.

DISCUSSION NOTES: Schneider and Georgia Pacific do programs like this. Suggested to do some research on local programs to find out their success rates and build support for this. At Skenandoah, we've been looking for treadmills and to see if we can find a space to put them. We'd like to have two in the building and see if they can be placed near the fireplace area. Risk management is looking at it from a risk factor. We also talked about it at the Print & Mail center. These are being looked at as a stress relief initiative. There are some areas that allow employees who smoke to take an hour lunch in addition to two ten minute breaks to smoke. If we can support an unhealthy habit, we should be able to support a healthy, potentially lifesaving initiative. Another possibility is Nintendo Wii, or x-box fit. We are looking for approval of this initiative by January or at least before purchasing equipment. Need to develop metrics to support and justify moving from pilot to organization-wide initiative. Next steps would be to write a BC Agenda Request, ID Departments, Pilot department commitments and details, outline barriers, etc. Ask T&A for their concerns. Report on what companies are doing this now and how it is working. Probably important to get with the Finance area and get an assessment of cost benefits. Research suggest \$3 back in benefits for each \$1 spent in program. Keep in mind that what is being asked for right now is a 3 month window, not full implementation.

MOTION by Tehassi Hill to accept the report and support to move the revised draft to the Business Committee. Second by Brandon Stevens. Motion carried unanimously.

B. Behavioral Health Services Presentation—Mari Kriescher

PRESENTATION NOTES: Behavioral Health is licensed in outpatient AODA and mental health services. The mission is to provide services related addictions, etc. To access services, call triage counselor at 490-3860. Programs available are counseling related to Alcohol, tobacco, and other drug abuse, medication management, tobacco abuse programming, triage services, etc. A 90 minute assessment, including urine testing, are done up front to determine what level of services are needed for the patient. Youngest patient assessed was nine years old. ATODA has outpatient group counseling and aftercare group counseling. Gambling support group, Mental Health includes individual, family, and couples counseling. Provide a tobacco support group. Triage services does suicidal assessments (collaborates with Brown County) and crisis therapy appointments. Crisis assessments might include immediate appointment, calling OPD for wellness check, etc. All providers keep an emergency appointment on their calendars just in case. No-show policy states that if missing three appointments, may be discharged from services. No show for initial appointment and subsequent appointment could prevent being seen for 6 months. Alcohol diagnosis is 15% of ATODA appointments. Cannabis Diagnosis is 2.7%, and opioid diagnosis is 1.9% (out of 6,032 patients). Child diagnosis (ADD, etc.) are 8.2% (ages 6-18). Goal of department is to integrate with Health Center. Various community outreach services including collaboration with schools, and support services in community: Three Sisters AA group Wednesday nights, Wise Women Group on Tuesdays evening at Airview (Thursdays for men), and survivors of suicide. Branch offices located at Schools, Health Center, and

Veterans Offices. QPR = Questions, Persuade, Refer. BH has 1 Hour training program that can be used to train all employees and help save lives.

DISCUSSION NOTES: This topic ties into the next agenda item, discussion continues there. We have a wide drug problem here. There seems to be disconnection between the community and programs. Our Health area is the largest distributor of prescriptions in the area and we have a large problem with prescript drug abuse. Need to get information out and create a system of help. OPD has confirmed that heroin use is increasing. Should we be distributing Narcan in our community? Need to have these discussions and get the right people in the room. There are mobile services and programs that can help get to the kids. Want to do a full community awareness campaign. Want to get a grant to bring Drug ID and Recognition class here. Next comprehensive Health Community Meeting is coming up in January on the 12th. There are typically 50-100 people who show up. If it is possible, maybe could move to Radisson and target youth and families. Currently give \$5 gift card and get a lot of elders, but maybe because it is at the AJRCCC? Want to create a sense of urgency. A request has been made for video showing drug activity on gaming sites. Need information to share to help demonstrate how much this is really affecting our community. No communication has gone out, so possible to change the date. If we can get the information together, Wellness Council can help with logistics. Could have statistics running on screens in GTC meetings with instructions on what to do to help build awareness.

MOTION: by Brandon Stevens to accept the presentation, second by Tehassi Hill. Motion carried unanimously.

VI. Standing Items

A. Drug Task Force

DISCUSSION NOTES: Many Schneider, OPD Group, and Alebra Cornelius have confirmed their willingness to be on the Drug Task Force. There are community members who want to help that have contacted Brandon Stevens. Where does the group want to focus (what age group). There are departments and programs that can reach the youth relatively easily. If you can get to the kids, then you can usually get into the families and get a better understanding of what is going on. There needs to be a short, medium, and long-term approach. Families need to know the signs so they can intervene now and prevent an entrenched problem from developing down the road. Existing programs and staff could be used to funnel individuals into services. Social marketing plan template (recommended by Tina Jorgensen) could help to organize this effort and would be willing to facilitate the Drug Task Force to help provide that focus.

MOTION: by Tehassi Hill to:

- accept the Drug Task Force update, and
- the Drug Task Force reach out to Tina Jorgensen to facilitate them through the social marketing plan, and
- the Drug Task Force coordinate a meeting schedule, and
- a community meeting be held to create awareness of signs of drug abuse coordinated by Tina Jorgenson on January 12.

Second by Brandon Stevens. Motion carried unanimously.

B. Drug Treatment Center



DISCUSSION NOTES: Request has been made to put this item on the Intertribal Criminal Justice Committee's agenda. The Legislative Affairs to follow up on the initiative for the centralized treatment facility.

MOTION: by Tehassi Hill to accept the update. Second by Brandon Stevens. Motion carried unanimously.

VII. Additions

VIII. Adjourn

MOTION: to adjourn at 10:09 am by Tehassi Hill. Second by Brandon Stevens, Motion carried unanimously.

IX. GENERAL TRIBAL COUNCIL

- A. Determine available General Tribal Council meeting date to address Petitioner Madelyn Genskow: three resolutions**
 - 1) Oneida Business Committee Accountability**
 - 2) Repeal Judiciary Law**
 - 3) Open Records and Open Meetings Law**Sponsor: Lisa Summers, Tribal Secretary

- B. Accept financial analysis and determine available General Tribal Council meeting date to address Petitioner John E. Powless Jr.: Per capita payments**
Sponsor: Lisa Summers, Tribal Secretary

- C. Request update on anticipated completion date regarding Petitioner Nancy Barton: Emergency food pantry**
Sponsor: Lisa Summers, Tribal Secretary

These agenda items contain information for Tribal Members only. Please visit the Business Committee Support Office on the second floor of the Norbert Hill Center with Tribal I.D. to obtain full packet materials. Materials may also be obtained after logging into the Tribal Members only portal at <https://oneida-nsn.gov/members-only/gtc-portal/bc-meeting-materials-for-members-only/>

For any questions, please call the Business Committee Support Office at (920)869-4364 or send an email to TribalSecretary@oneidanation.org. Thank you.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Accept update of Work Plan for Cemetery Improvements project #14-002.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Troy Parr, Asst. Division Director/Development
Your Name, Title / Dept. or Tribal Member

Additional Requestor: Paul J. Witek, Senior Tribal Architect/ Engineering Dept.
Name, Title / Dept.

Additional Requestor: Fawn Cottrell, Contract Processor/ Engineering Dept.
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Purpose:

Follow-up to item XII.A from December 9, 2015 OBC Meeting for a update to Work Plan.

Background:

On December 9, 2015 the Business Committee approved a motion to request the Cemetery Improvement Project #14-002 Work Plan be a standing item on the second regular Business Committee meeting agenda of each month starting in January of 2016 for updates.

Action Requesting:

1. Acceptance of Work Plan status update for Cemetery Improvements project #14-002.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

WORK PLAN

Cemetery Improvements Project
#14-002

2/16/16

No.	Description	Notes	Tasks	Task Coordinator	Estimated Completion Date	Status
1	Continue data readings from monitoring wells.	Monthly readings.	a. Collect data.	CW&S Dept.	On-going	On-going
2	Install additional monitoring wells.	Install monitoring wells at existing raised plateaus and on property to east.	a. Draft and release Request For Proposals (RFP).	Engineering Dept.	12/16/15	Complete, issued 12/9/15; proposals received 12/16/15.
			b. Draft and award contract.	Engineering Dept.	1/22/16	Complete.
			c. Install monitoring wells	Vendor	2/9/16	4 wells installed Feb. 8 & 9. Remaining 2 will be coordinated with Hydrogeology study.
3	Hydrogeology Study (ground-water study).	The study will review previous reports, existing data from monitoring wells, data from new monitoring wells and provide verification/recommendations of plan of action to address groundwater concerns.	a. Identify budget source for study.	Troy Parr	12/14/15	Transfer of funds from #07-009 Building Demolitions was approved by Finance Committee 12/14/15.
			b. Draft and release Request For Proposals (RFP).	Engineering Dept.	1/28/16	Issued 1/9/16; 4 proposals received and scored 1/28/16.
			c. Draft and award contract.	Engineering Dept.	Feb. 2016	GEI Consultants, Inc. is high scoring firm. Contract in approval process.
		Study duration is anticipated to be 6 months.	d. Conduct study.	Vendor	Summer 2016	Waiting on completion of item 3.c.
4	Request funding for implementation.	Funding will be requested through the CIP Budget and amounts will be based upon estimates included in the Hydrogeology Study.	a. Include budget request in annual fiscal year CIP Budget request.	Engineering Dept.	T.B.D.	Waiting on Hydrogeology Study results. Will estimate cost and include a request in FY2017.
5	Additional drain tile installation.	Contingent upon results of Hydrogeology Study. If study results confirm this is an appropriate action, work will commence as funding allows.	a. Define specific scope of work with Technical Team.	Engineering Dept.	T.B.D.	Waiting on Hydrogeology Study results.
			b. Drain tile installation.	CW&S Dept.	T.B.D.	Waiting on completion of item 5.a.
6	Raise grades between existing plateaus.	Contingent upon results of Hydrogeology Study. If study results confirm this is an appropriate action, work will commence as funding allows.	a. Prepare Construction Documents to define scope of work and allow bidding of work.	Vendor/ Engineering Dept.	T.B.D.	Waiting on Hydrogeology Study results.
			b. Request bids and award construction contract.	Engineering Dept.	T.B.D.	Waiting on completion of item 6.a.
			c. Construction	Vendor	T.B.D.	Waiting on completion of item 6.b.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Reschedule the March 23, 2016, regular Business Committee meeting to March 30, 2016, with executive session discussion held on March 29, 2016.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

TO: ONEIDA BUSINESS COMMITTEE
 FROM: LISA SUMMERS, SECRETARY
 DATE: FEBRUARY 17, 2016
 RE: RESCHEDULE 2/23/16 BC MEETING

BACKGROUND

The following Business Committee members will not be in attendance for the regular Business Committee scheduled on March 23, 2016:

- 1) Chairwoman Tina Danforth - approved travel to RES Conference
- 2) Treasurer Trish King - approved travel to RES Conference
- 3) Councilwoman Jennifer Webster - approved travel to RES Conference
- 4) Secretary Lisa Summers - approved travel to CACIC Conference

At the February 10, 2016, regular BC meeting, Vice-Chairwoman Melinda J. Danforth was also approved to attend the CACIC Conference with the exception of March 23, 2016. The Vice-Chairwoman indicated a desire to hold both the regular meeting and executive session discussion together on one day.

The last week in March is a "free week" with no LOC or BC meeting scheduled. As of February 17, 2016, according to Outlook calendars, the following Business Committee members are on vacation the last week in March:

- 1) Councilwoman Fawn Billie

The requested action below is being presented as an alternate consideration of the "one-day" meeting.

REQUESTED ACTION

Consider rescheduling the March 23, 2016, regular Business Committee meeting to March 30, 2016, with executive session discussion held on March 29, 2016.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf OR print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

March/April 2016

Sun	Mon	Tue	Wed	Thu	Fri	Sat
20	21	22	23	24	25	26
		Executive Session Discussion	Regular BC Meeting		Comp. Health Update 1/2 - Good Friday	
	MJD@CACIC-----> LS@CACIC-----> TD, TK, JW@RES->	-----	----->	MJD@CACIC-----		
27	28	29	30	31	1	2
EASTER						
	FB-vacation----->	----->	----->	----->	-----	
3	4	5	6	7	8	9
			LOC Meeting			
10	11	12	13	14	15	16
			Regular BC Meeting			

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Request approval of Executive Session meeting date from April 26th to April 25th, 2016.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: _____
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

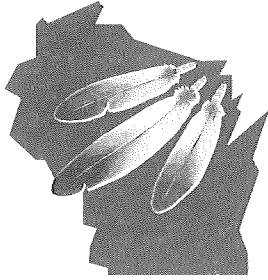
Describe the purpose, background/history, and action requested:

WITEMA (Wisconsin Tribal Emergency Management Alliance) is hosting a Tabletop Exercise on April 26th, 2016; invitation attached. The exercise will be focusing on a Health related incident of significance originating in Oneida. This request is to change the Executive Session Meeting date from April 26th to April 25th to allow the Oneida Business Committee members the opportunity to participate in the Tabletop Exercise. To provide the opportunity for BC involvement the request for rescheduling is being submitted for consideration.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidation.org



*Wisconsin Tribal Emergency Management Alliance
(WITEMA)*

"Protecting the past by preparing for the future."

Kaylynn Gresham, Chairwoman

Mike Baker, Vice-Chairman

Josh Pyatskowitz, Secretary

Wisconsin Tribal Emergency Management Alliance
c/o Oneida Tribe of Indians of WI Office of Emergency Management
2783 Freedom Road
Oneida, WI 54155

Dear Tribal Leaders, Emergency Managers and Public Health Professionals:

On Tuesday, April 26th, 2016 the Wisconsin Tribal Emergency Management Alliance (WITEMA), in conjunction with Wisconsin Emergency Management (WEM) will be holding a tabletop exercise at the Pine Hills Golf Course, N9498 Big Lake Road, Gresham WI 54128; on the Stock Bridge Munsee Reservation. Registration will begin at 8am, the exercise is scheduled to begin at 9:00 am, and end with an after-action review from 1 – 2 pm. Lunch will be provided. A tentative timeline for the day is included with this invitation.

This exercise is the first of its kind in Wisconsin, drawing together invitees from the eleven federally-recognized tribes and tribal nations to discuss pertinent issues of Health related concerns potentially facing our communities. The exercise will focus on a Health Issue affecting multiple tribes and communities simultaneously with a common source. Through the use of communication sharing and inter-tribal mutual aid we will dialogue how a response would be coordinated.

In order to maximize the potential for tribal participation in this exercise we are sending you this **SAVE THE DATE** notice for **APRIL 26th, 2016**. To ensure a productive focused collaborative discussion we are limiting participation to three (3) individuals per Tribal Nation, we are asking Executive/Elected Officials, Emergency Management and Public Health be given priority to attend as participants. Additional attendees, (please limit to 3 individuals) will be allowed to observe the Tabletop Exercise. Those interested in attending please send an email to Kaylynn Gresham, Oneida Nation Emergency Management (kgresham@oneidanation.org).

Thank you, and if you have additional questions, you may contact Kaylynn Gresham, Oneida Nation Emergency Management at (920) 366-0411. If you have any questions in regards to the location of the Tabletop Exercise, please contact Roger Miller at (715) 793-5070.

We look forward to seeing you in April!

Kaylynn Gresham, Chairwoman
Oneida Tribe of Indians of WI

Mike Baker, Vice-Chairman
Forest County Potawatomi

Josh Pyatskowitz
Menominee Nation

WiTEMA Inter-tribal Exercise (Health Related Incident)

8:00 to 9:00 am	Registration
9:00 – 9:15 am	Welcome and Introductions
9:15 – 9:30 am	Introduction of the scenario
8:30 – 10:15 am	Exercise commences
10:15 – 10:30 am	Scheduled break
10:30 – 12:00 pm	Completion of exercise
12:00 – 1:00 pm	LUNCH PROVIDED
1:00 pm – 2:00 pm	After-action/lessons learned debriefing

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Request to post 3 vacancies on the Oneida Arts Board.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor:

Kathleen M. Metoxen, Executive Tribal Clerk

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Board would like to add 3 more vacancies to the board. They currently have 7 and they can have up to 13 members.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Requesting the Business Committee to formally acknowledge receipt of the decision from the IBIA regarding M. Genskow v BIA, an appeal to the secretarial election on Oneida's constitutional amendments.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

On February 17, 2016, the Tribal Secretary's office received of the attached IBIA decision in M. Genskow v BIA, which was an appeal to the Secretarial Election on Oneida's constitutional amendments.

The Oneida Business Committee should acknowledge formal receipt of the decision.

1) Save a copy of this form for your records.

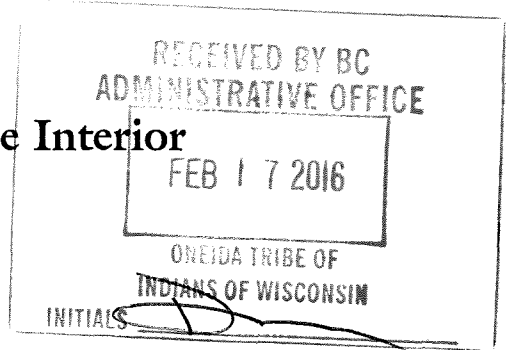
2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203



MADelyn GENSKOW,
Appellant,

v.

MIDWEST REGIONAL DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee.

) Order Dismissing Appeal in Part and
) Affirming Decision in Part

) Docket No. IBIA 15-097

) February 11, 2016

*BC
officers*

Madelyn Genskow (Appellant) appealed to the Board of Indian Appeals (Board) from a June 12, 2015, decision (Decision) of the Midwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA). The Regional Director denied Appellant's challenge to the Secretarial election¹ (Election) held on May 2, 2015, for the Oneida Tribe of Indians of Wisconsin (Tribe), in which five proposed amendments to the Tribe's Constitution and Bylaws (Constitution) were adopted. In chief, Appellant claims that the Tribe provided misleading information to other tribal members regarding the Election; an absentee ballot was mailed to the wrong address; one of the amendments should be rejected because it does not provide for absentee voting in future constitutional amendment elections; and an insufficient number of votes were cast for the Election to be valid.

We dismiss the appeal in part, for lack of standing, and affirm the Decision in remaining part. Appellant lacks standing to challenge the substance of a constitutional amendment. And, to the extent that Appellant challenges the fairness and integrity of the Election itself, she has not provided substantiating evidence to support her claims. Nor has

¹ A Secretarial election is a Federal election held within a tribe pursuant to regulations prescribed by the Secretary of the Interior (Secretary), as authorized by Federal statute. 25 U.S.C. § 476; 25 C.F.R. § 81.1(s). Secretarial elections are distinguished from tribal elections, which are conducted pursuant to tribal authorities and without Federal oversight. *See Visintin v. Midwest Regional Director*, 60 IBIA 337, 337 (2015). Regulations governing the conduct of Secretarial elections are currently found in 25 C.F.R. Part 81. Revised Part 81 regulations became effective on November 18, 2015. 80 Fed. Reg. 63094, 63094 (Oct. 19, 2015). In our decision, we cite to the Part 81 regulations that were in effect at the time of the Election and the filing of Appellant's challenge.

Appellant shown any error in the Regional Director's determination that voter turnout was sufficient.

Background

Under the Tribe's Constitution, the General Tribal Council, which is composed of all of the qualified voters of the Tribe, is "[t]he governing body" of the Tribe, and the Oneida Business Committee, which is elected at large by the qualified voters, "shall perform such duties as may be authorized by the General Tribal Council." Oneida Const. art. III, §§ 1 & 3 (Administrative Record (AR) 44).

On January 19, 2011, the Business Committee, on behalf of the General Tribal Council, requested that a Secretarial election be called on five proposed constitutional amendments. Request for Secretarial Election, Jan. 19, 2011, at 00175² (AR 35); BC Resolution No. 11-10-10-F (AR 36). In summary, the amendments lower the minimum voting age from 21 to 18 years of age (Proposed Amendment A); change the Tribe's official name to "Oneida Nation" (Proposed Amendment B); remove provisions in the Constitution necessitating approvals by the Secretary, including approval of future constitutional amendments, and require tribal members to present themselves at the polls in order to vote in future constitutional amendment elections (Proposed Amendment C); establish a judicial branch within the Constitution (Proposed Amendment D); and allow flexibility in the scheduling of General Tribal Council meetings (Proposed Amendment E).

Based on an authorization by the Assistant Secretary – Indian Affairs for BIA to process the request for a Secretarial election, *see* 25 C.F.R. § 81.5(e), and after a technical and legal review of the proposed amendments, on September 11, 2014, the Regional Director authorized BIA's Great Lakes Agency Superintendent (Superintendent) to call and conduct the Election on the amendments. Memorandum from Assistant Secretary to Regional Director, June 2, 2011 (AR 31); Letter from Regional Director to Superintendent, Sept. 11, 2014 (AR 17); *see also* AR 10, 12, and 13 (extensions of Regional Director's authorization). Pursuant to 25 C.F.R. § 81.8 (Election board), the Superintendent, as Chairman of the Secretarial Election Board, appointed a BIA administrative officer to act as her representative, and the Tribe appointed tribal members to serve on the Secretarial Election Board. *See* AR 15 (appointment of Superintendent's representative); Tribe's Answer Brief (Br.), Oct. 30, 2015, at 3.

² The record was consecutively paginated by BIA. We cite to BIA's page labels instead of a document's original page numbers.

On March 6, 2015, the Secretarial Election Board mailed to all eligible voters 18 years of age and older³ an official Election packet containing a registration form; an absentee ballot request form; an addressed return envelope with pre-paid postage; a brochure explaining the date and time of the Election, the location of polling places, and the rules governing the Election; and a sample ballot setting forth the text of each proposed amendment. AR 38 (packet); Regional Director's Answer Br., Nov. 3, 2015, at 5. Appellant registered to vote in the Election as an absentee voter. Final List of Registered Voters, Apr. 8, 2015, at 00221 (AR 40).

The Secretarial Election Board conducted the Election on May 2, 2015, and the results were posted the same day. Letter from Regional Director to Tribe, June 19, 2015, at 00004 (AR 2). Of the 1,694 tribal members who had registered to vote, 874 voters, or 51.6%, cast ballots. Final List of Registered Voters at 00233; Memorandum from Superintendent to Regional Director, May 12, 2015, at 00036 (AR 7). A majority voted to adopt each of the five proposed amendments.⁴ The Secretarial Election Board certified the results of the Election, including that at least 30% of the 1,694 tribal members "entitled" to vote cast ballots. Notice of Official Results of Secretarial Election at 00063-67.

On May 5, 2015, Appellant filed an election challenge with the Secretary under 25 C.F.R. § 81.22 (Contesting of election results).⁵ Letter from Appellant to Cameron,

³ Because Secretarial elections are Federal elections, anyone who is 18 years of age or older and otherwise qualified is eligible to vote, even if the tribal governing document requires voters to be 21 to be eligible to vote in tribal elections. *See, e.g., Chosa v. Midwest Regional Director*, 46 IBIA 316, 321 (2008) ("Except where Federal law provides a role for tribal law as part of the Secretarial election procedures, Secretarial elections are conducted in accordance with Federal law.").

⁴ Votes were cast on each amendment, and no amendment was voted on by all 874 voters. The votes were: Proposed Amendment A, 868 votes, 506 for, 361 against, 1 spoiled or mutilated ballot; Proposed Amendment B, 872 votes, 629 for, 242 against, 1 spoiled or mutilated ballot; Proposed Amendment C, 860 votes, 583 for, 276 against, 1 spoiled or mutilated ballot; Proposed Amendment D, 832 votes, 610 for, 221 against, 1 spoiled or mutilated ballot; and Proposed Amendment E, 869 votes, 711 for, 157 against, 1 spoiled or mutilated ballot. Notice of Official Results of Secretarial Election, May 2, 2015, at 00063-67 (AR 9).

⁵ Section 81.22 provides:

Any qualified voter, within three days following the posting of the results of an election, may challenge the election results by filing with the
(continued...)

Superintendent, and Secretary, May 5, 2015 (Election Challenge) (AR 8). Appellant claimed that (1) the Vice Chairwoman of the Tribe, who served on the Secretarial Election Board, held informational meetings with tribal members in their homes, creating an “opportunity to mislead” them about the effect of the proposed amendments, *id.* at 00040, 00048; (2) the Vice Chairwoman and a Councilman told a tribal member, incorrectly, that absentee ballots would be allowed in future constitutional amendment elections, *id.* at 00041, 00047; (3) the tribal newspaper, *Kalihwisaks*,⁶ published misleading statements about the Election and proposed amendments, *id.* at 00042, 00049-51; (4) an absentee ballot was mailed to the wrong address, *id.* at 00043, 00052-54; and (5) under the Tribe’s Constitution, in Appellant’s words, at least 30% of “all members 18 years old and older” were required to vote in the Election in order for the amendments to be adopted—not merely 30% of registered voters, *id.* at 00045, 00055. Appellant closed her challenge by expressing concern for U.S. military personnel who under Proposed Amendment C would not be able to vote by absentee ballot in future constitutional amendment elections. *Id.* at 00045. Subsequently, on May 28, 2015, Appellant submitted a letter to the Regional Director enclosing additional documentation in support of her challenge. Letter from Appellant to Regional Director, May 28, 2015 (AR 6).

On June 12, 2015, the Regional Director issued the Decision denying Appellant’s challenge. Decision (AR 5). First, she reasoned that Appellant did not allege that the Secretarial Election Board itself provided misleading information, and therefore Appellant’s claims regarding informational meetings and newspaper articles did not “relate to the conduct of the actual election.” *Id.* at 00023. Second, she found that the record showed that a “clerical error” had indeed resulted in an absentee ballot being mailed to the wrong address, but that the individual who requested the absentee ballot successfully cast an absentee ballot in the Election, and that the tribal member who received the misaddressed absentee ballot did not file a challenge. *Id.* Therefore, the Regional Director concluded, Appellant did not provide “substantiating evidence,” under 25 C.F.R. § 81.22, demonstrating that a procedural error had occurred that would warrant a recount or a new election. *Id.* at 00023-24. Third, the Regional Director affirmed the Secretarial Election

(...continued)

Secretary through the officer in charge the grounds for the challenge, *together with substantiating evidence*. If in the opinion of the Secretary, the objections are valid and warrant a recount or a new election, the Secretary shall order a recount or a new election. The results of the recount or new election shall be final.

25 C.F.R. § 81.22 (emphasis in original).

⁶ *Kalihwisaks* is the “official newspaper” of the Tribe. Reply Br., Ex. 9 (front page of Sept. 3, 2015, issue of *Kalihwisaks*).

Board's determination that the required 30% of voters who were entitled to vote did vote in the Election, based on the percentage of registered voters 18 years and older who had cast votes, because under 25 C.F.R. § 81.11 only registered voters are entitled to vote in Secretarial elections.⁷ *Id.* at 00024. She explained that Appellant was apparently relying, incorrectly, on the absence of a requirement in the Tribe's Constitution for voters to register in advance of tribal elections. *Id.* Finally, the Regional Director rejected the additional information submitted by Appellant on May 28, 2015, as untimely under 25 C.F.R. § 81.22. *Id.*

Appellant filed a notice of appeal, an amended opening brief, and a reply brief. The Regional Director and the Tribe and each filed answer briefs, arguing that Appellant lacks standing to raise all or some of her claims, and that the Decision should be affirmed on the merits in remaining part.⁸ For the reasons discussed below, we dismiss the appeal in part, for lack of standing, and affirm the Decision in remaining part.

Discussion

I. Appellant's Standing to Challenge a Constitutional Amendment

On appeal, Appellant emphasizes that “[o]ne of [her] greatest concerns is that without absentee ballot voting, the next change in [the] Tribe's Constitution, Oneida men and women who faithfully serve this great country in the U.S. military will not be able to vote if they cannot appear at the polls.” Amended Opening Br., Oct. 23, 2015, at 5; *see also*

⁷ The Regional Director quoted the portion of § 81.11 that provides:

Only registered voters will be entitled to vote, and all determinations of the sufficiency of the number of ballots cast will be based upon the number of registered voters. The election board, upon receipt of authorization to conduct an election, shall notify by regular mail all adult members of the tribe, who to its knowledge are eligible to vote pursuant to § 81.6 of the need to register if they intend to vote.

25 C.F.R. § 81.11(a).

⁸ In addition, the Regional Director filed a motion to clarify the status of the amendments or to make the Decision immediately effective under 25 C.F.R. § 2.6. The Tribe requested that the Board expedite its review and decision on Appellant's appeal, and supported the request with an affidavit. Appellant opposed the “request that the [T]ribe be allowed to implement the changes before the [Board] decision is made on the appeal,” Reply Br. at 4, without addressing the request for an expedited Board decision. The Board grants the Tribe's motion for an expedited Board decision, and thus the Regional Director's motion is moot.

Answer Brief of Appellant (Reply Br.), Dec. 30, 2015, at 3-4; Notice of Appeal, July 9, 2015, at 2. Thus, in addition to her arguments regarding the Election process, which we address *infra*, Appellant seeks to challenge the substance of Proposed Amendment C. We agree with the Tribe that she lacks standing to do so. Tribe’s Answer Br. at 8.

In order to have a right to appeal to the Board, an appellant must demonstrate that she has standing. See 25 C.F.R. § 2.2 (definitions of “Appellant” and “Interested party”); 43 C.F.R. § 4.331 (Who may appeal); *Friends of Our Pyramid Lake Reservation v. Western Regional Director*, 55 IBIA 272, 273 (2012).

To determine whether an appellant has standing, the Board applies the judicial elements of standing articulated in *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992). *Preservation of Los Olivos v. Pacific Regional Director*, 58 IBIA 278, 292 (2014). Under the first element, the appellant must show that she has suffered an actual or imminent, concrete and particularized injury to or invasion of a legally protected interest.⁹ *Lujan*, 504 U.S. at 560. In doing so, the appellant must assert her own legal rights and interests, and cannot bring a claim on behalf of the rights and interests of others, e.g., rights that may belong to other tribal members or to the tribe as a whole. *Kennedy v. Pacific Regional Director*, 60 IBIA 94, 96 (2015) (citations omitted). “Tribal members, as individuals, . . . do not have standing to bring an action based on a personal assessment of what is or what is not in the best interests of the tribe.” *Id.* (quoting *Bullcreek v. Western Regional Director*, 40 IBIA 191, 194 (2005)). In the specific context of a tribal member’s challenge to a Secretarial election called to approve a constitutional amendment, we have found that:

[W]here the relevant regulation, 25 C.F.R. [§] 81.22, contemplates that election contests will be limited to challenges to the conduct of the election, . . . it would be particularly inappropriate for the Board to recognize the standing of a tribal member to make a collateral attack upon the amendment through the contest procedure.

Welbourne v. Anadarko Area Director, 26 IBIA 69, 78 (1994). Accordingly, in *Welbourne*, we held that the appellant lacked standing “to challenge the substance of the amendment and/or BIA’s action in reviewing the amendment.” *Id.*

⁹ Under the remaining elements, (2) the injury must be fairly traceable to the challenged action, and not to some independent action of a party not before the Board, and (3) the injury must be subject to redress by a favorable decision of the Board. *Kennedy*, 60 IBIA at 97 (citing *Lujan*, 504 U.S. at 560-61).

In this case, to the extent that Appellant's challenge to the Election is based on the substance of Proposed Amendment C, it must be dismissed for failure to satisfy the first element of standing. Applying *Welbourne*, Appellant lacks standing to collaterally attack Proposed Amendment C through a challenge to the Election under § 81.22.¹⁰

II. Whether Appellant Substantiated Her Challenge to the Election

Turning to Appellant's concerns about the Election process, Appellant argues that she "feel[s] there was a lot of misleading information provided by the Tribe through the Tribal newspaper and other entities of the Tribe." Amended Opening Br. at 1. She argues that "[t]here was so much confusion to Tribal members because they are not accustomed to being able to vote on anything Tribal by absentee ballot . . . and many may have assumed that they would be unable to vote by absentee ballot [in this Secretarial election¹¹] and never bothered to read or even open the registration material." *Id.* Appellant also argues that tribal members may have been unaware that Proposed Amendment C does not provide for absentee voting in future constitutional amendment elections. *Id.* at 1-2. And Appellant argues that an absentee ballot was mailed to an incorrect address. *Id.* at 2-3.

The Regional Director responds that Appellant lacks standing to challenge the Election because Appellant does not contend that she was confused and deterred from casting her vote in the Election by absentee ballot, Appellant cannot assert standing on behalf of other tribal members or the Tribe as a whole, and most of the purported injuries were allegedly caused by the independent actions of third parties not before the Board, e.g., the Tribe, individual tribal officials, or the tribal newspaper. Regional Director's Answer Br. at 8. We need not decide Appellant's standing to challenge the Election process, because we agree with the Tribe's argument, in which the Regional Director joins, that

¹⁰ Nor do we recognize Appellant as having standing to assert her claim on behalf of other tribal members, such as those serving in the U.S. military, or the Tribe as a whole. While Appellant emphasizes, in response to the answer briefs, that the Board has stated that it "*generally* declines to recognize tribal members, individually or as organizations composed of tribal members, as having standing to bring an action on behalf of the tribe," Reply Br. at 7 (quoting *Visintin*, 60 IBIA at 339 (Appellant's emphasis)), she does not explain the basis for her belief that she has standing to assert her claim on behalf of the Tribe, which the Tribe disputes.

¹¹ In response to a request by the Tribe for a regulatory waiver to allow off-reservation residents to vote, and to allow absentee balloting in the Election, the Assistant Secretary – Indian Affairs determined that no waiver was necessary. Memorandum from Assistant Secretary to Regional Director, July 24, 2014, at 00098-100.

Appellant fails to provide substantiating evidence to support her challenge. Tribe's Answer Br. at 5-7; Regional Director's Answer Br. at 9.

A Secretarial election challenge must be brought by a "qualified voter" and her challenge must identify "the grounds for the challenge, *together with substantiating evidence.*" 25 C.F.R. § 81.22 (emphasis in original). In the context of § 81.22, the Board has concluded that

in order to present 'substantiating evidence,' a challenger must present evidence that supports both (1) the particular claim being made, i.e., that an alleged procedural error occurred in the conduct of the election, and (2) the conclusion that the procedural error likely affected or tainted the election results in such a way as to cast doubt on the fairness of the election and the integrity of the ultimate results.

Wadena v. Midwest Regional Director, 47 IBIA 21, 28-29 (2008); *see also Welbourne*, 26 IBIA at 77.

Appellant does not allege a violation of any procedural requirement of 25 C.F.R. Part 81, much less adduce evidence that any procedural error affected the voter turnout or tainted the results of the Election.¹² We have suggested that an appellant who challenges the fairness and integrity of a Secretarial election could substantiate her allegations through affidavits or statements showing that eligible voters were discouraged from voting. *See Hudson v. Great Plains Regional Director*, 61 IBIA 253, 258 (2015) ("affidavits from eligible off-reservation voters who were dissuaded from registering or from requesting an absentee ballot by the allegedly confusing voter information"); *Wadena*, 47 IBIA at 29 ("statements from voters who attempted to vote by absentee ballot but did not have sufficient time to do so"). Relevant to Appellant's claims, the Tribe notes that Appellant has not provided, e.g., "statements from off-reservation tribal members who were confused and assumed they would not be able to vote," "statements from tribal members who were unaware that Proposed Amendment C does not provide for absentee voting in future constitutional amendment elections," and "any evidence suggesting that the misaddressed absentee ballot may have affected the results." Tribe's Answer Br. at 7. We agree that Appellant's

¹² While Appellant posits that some tribal members may not have "read or even open[ed] the registration material"—apparently a reference to the official Election packet—Appellant does not contend that the packet itself was flawed. Nor is it evident from Appellant's pleadings or the record why the packet, which undisputedly was mailed to all eligible voters, would have been insufficient to remedy any misinformation that was conveyed by third parties.

argument that the Election was tainted is based on speculation, and does not meet her burden to produce substantiating evidence. *Id.*

III. Whether an Insufficient Number of Votes Were Cast in the Election

In remaining part, Appellant's May 5, 2015, challenge to the Secretarial election raises a question of law regarding the method for calculating the minimum required 30% of voter participation. There is no disagreement regarding Appellant's production of "substantiating evidence." It is undisputed that, if Appellant's interpretation is correct that the law requires a turnout of at least 30% of all tribal members 18 years of age and older, the Election is invalid for insufficient voter turnout. Nor, with respect to the Regional Director's interpretation, is there any dispute that a sufficient percentage of registered voters cast ballots in the Election. Although on appeal Appellant "question[s]," *inter alia*, "whether or not all of the absentee ballots were counted"—which new questions we address further *infra*—Appellant does not dispute that *at least* 30% of the registered voters cast ballots. Reply Br. at 6. Accordingly, we proceed to the merits. See *Hudson*, 61 IBIA at 259; *Wadena*, 47 IBIA at 30.

Appellant relies on Article V of the Tribe's Constitution, which provides:

This Constitution and Bylaws may be amended by a majority vote of the *qualified voters* of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of *those entitled to vote* shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

Oneida Const. art. V, *quoted in* Appellant's Reply Br. at 7 (emphases added). Appellant construes "qualified voters" and "those entitled to vote" as referring to all tribal members who are 18 years of age and older, and argues that the term "entitled" does not mean "registered." Amended Opening Br. at 3; Election Challenge at 00045 (AR 8).

The Tribe argues that the Secretarial Election Board and the Regional Director correctly determined that, because 874 of the 1,694 registered voters cast ballots (or 51.6%), the voter participation level exceeded the requirement of 30%, as set forth in 25 U.S.C. § 478a ("the total vote cast shall not be less than 30 per centum of those entitled to vote"), 25 C.F.R. § 81.7 ("The total vote cast, however, must be at least 30 percent of those entitled to vote, unless, with regard to amendments, the constitution provides otherwise"), and Article V of the Tribe's Constitution, *supra*. Tribe's Answer Br. at 9. We agree.

The Board has previously determined that, under the regulations, only registered voters are “entitled” to vote in Secretarial elections. *Wadena*, 47 IBIA at 30-31; *see, e.g.*, 25 C.F.R. § 81.11(a), *quoted in* Decision at 00024 (“Only registered voters will be *entitled* to vote, and all determinations of the sufficiency of the number of ballots cast will be based upon the number of registered voters.” (emphasis added)). And, in a case involving virtually identical language in a tribe’s constitution as that contained in Article V of the Tribe’s Constitution, the Board determined that “entitled to vote” should be construed in the same manner as the regulations.¹³ *Hudson*, 61 IBIA at 260.

For the reasons expressed in *Wadena* and *Hudson*, Appellant’s argument lacks merit. Appellant, like the appellant in *Hudson*, offers no evidence or legal argument in support of her position that the meaning of “those entitled to vote,” in Article V of the Tribe’s Constitution, was intended to have a different legal meaning than that established by Federal regulation. *Hudson*, 61 IBIA at 260.

IV. Appellant’s May 28, 2015, Submission and New Arguments on Appeal

Finally, Appellant appears to argue that the Regional Director erred in refusing to consider Appellant’s May 28, 2015, submission to the Regional Director in support of her timely May 5, 2015, challenge to the Election, *see* Reply Br. at 5, and on appeal she makes new allegations.

Under the regulations, “the grounds for the challenge, *together with substantiating evidence*,” must be filed “within three days following the posting of the results of an election”—in this case by May 5, 2015. 25 C.F.R. § 81.22 (emphasis in original). Even were we to assume that the Regional Director had discretionary authority to consider Appellant’s May 28, 2015, submission, Appellant does not show that the supplemental information and materials substantiate her claims regarding the Election. *See* Notice of Appeal at 2 (enclosing Appellant’s May 28, 2015, submission, without explaining its relevance). We agree with the Tribe that Appellant’s submission does not affirmatively demonstrate any error. Tribe’s Answer Br. at 11.

Further, the Board normally does not consider arguments raised for the first time on appeal to the Board. *E.g.*, *Welbourne*, 26 IBIA at 76. In the case of a Secretarial election challenge, the Board has held that, given the requirement in § 81.22 that the grounds for an

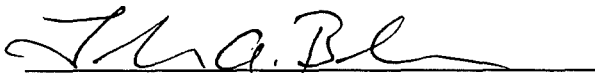
¹³ In that case, the tribe’s constitution provided that it may be amended by a “majority vote of the *qualified voters* . . . voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of *those entitled to vote* shall vote in such election” *Hudson*, 61 IBIA at 259 (emphases added) (citation omitted).

election contest be presented to BIA within 3 days of the election, the Board could not consider an appellant's new arguments. *Id.* On appeal, Appellant raises additional questions about, *inter alia*, an allegation that she was prevented from speaking at a community meeting on Proposed Amendment C, a referendum question about absentee voting presented in a 2011 tribal general election, the different vote totals for each of the proposed constitutional amendments in the Election, a special election that was held within the Tribe after the Regional Director issued the Decision, Appellant's post-decisional requests for information from BIA on the handling of absentee ballots, and her request for assistance from BIA in the preparation of her appeal under 25 C.F.R. § 2.9(b). *See* Reply Br. at 5-6; Amended Opening Br. at 2-5. To the extent that any of the issues raised by Appellant are relevant to the conduct of the Election, and to the extent that the Board is not foreclosed from considering them pursuant to § 81.22, we are not persuaded that we should consider them, much less that they would support a conclusion that the fairness and integrity of the Election is in doubt.¹⁴

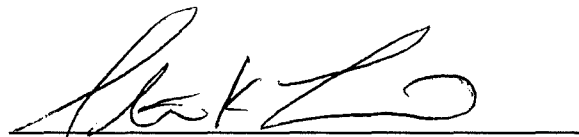
Conclusion

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dismisses Appellant's appeal in part and affirms the Regional Director's June 12, 2015, decision in remaining part.

I concur:



Thomas A. Blaser
Administrative Judge



Steven K. Linscheid
Chief Administrative Judge

¹⁴ With respect to Appellant's requests for information from BIA, we also note that the Board lacks jurisdiction over Freedom of Information Act requests or appeals. *Drew v. Acting Northwest Regional Director*, 56 IBIA 132, 144 n.15 (2013).

**Madelyn Genskow v. Midwest Regional
Director, Bureau of Indian Affairs
Docket No. IBIA 15-097
Order Dismissing Appeal in Part and
Affirming Decision in Part
Issued February 11, 2016
62 IBIA 155**

Madelyn Genskow
Appellant
E1859 Rural Road
Waupaca, WI 54981
BY CERTIFIED MAIL

Scot Cameron
Chair of the Secretarial Election Board
Great Lakes Agency
Bureau of Indian Affairs
916 West Lakeshore Drive
Ashland, WI 54806

Christina Danforth, Chairperson
Oneida Tribe of Indians of Wisconsin
P.O. Box 365
Oneida, WI 54155

Superintendent
Great Lakes Agency, BIA
916 West Lakeshore Drive
Ashland, WI 54806

Midwest Regional Director, BIA
Norman Pointe 2
5600 West American Blvd., Suite 500
Bloomington, MN 55437

Kara Pfister, Esq.
Office of the Solicitor
U.S. Department of the Interior
5600 American Blvd West, Suite 270
Bloomington, MN 55437

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Other - type reason

Agenda Header: Travel Request - Procedural Excepteion

Accept as Information only

Action - please describe:

Per Travel Policy more that 3 requesting to travel needs to obtain Business Committee approval

3. Supporting Materials

Report Resolution Contract

Other:

1. Memo - Procedural Exception

3.

2. Washington University Request

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison: Jennifer Webster, Council Member

Primary Requestor: Mike Hill, Chairman ONVAC
Your Name, Title / Dept. or Tribal Member

Additional Requestor: John Breuninger, Secretary ONVAC
Name, Title / Dept.

Additional Requestor: Submitted by: Carol Silva
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Purpose: Approval to attend Color Guard, Washington University, St. Louis MO.

Action Requested: Approval for Procedural Exception

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

ONEIDA NATION VETERANS AFFAIRS COMMITTEE

Mike Hill, Chairperson
 James Martin, V-Chairperson
 John Brueuinger, Secretary
 Arthur Cornelius, Member
 Gerald Cornelius, Member
 Kenneth House, Member
 Loretta V. Metoxen, Member
 Nathan Smith, Member
 Carol Silva Member

onayote'a'ka
 P O Box 365,
 Oneida WI 54155

VSO DEPARTMENT
 Kerry Metoxen, Veterans Director
 Carolyn Miller, Benefits Specialist

Memo To: Oneida Business Committee

From: Mike Hill, Chairman ONVAC
 John Breuninger, Secretary

Date: 16 February 2016

Subj: Procedural Exception: Request for Color Guard

Purpose of Travel: ONVAC is requesting procedural exception for 4 Veterans to travel to St. Louis, MO. American Indian Studies, Washington University requested ONVAC for Color Guard on April 8-10, 2016.

The ONVAC has remained within its budget and this travel is included in 2016's budget.

Costs for travel:

Hotel:	0 nights University provides hotel	0.00
Per Diem:	3 days at 54.00 times 4 members at a cost of	216.00
Airline:	2 @ 411.50	723.00
Auto:	2 @ 487 miles .54	525.96
Mis:	If airline ticket prices increase	200.00

Total Request: \$1,664.96

We thank you for your consideration to support the Veterans travel request.



KATHRYN M. BUDER CENTER FOR AMERICAN INDIAN STUDIES

GEORGE WARREN BROWN SCHOOL OF SOCIAL WORK

Washington University in St. Louis Pow Wow 2016
Co-sponsored by Kathryn M. Buder Center for American Indian Studies

Greetings,

My name is Veronica Bruesch and I am a current 2nd Year Powwow Co-chair and Buder Scholar at Washington University in St. Louis. I am from the Wichita & Affiliated Tribes of Oklahoma and I am currently pursuing my Master's Degree in Social Work. My colleague, Olivia Ferrara is the 1st Year Pow Wow Co-Chair at Washington University in St. Louis. Olivia is a Suquamish tribal member from Washington State who is also pursuing her Master's Degree in Social Work. We would like to extend out an invitation to the Oneida Tribe of Indians of Wisconsin Color Guard to our 26th Annual Washington University in St. Louis Powwow. The WUSTL Powwow Committee can offer the color guard an honorarium of \$150 and (4) hotel rooms for (2) nights. We are honored to have a tribal member from the Oneida Tribe of Indians of Wisconsin apart of our head staff: Wayne Silas Jr.

The Kathryn Buder Center of American Indian Studies provides scholarships to American Indian/Alaskan Natives who wish to pursue a Master's Degree in Social Work or a dual degree in Social Work/Public Health. The Kathryn M. Buder Center provides educational material about what to expect with applying to graduate school and how the admissions process goes. Feel free to reach out to our center for additional information.

Purpose of the Washington University Pow Wow

The Washington University Pow Wow is currently in its 26th year. This is a student-run event that brings together the Washington University community, the broader St. Louis community, and dancers and guests from across Indian Country. The Buder Scholars decide in unity on a theme which will promote, guide, and bring forth a heartfelt issue, celebration, or meaning to gather in honor of American Indians/Alaska Natives. This year for the 26th Annual Pow Wow, the theme is ***Many Voices, One Message: Honoring Our Languages to Strengthen Our Future.***

As always, the Pow Wow will be free and open to the public and will include American Indian dancing, music, and food and performances. Over 5,000 guests are expected. This year's Pow Wow will be held on Saturday, April 9, 2016, at the Washington University Field House.

We hope you are able accept our request for being our color guard for WUSTL 26th Annual Pow Wow. Feel free to contact me at via email bruesch@wustl.edu or phone (785)764-7153.

Sincerely,

Veronica Bruesch (Wichita/Ponca)
Pow Wow Co-chair

Olivia Ferrara (Suquamish)
Pow Wow Co-chair

Campus Box 1196 One Brookings Drive St. Louis, MO 63130-4899 • (314) 935.4510 • buder.wustl.edu



Washington University in St. Louis

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Other - type reason

Agenda Header: Travel Request - Procedural Excepteion

Accept as Information only

Action - please describe:

Per Travel Policy more that 3 requesting to attend needs Business Committee approval

3. Supporting Materials

Report Resolution Contract

Other:

1. Memo - Procedural Exception

3.

2. Request - National Indian Gaming Association

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison: Jennifer Webster, Council Member

Primary Requestor: Mike Hill, Chairman ONVAC
Your Name, Title / Dept. or Tribal Member

Additional Requestor: John Breuninger, Secreatary ONVAC
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Submitted by: Carol Silva, ONVAC Member

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Purpose: Approval to attend Color Guard, National Indian Gaming Association

Action Requested: Approval for Procedural Exception

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

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Arthur Cornelius, Member
Gerald Cornelius, Member
Kenneth House, Member
Loretta V. Metoxen, Member
Nathan Smith, Member
Carol Silva Member

onayote'a'ka
P O Box 365,
Oneida WI 54155

VSO DEPARTMENT
Kerry Metoxen, Veterans Director
Carolyn Miller, Benefits Specialist

Memo To: Oneida Business Committee

From: Mike Hill, Chairman ONVAC
John Breuninger, Secretary

Date: 16 February 2016

Subj: Procedural Exception: Request for Color Guard

Purpose of Travel: ONVAC is requesting procedural exception for 5 Veterans to travel to Phoenix, AZ. National Indian Gaming Association requested ONVAC for Color Guard on March 13-17, 2016.

The ONVAC has remained within its budget and this travel is included in 2016's budget.

Costs for travel:

Hotel:	4 nights at 169.00 times 5 rooms at a cost of	\$3,380.00
Per Diem:	4 days at 59.00 times 5 Veterans at a cost of	944.00
Airline:	5 @ 591.20	\$2,956.00
Vehicle		500.00

Total Request: \$7,780.00

We thank you for your consideration to support the Veterans travel request.



NATIONAL INDIAN GAMING ASSOCIATION

Rebuilding Communities Through Indian Self-Reliance

January 22, 2016

Kerry Metoxen
ONVAC
Oneida, WI 54155

Dear Mr. Metoxen,

The National Indian Gaming Association is having their annual Tradeshow and Convention this year in Phoenix, AZ. It will be held March 13th – March 16th, 2016. Our annual Tradeshow is an opportunity for all of Indian Country's Gaming Managers, Regulators and leaders to come together to discuss, share ideas, learn new strategies and to expand their network of professional experts in the Gaming industry. Every year, we open our conference with the presentation and posting of the flags by color guards that represent Indian Country. This important tradition sets the tone for our conference and gives us the chance to recognize the many Veterans from across Indian Country who have fought and died for the freedom we enjoy to this day.

As you know, I am very proud of my Oneida heritage and any time we can have any participation from my own Tribe, I am more than happy to honor and celebrate that. With that in mind, I would like to request your attendance at the NIGA Tradeshow this year. It would be a great privilege to have our Oneida Veteran's join in the processional and to have our Oneida Nation flag posted in our Assembly.

NIGA does not have the funds available for you to attend our Tradeshow but we are grateful to the Tribal Leadership that supports your attendance and your participation. On behalf of the National Indian Gaming Association, we thank you for your leadership and look forward to seeing you in Phoenix.

Sincerely,

Ernest Stevens, Jr.
Chairman
National Indian Gaming Association

Oneida Business Committee Travel Request

1. OBC Meeting Date Requested: 02 / 24 / 16 e-poll requested

2. General Information:

Event Name: Public Law 280 Training

Event Location: Baraboo, WI Attendee(s): Lisa Summers

Departure Date: Mar 8, 2016 Attendee(s): Fawn Billie

Return Date: Mar 10, 2016 Attendee(s):

3. Budget Information:

- Funds available in individual travel budget(s)
 Unbudgeted
 Grant Funded or Reimbursed

Cost Estimate: per diem/person: \$147
gas round trip: \$141
hotel: \$100.00/night
w/2 queen

4. Justification:

- Liaison Appointment Responsibilities

To which Strategic Direction(s) does this travel relate?

- Advancing Principles Creating a Positive Organizational Culture
 Committing to Building a Responsible Nation Implementing Good Governance Processes

Describe the purpose of Travel and how it relates to the Strategic Direction(s) and/or your liaison area:

This training will provide the attendees a more thorough understanding of PL 280, its history, application, and various other issues (see agenda for more details).

At the January 19, 2016, Business Committee Administrative Work Meeting, an update on the current PL280 project was provided to the BC. The BC moved to support the project and continue moving forward. A thorough understanding is essential as we further explore our options in the coming years.

In addition to the two (2) Business Committee members, we are requesting three BC Staff attend to provide support and assistance as there will be a lot of information covered. The BC Staff would be Jessica Wallenfang, Lisa Liggins, and Nicolas Reynolds. There is currently \$3000 in the BC staff travel line.

5. Submission

Sponsor: Lisa Summers, Tribal Secretary

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf OR print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

OPEN TO ANYONE INVOLVED WITH LAW ENFORCEMENT
NEAR NATIVE AMERICAN RESERVATIONS & PROPERTIES

PUBLIC LAW 280 TRAINING

MARCH 9-10, 2016

Ho-Chunk Gaming - Wisconsin Dells

S3214 Hwy 12, Baraboo, WI

8:00 AM - 4:00 PM

Both days,
No Cost to
Participate,

RSVP

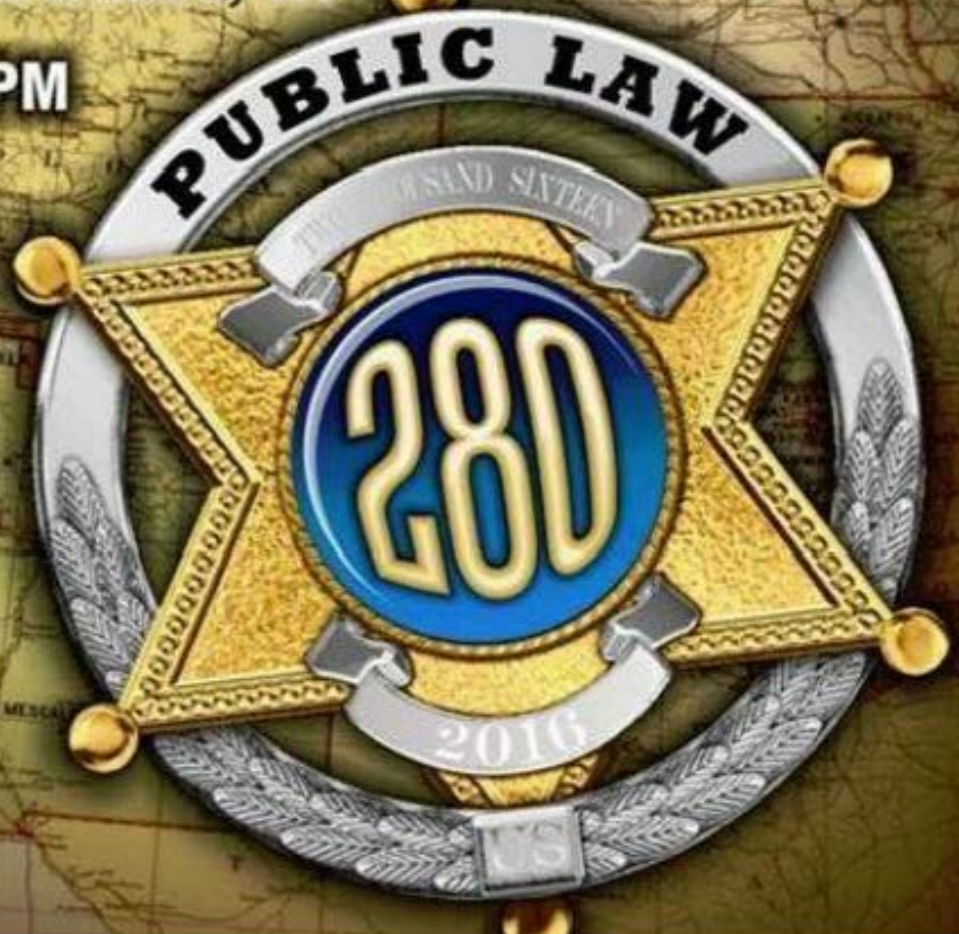
Please

Call:

715-284-2658

or E-mail:

Earl.lemieux@
ho-chunk.com



Schedule

DAY 1, WEDNESDAY, MARCH 9, 2016 (0900 a.m. – 04:00 p.m.)

09:00-09:15Opening Prayer / Introductions / “Housekeeping”

09:15-10:15.....Session 1.1 -- Introduction

Training goals and 2-day outline

Foundations for understanding PL 280

Sovereignty defined

Early Tribal Government Example – The Iroquois Confederacy

Formal v. Informal judicial process

Jurisdictional Complexity

10:15-10:30 **Break**

10:30-11:30Session 1.2 – Evolution of Criminal Jurisdiction in Indian Country – Part 1

The Beginning Point

The European Explorers and the Doctrine of Discovery

Land Encroachments and tensions

“Indian affairs” – a federal affair

Federal Jurisdiction in Indian country

11:30-12:30 **Lunch**

12:30-01:30Session 1.3 – Evolution of Criminal Jurisdiction in Indian Country – Part 2

The Pennsylvania Mutiny of 1783

Uniqueness of tribal lands

General Crimes Act for Inter-racial crime

Fill-in-the-Gap Act

Major Crimes Act – A federal first

The PL 280 Mandate

01:30-01:45 **Break**

01:45-02:45Session 1.4 – Analyzing PL 280 – Part 1

PL 280 is a federal law
The 3 sections of PL 280
Title 25 of the United States Code
State Authority under PL 280
Civil/Regulatory v. Criminal Prohibitory
The Infringement Test

02:45-03:00 Break

03:00-04:00Session 1.5 – Analyzing PL 280 – Part 2

Criminal/Prohibitory defined
Under the Microscope
Case Law Example: California v. Cabazon Band of Mission Indians
Case Law Example: U.S. v. Marcyes
Accurately applying PL 280
2010 Amendment to PL 280 – Federal re-assumption

DAY 2, THURSDAY, MARCH 9, 2016 (0900 a.m. – 04:00 p.m.)

09:00-09:15.....Opening Prayer / “Housekeeping”

09:15-10:15Session 2.1 – Concurrent Jurisdictions on Tribal Lands

Tribal, federal and state jurisdictions
Inherent powers of Indian tribes
External v. internal sovereignty
Exercising jurisdictional authority

10:15-10:30 Break

10:30-11:30Session 2.2 – Powers of an Indian Tribe

- Power of an Indian tribe to define its form of government
- Power of an Indian tribe to determine its membership
- Power of an Indian tribe to regulate domestic relations
 - Indian Child Welfare Act (ICWA)
 - Violence Against Women Act (VAWA)
- Power of an Indian tribe to govern descent & distribution of property
- The taxing power of an Indian tribe
- Power of an Indian tribe to exclude nonmembers from its jurisdiction
- Power of an Indian tribe over property within its jurisdiction
- Power of an Indian tribe in the administration of justice
- The Oliphant Decision
- The Montana Decision

11:30-12:30 Lunch

12:30-01:30Session 2.3 – The Indian Civil Rights Act (ICRA)

- “Indian Bill of Rights”
- Background of the Indian Civil Rights Act
- Federal jurisdiction of general applicability

01:30-01:45 Break

01:45-02:45Session 2.4 – Practical Application of PL 280 – Part 1

- Community Policing
- The S.A.R.A. model of problem-solving
- C.P.T.E.D. – Crime Prevention Through Environmental Design
- Practical Scenarios

02:45-03:00 Break

03:00-04:00Session 2.5 – Practical Application of PL 280 – Part 2

- Break-out groups
- Wrap-up and conclusion

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

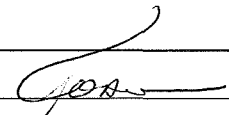
Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:



Primary Requestor:

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Additional Requestor:

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Attached is the 1st quarter report (October to December 2015) being submitted as information only for the Internal Services Division.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



INTERNAL SERVICES DIVISION

1st Quarter FY16

October, November, December 2015


The 1st Quarter of 2016 focused on re-evaluating the goals for FY16, ensuring that they are aligned with the Four Directions set by the Business Committee.

As individual as each department is within the Division, so are their goals. The alignment is tied to the Strategic Direction and they each have individual goals as presented in the last quarterly report.

The consolidation for Division goals allows each to collaborate to address the following:

- MGMT INFORMATION SERVICES (MIS)
- GRANTS
- TSYUNHEHKWA
- OCIFS
- EMPLOYEE ADVOCACY
- KALIHWSAKS
- TOURISM
- PRINT & MAIL CENTER

Goal # 1	Enhance Oneida Brand as a strong Nation
<i>Advancing On'nyote?aka Principles</i> Engaged Community	Seek new avenues to visibly expand the Oneida Brand by creating the story within our reservation boundaries, and promoting the brand throughout the region, state, and nationally. <ul style="list-style-type: none"> ➤ Tactics include: <ul style="list-style-type: none"> the development of the longhouse, amphitheater, and cultural heritage site; the multimedia and events management team; media and collateral design; tours to engage and promote Oneida brand cultural and agri-tourism events to engage and promote our community.
Goal #2	Engage the community toward a mindset of healthy foods
<i>Committing to building a responsible Nation</i> Create economic systems	Promote agriculture and healthy foods, by continuing to develop the 5 interrelated agricultural strategies of <ul style="list-style-type: none"> ➤ a) build a community mindset for healthy foods, ➤ b) increase local agricultural and food production, ➤ c) build local food economies; ➤ d) integrate local foods into community outlets; ➤ e) ensure sustainable development and practices
Goal #3	Strengthen operational performance through technology
<i>Implementing Good Governance Processes</i> Long Term sustainability	Strengthen an efficient operation through technology by maintaining present systems, incorporating future systems, and advancing technological uses for ease of business and engagement. <ul style="list-style-type: none"> ➤ Technology has many applications; and this tribal environment is multi-faceted and complex.



Aside from setting the goals for FY16, the Division had some projects in the first quarter that merit mention:

- Grants met their goal in FY15 with \$7.3 million in external funding; and is focusing on their work in establishing the 7871 fund unit. They have training set up for both the DonorPerfect software as well as the website. And they are working with other areas to help seek external funds to enhance their programs.
- Kalihwisaks covered several events such as Breakfast with Santa, LPGA, our Chairwoman as moderating a panel at the 2015 Tribal Nations Conference, and the LPGA press conference at Thronberry. They will begin to look at a Volunteer section to recognize the unsung heroes of our community.
- Tsyunhehkwa spent a very busy month of October, with the Husking Bee where they worked with over 400 youth from 5 schools (grades 2nd – 5th) and involved them in the white corn harvest. Then they were very involved in the Food Sovereignty Summit with two experiential learning sessions on organic farming and food preservation. And they wrapped up their month continuing with Harvest.
- OCIFS continues to work on the educational outreach to our youth and schools, on the Farmers Market, and on grants relating to food systems. OCIFS was involved in the Food Sovereignty Summit, handling the learning sessions for the 122 participants that attended.
- MIS has been busy with continued upgrades and maintenance of our systems. They continue to look at various solutions that will help on ease of business, customer service, information sharing, and maintenance practices. Their field continues to be a tight field with low unemployment, so they are encouraging all tribal members to consider technology as a viable field for careers.
- Employee Advocacy continues to work toward creating a positive organizational culture; and to support the employees as advocates. Many problems are settled by dialoguing with both parties, as the source of much conflict is misunderstandings.
- The Print and Mail Center is undergoing small changes that can make a large impact on the operation. They are working through technology for customer service tracking, pricing, and delivery. They are becoming much more proficient in variable data, and are working closely with the casino to be able to handle some of their work in-house.
- Tourism and Events Management worked on supporting the Food Sovereignty Summit, and did a tremendous job with that event. Likewise, their work with videos, and the cultural displays support that is beginning to pop up throughout the reservation such as Judicial, Radisson, etc.

The Food Sovereignty Summit was another outstanding success for the Tribe and a great collaboration with various departments and tribal members.

Environments, the Oneida Farm, Tsyunhehkwá, Tourism, OCIFS, Events Management, Kalihwisaks, Health and Safety, ONCOA, and our Tribal Leaders – all played a strong role in this event which was held October 26-29 at the Radisson. Our thanks to all who participated as speakers, trainers, helpers, and attendees!

You can see a short sniped of the event which Oneida produced on

<https://www.youtube.com/watch?v=ELxhkD2B6SM&feature=youtu.be>

We welcomed over 350 people to the event, and they traveled from near and far: California, Alaska, Arizona, New Mexico, Hawaii, Canada, Guatemala, Oklahoma, New Mexico, Minnesota, Michigan, Colorado, and New York to name a few.

We had tremendous support from USDA with a grant; and conference sponsorships from Shakopee, W.K. Kellogg, International Indian Treaty Council, Bradshaw-Knight, CHS Foundation, and our co-host First Nations Development Institute. With this event, the Radisson added over \$95,000 in revenues which included food, rooms, and logistics.

As with any grant, we have deliverables that we must meet for USDA funding:

The project goal addresses OAO's priorities #3 to increase participation of socially disadvantaged American Indian tribal members and veterans into agriculture as food producers and ranchers, as well as priority #4 to participate in USDA programs and build healthy communities for their people. The outreach will focus on three states, Minnesota, Wisconsin, and Michigan, 34 tribes...

The outcome is to (a) outreach to all 34 tribes with the opportunity to attend experiential learning in Oneida;(b) to offer a forum (Summit) for applied agriculture learning that will bring together 70+ socially disadvantaged tribal members and will include USDA agencies; and to (c) continue to build relationships with USDA programs and the development of projects relating to agriculture and food production.



FOUR STRATEGIC DIRECTIONS



Grants Office Quarterly Report - February 2016

- **Strategy 1: Enhance tribal services with external funding(both new and continuation)**
 - ❖ Met our overall goals with a final total of \$7.3 million in external funding.
 - Examples:
 - HUD Tribal VASH Grant for Veterans (new grant) – \$205,000
 - Notah Begay III grant for Capacity Building for Fitness Center - \$20,000
 - 2 EPA Brownfield Grants for cleanup - \$134,675 and \$200,000
 - Exxon/Mobile grant for 6 local schools (new) - \$3,000

- **Strategy 2: Become a resource for a 1-stop shop for funding/grant data and services.**
 - ❖ Provided training for various program requests to enhance their ability to obtain external funding.
 - ❖ Maintaining tribe-to-tribe, grantor-to-grantee, and other relationships to increase our opportunities.
 - ❖ Maintaining a database that includes all funded, denied, and pending grants.
 - ❖ Maintaining a database of all information that relates to grant data including statistical data.
 - ❖ Developed a database of all grant opportunities sent out and responses from programs to assure programs are taking advantage of such services.
 - ❖ Working on a Request for Information SOP for ISD.

- **Strategy 3: Enhance tribal and community efforts in fundraising thru the development of a 7871 fund unit.**
 - ❖ Have an appointment with DonorPerfect for a follow-up training session with office staff.
 - ❖ Working with MIS on developing 7871 website.
 - ❖ Will hold a follow-up meeting to finish the 7871 Oneida Fund by-laws.



HUD Tribal VASH Grant for Veterans HUD



Exxon/Mobile grant – 6 local school district reps

Kalihwisaks 1st quarter Report October – December 2015

Achievements

- Printed Six issues – October 1, October 15, November 5, November 19, December 3 and December 17
- Covered news and events such as previewing the Annual GTC meeting, Breakfast with Santa, LPGA coming to Oneida, Chairwoman Tina Danforth moderating a panel at the 2015 Tribal Nations Conference, and (Advancing Oneyote? a.ka Principles)
- Did one day turn around on LPGA press conference by publishing story online
- Printed Oneida Business Committee meeting minutes, board postings, public hearing notices, and legal notices. (Implementing Good Governance Process)
- Worked with other departments such as SEOTS, OCIFS, Adventures, Culture and OFF to create monthly pages to share their news and events. (Advancing Oneyote? a.ka Principles)
- Worked with Communications to produce weekly "This Week in Oneida" video. (Advancing Oneyote? a.ka Principles)

Goals for FY2016

- Start a Volunteer section that will highlight area volunteers and volunteer opportunities. (Advancing Oneyote? a.ka Principles, Committing to Building a Responsible Nation)
- Community Picture page featuring submitted photos from Oneida citizens. (Advancing Oneyote? a.ka Principles)
- Move to Print Shop to join multi-media network in March. (Creating a Positive Organizational Culture)
- Work with tourism to purchase new digital camera. (Creating a Positive Organizational Culture)
- Expand our media platforms to include phone apps, online payments, more online content



Breakfast with Santa

Agriculture Showcase



LPGA press conference



Tsyunhehkwa Quarterly Achievements:

October - December, 2015

Jeff Metoxen, Director



Tsyunhehkwa Mission:

Playing a pivotal role in the reintroduction of high quality, organically grown foods that will ensure a healthier and more fulfilling life for the On^yote a ka, Oneida People of the Standing Stone.

October 2015 Highlights:

Annual Harvest & Husking Bee held and completed from October 10-15. Over 5 different schools participated in Education Days, with more than 400 students involved, primarily Grade School levels of 2nd to 5th grade.

Food Summit held at Radisson which included Tours and Workshops of Cannery and Ag Sites. We had request of more than 60 people for the review of our program. We had many more not able to make the scheduled tours so they stopped not our program during the entire week to review both components.

Tour provided to representatives of the Onondaga Nation from New York by Vickie Cornelius, Cannery Supervisor, showcasing Cannery, White Corn and our Traditional Practices.

November 2015 Highlights:

Working on a WI 101 Project through the UW System highlighting 101 objects that make up Wisconsin. I am submitting a White Corn Project proposal.

Presented materials to Land Commission for future projects of Land and Off Site White Corn Production, Land for Off Site Grass Fed Beef Cattle, including Buildings, Equipment and any other resources for all submissions. On-going projects currently with the LUTU process and Planning Office and Oneida GLIS.



White Corn Braids of 2015 Crop

December 2015 Highlights:

Balance Studios tour in Green Bay, WI for Augmented Reality and our OCIFS Activity Book. Ongoing project with a grant sources being targeted to cover initial cost. Reviewed Farm to School overall plan of Oneida School System to see how our program can increase participation levels for this coming Summer and Fall of 2016.



Fiscal Year 2016 Strategies & Goals:

Strategy #1 Increase Local Food Production

- Creating a Positive Organizational Structure
 - Review if entire Tsyunhehkwa Program and personnel with Oneida Expert in team building and strategic planning.

Strategy #2 Improve Food Security

- Advancing On^yote?a.ka Principles
 - Planting 10 acre of white corn annually on site with target of increasing and improving yield.
 - Community Workshops provided around entire process

Strategy #3 Increase Interaction with Community

- Committing to Build a Responsible Nation
 - Increase the number and variety of Community Workshops in all areas we provide.



Manitoba and other Tribal Reps Food Summit Tour October 2015



OCIFS

Quarterly Achievements: October - December, 2015

* **Farm to School Smart Goals** - Created a Logic Model to accompany the Strategies and Smart Goals that were created for the Farm to School project for the November CDPC meeting.

Continue to meet with the Oneida Farmers Market Activity group to review the activities that were created to increase the customer turnout at the 2016 Oneida Farmers Market.



Oneida Farmers Market at Harvest

* **Promote education through Agri-Tourism efforts** - coordinated the presences of the Oneida Farmers' Market, delivered canopies, set up all the canopies & managed the 16 Oneida Farmers Market vendors at Tsyunhehkwá Saturday, Oct. 10 Harvest Fest.

* **Share through educational forums** – Arranged for the pre-conference Experiential Learning sessions, and assisted with the Learning Session to the Apple Orchard and Cannery.

Compiled the data from the 122 participants in the Experiential Learning Sessions from the National Food Summit on 10/26 to include: Farm/Bison, Apple Orchard, Cannery and Tsyunhehkwá workshops.

Fiscal Year 2015 Achievements:

Strategy #1 Educate the Oneida community about food, agricultural opportunities, nutrition and health risks

Share through educational forums and Experiential Learning opportunities the importance of healthy foods, and practices of food production. Provide technical assistance in food handling, preservation, branding, and marketing strategies to local producers. This will expand availability, improve access and increase producer income.

Began creating a Communication/Marketing Plan for the Oneida Farmers Market utilizing Websites, texting (Farm Fam), social media, newsletters and other collaborative efforts.



Ladies from South America tour Oneida food systems

Strategy #2 Integrate Oneida and locally produced foods into the Oneida community and institutions

Expansion of the Oneida Farmers Market via weekly hands on activities to increase customers, and worked with LIVE54218 and the two Green Bay Farmers Markets to get a free EBT machine for the Oneida Farmers Market. This same grant will allow us to offer 'Double Your Bucks' program over the next two years.

Created FINAL data gathered at the Oneida Farmers' Market – averaged 325 weekly customers, averaged 44 vendors, averaged \$615 at the brat booth, and 76.5% OFM dollars were returned.

Fiscal Year 2016 Goals:

- Strategy #1 Educate the Oneida community about food, agricultural opportunities, nutrition and health risks
(*Advancing On^yote?á.ka Principals*)
- Strategy #2 Integrate Oneida and locally produced foods into the Oneida community and institutions
(*Committing to Building a Responsible Nation*)



Employee Advocacy Department's
October- December 2015
Goals and Accomplishments

The Employee Advocacy Department (EAD) continues its efforts to create a positive organizational culture through increased communication. Rather than formal litigations, EAD strives to mediate/settle cases; effectively saving the Tribe time/costs associated with formal litigation before the Oneida Personnel Commission and/or the Judiciary.

Strategy 1.

Transform the work place from a litigious environment to a positive organizational culture.

Strategy 2

Decrease the number of employment disciplinary cases progressing to formal litigation.

Strategy 3.

Proactively identify disciplinary trends/complaints in particular departments

Quarterly achievements:

1. 16 new employment cases this quarter as opposed to 18 in the same quarter in 2014.
2. One case progressed to OPC/Judiciary; a gain of 1 from same quarter of 2014.
3. Identified potential problems areas in two areas and addressed them with area manager/supervisor with suggested improvements/solutions to remedy.

One new case was pursued to OPC

Challenges: Supervisors and managers who are not willing to negotiate or consider alternative dispute resolutions. This failure often results in costly litigation and back pay awards.

EAD's effectiveness should not be solely measured on the number of cases that present to the OPC or Judiciary. Preparing for negotiation and corroborative meetings requires extensive research and preparation in order to present compelling alternative dispute resolutions that both parties consider amicable; thereby leading to a positive organizational culture.

MIS Quarterly Report – July - September 2015

Strategy #1 Deliver Business Technology Solutions

Critical System Upgrades

- Implementation of the latest version of GE Centricity. The new version supports OCHD federal regulatory reporting requirements.
- Upgrade to the Gaming Casino Market Place (CMP) system. The new version provides for greater visibility and management of the Casino's customer relationship programs.
- Achieved EMV compliance within the Gaming and Retail point of sale environments. This new regulatory requirement is intended to provide customers with greater protections associated with credit card transactions.



Strategy #2 Promote Information Sharing & Collaboration


- Selection of a new CMS (content management solution), Stellar Blue Technologies (SBT). Will be tasked with the responsibility of navigation, look & feel of the Tribe's web presence.
- Installation of a community member Kiosk within the Records Management department. The Kiosk provides inquiry and retrieval of Oneida archived records.



Strategy #3 Optimize Use of Resources

- Extended the use of the Tribe's digital management solution (OnBase) into the new Judicial environment.
- Budgetary Performance - Completed FY'15 within 2% of budget and achieved 100% compliance with all FY'16 budget guidelines and continuing resolution directives





MIS Goals for FY'16

Strategy #1 Deliver Business Technology Solutions

Develop and implement the mobile patron registration system for Gaming. The system will be used by the Fun Club to provide an added service to our customers while expanding customer enrollment in the Casino rewards program.

Installation and deployment of the PACS (picture archiving communication system) for digital x-ray and mammography image capture for the OCHD. The project will replace an aging inefficient system with a much more advanced and functional solution.

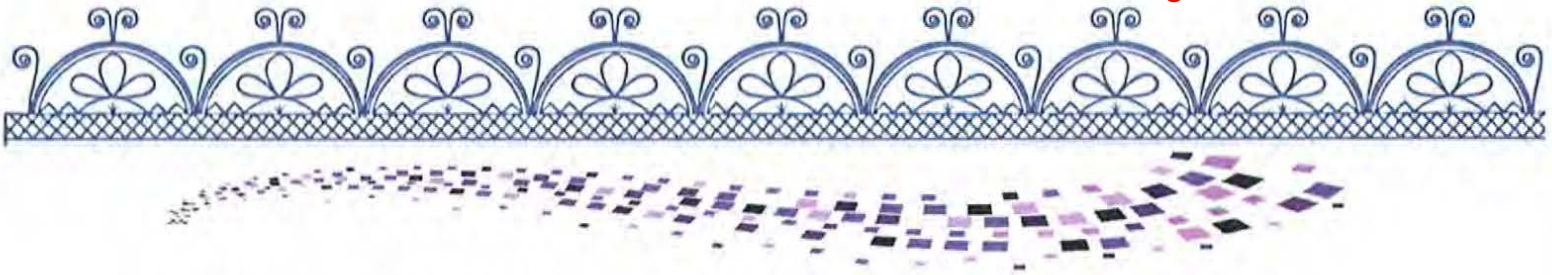
Strategy #2 Promote Information Sharing & Collaboration

Expand the use of Bally Kiosks (Marketing) within the main Casino, Mason Street and IMAC. It is anticipated that the number of customer Kiosks will grow by six creating greater customer access to a wide variety of Oneida Gaming services and information.

Formally introduce MS SharePoint solutions to Oneida business units. New functionality will include in-the-cloud file storage and sharing, web development and collaboration tools.

Strategy #3 Optimize Use of Resources

Continue the expansion of several enterprise solutions including Archibus, COGNOS and OnBase. These systems are widely used within many of the Oneida business units because of their ability to enhance service delivery, provide operational efficiencies and support the Four Strategic Directions established by the OBC.



Print Shop Quarterly Report Oct. – Dec. 2015

*Note – Michelle Danforth became the Interim Print Shop Manager at the end of October 2015.

Strategy 1 – Improve Print Shop Strategy

1. Print Smith – Upgrade and training complete. Initial price listing for printing based on the press, B&W copiers and X1000 has been completed. Printing will make slight pricing adjustments as needed. Future templates to set the price of business cards etc will be developed.
2. Customer Service Tracking Report created to track the total number of jobs created by 3 different individuals. FY15 Average # of job tickets was 106 tickets. Average # of job tickets that can be completed in 1 month is 7 tickets (1 hr per ticket) per day x 20 days = 140 per month. In the future gaming will be working on all their outsourced jobs which were 122 in FY15.
3. New vehicle will be arriving in 2016 to replace the mail center van.

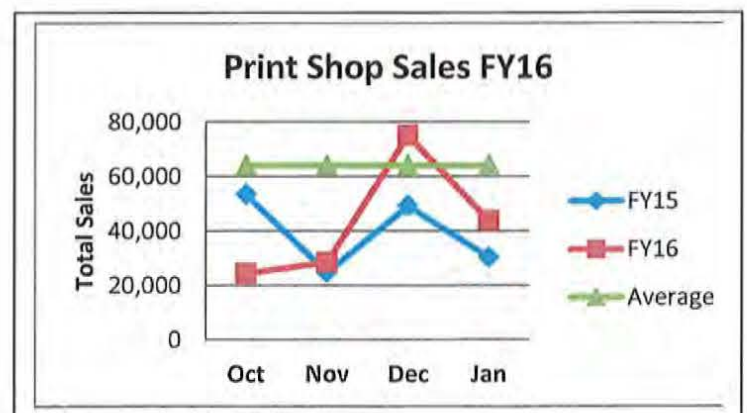
Strategy 2 – Generate more revenue. With the current price correction, this will have a direct impact of the bottom line. Did 1 bid for GLITC but we could not compete with their final pricing. Main focus is Gaming and earning back variable data jobs. In Dec, Sue Koch/Designer, Jason Anatone/Production and Al/Harlan/Finishing successfully completed testing out a bingo variable data print job. This job will be transferred to printing starting in Jan. 2016.

Strategy 3 – Improve Print Shop Image. Currently exploring name options for a media center.

Strategy 4 – Improve Dept. Efficiencies. Biggest improvement is that PrintSmith now provides a direct email option for estimates and invoices. An employee no longer has to print, scan, save and then re-email estimates or invoices saving time. Monday mornings is a weekly meeting with CS and Graphics to discuss upcoming jobs or other communication issues. Continue to work on the work culture & atmosphere

Sales Recap

	Oct	Nov	Dec	Jan	Total	Variance
FY15	53,369	24,710	49,150	30,315	157,544	
FY16	24,344	28,470	75,096	43,822	171,732	14,188
Average	64,000	64,000	64,000	64,000		
Variance	-39,656	-35,530	11,096	-20,178		



Tourism Quarterly Report – September 2015

Strategy #1 Develop Cultural Tourism

Long House - Conservation completed the lower bunk braces/artificial bark received.

Visitor Center –Final schematics of building were received in October 2015. Approval from Land Commission on the overall scope of Tourism on the Cultural Heritage site – Dec. 2015

Strategy #2 Build Partnerships

Rich Figueroa continues to work with the Radisson and GBCVB staff on planning for bus shows and other events.

Strategy #3 Generate Foot Traffic with in the Reservation Boundaries

- Ag Summit Conference assistance by special event crew.
- Boomers in Groups was hosted at the Radisson – Oneida got rave reviews on their tour offering. Rich took 33 appointments and booked 3 day tours.
- Kirby Reservation Tours Continue

2015	2899 people (YTD)
2014	1259 people
2013	920 people



Strategy #4 Maximize Media

- Oneida Tourism began working with a student to set up multiple pre-planned Facebook posts.
- Chris Powless reshot next puppet video
- Reworking plans for 2016 including a cultural display at the Oneida Health Center about the 3 Clans of Oneida.

Other News – Tourism has been relocated to the Oneida Print Shop since Nov. 2015.



Final Interior Rendering

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Defer Ombudsman FY'16 1st Quarter Report to the next scheduled BC meeting

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: _____
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Respectfully asking for a deferral of 1st Quarter report.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approve the Police Commission Quarterly Report in accordance with the Comprehensive Policy Governing Boards, Committees, and Commissions

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:

Twylite Moore, Administrative Assistant
Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

ONEIDA POLICE COMMISSION

January 2016
1st Quarterly Report

COMMISSION MEMBERS:
Number of Commissioners: Five (5)

Bernie John-Stevens, President
Beverly Anderson, Secretary
Carol Silva, Commissioner
Sandra Reveles, Vice-President
Lois Strong, Commissioner

CONTACT FOR REPORT:

Twylite Moore

BUSINESS COMMITTEE LIAISON:

Lisa Summers, Business Committee

MINUTES:

All meeting minutes are submitted to the Tribal Secretary's office as they are approved.

ACTION TAKEN:

1. The Police Commission has reviewed and approved 36 standard operating procedures for the Oneida Police Department. These revised procedures ensure we are operating under best practices regarding our law enforcement services.
2. The Police Department hosted the Annual Community Blanket making event in December.
3. We currently have four positions open within the police department. We hiring for: Officer, Community Resource Officer, DARE Officer and Administrative Assistant.

FINANCIAL:

Our approved budget for FY 16 is \$85,200.00.

SPECIAL EVENTS & TRAVEL

We have no travel to report for this quarter.

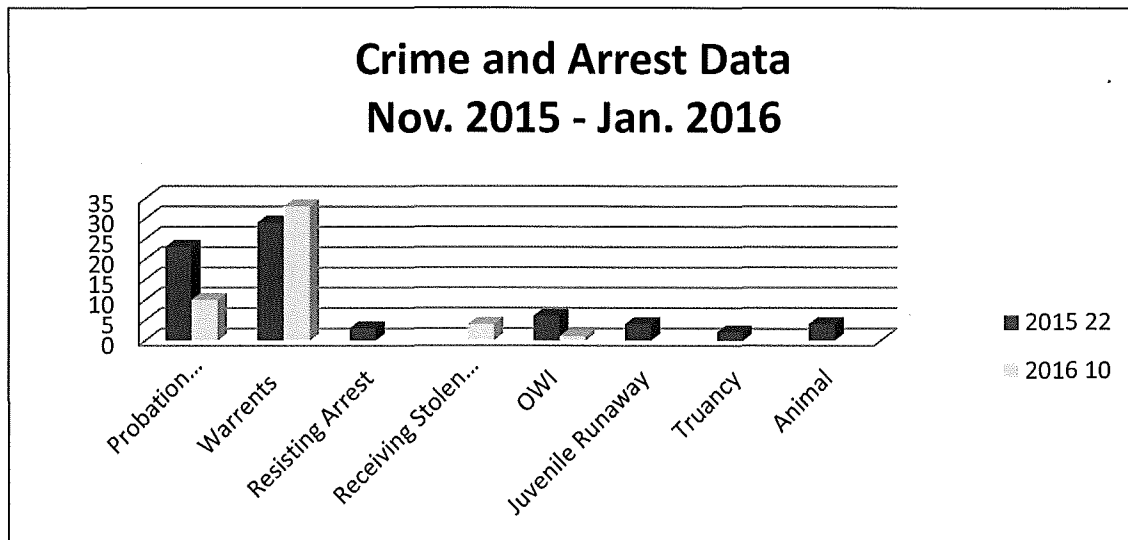
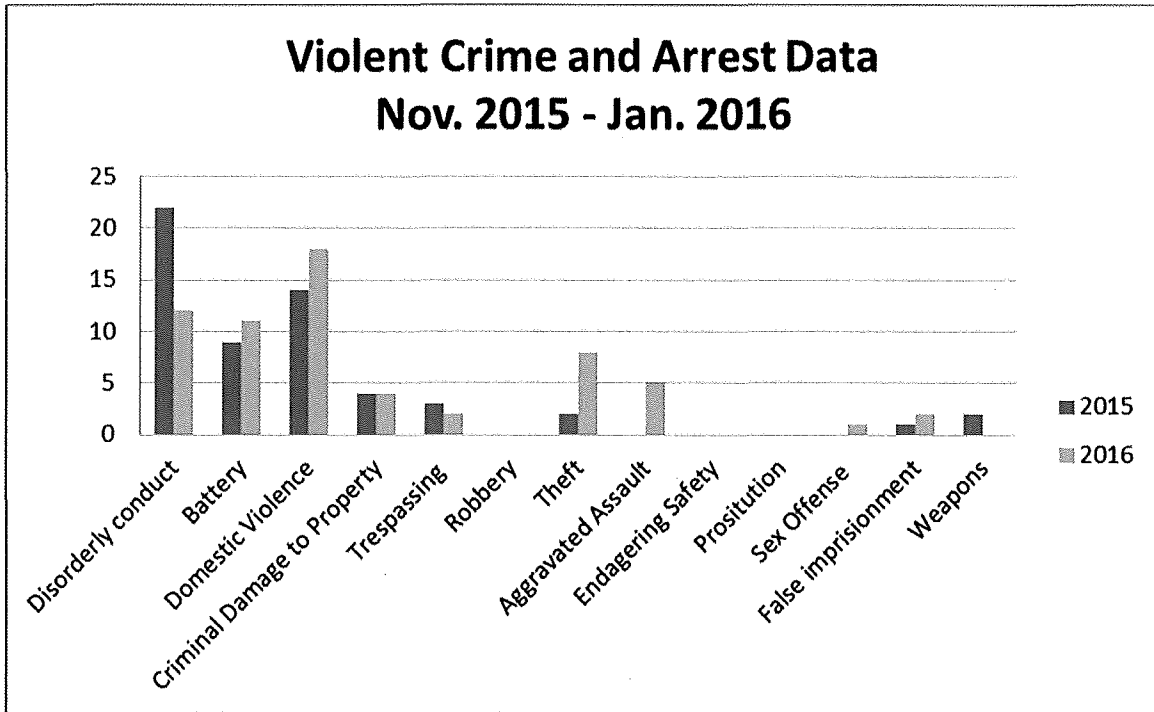
COMMUNITY CRIME INFORMATION

Community Safety Calls for Service & Assistance, Response Time & Accountability

November 2015 – January 2016

	2015	2016
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Calls for Assistance & Mutual Aid	128	133
Average Response time Emergency	4.76	6.28
Average Response time Non-Emergency	8.69	10.80
Number of District Attorney Filings	341	164
Number of Cases ending in Conviction	108	165



*These charts are not indicative of all crime within the community. These numbers represent the top ten crimes occurring within the community for the time period noted and collected from the Oneida Police Department.

MEETINGS

The Commission has met monthly in accordance with our by-laws. Monthly meetings have been attended by all Commissioners and the Chief of Police. The Chief of Police is required to attend all regular monthly meetings. This requirement ensures the needs of the department are being met, enables the supervision of the Chief of Police and citizen oversight of the Police Department.

Respectfully submitted,

Bernard Stevens, President
Oneida Police Commission

BJS/tem

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Other - LCC quarterly report

Agenda Header: Reports

Accept as Information only

Action - please describe:

To approve Land Claims 1st quarterly report as written

3. Supporting Materials

Report Resolution Contract

Other:

1. LCC quarterly report

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison: Jennifer Webster, Council Member

Primary Requestor/Submitter: Dakota Webster, Land Claims Commission acting Secretary
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

ONEIDA LAND CLAIMS COMMISSION
QUARTERLY REPORT
October 2015 – December 2015

Submitted by Dakota Webster, LCC acting Secretary

LAND CLAIMS COMMISSIONERS:

Chairwoman Amelia Cornelius, Vice Chairwoman Loretta Metoxen, acting Secretary Dakota Webster, new elected Commissioners Jay Rasmussen, Donald McLester

PURPOSE:

Make recommendations to the Business Committee on ways to foster General Tribal Council participation in the decision making process regarding the settlement of the Oneida Land Claims in New York State. Article I Authority 1-b LLC By-Laws

OBJECTIVES:

The Oneida Land Claims Commission is an elected governing body that does strive to meet the needs of the GTC. The Oneida Land Claims Commission strives to help educate GTC on the status of our land claim options and educate GTC to learn more about the Upstate New York our original homelands and why they are significant.

ACTIVITIES:

Land Claims Executive Assistant Jennifer Stevens resigned. Land Claims has distributed her duties within the Commission members. The Commission has been highlighting significant Oneida treaties with New York State and other tribes in an attempt to bring light to any opportunities for our tribe in moving forward with the Claims situation. Land Claims Commission has been working on updating the By-Laws.

MEETINGS:

Land Claims Commission has been meeting once a month on a regular basis as scheduled, the third Thursday of every month at 5PM. All meetings are open to the public.

FOLLOW UP:

- LCC is working on getting a joint meeting with the BC
- Consolidation of all files related to Land Claims
- LLC needs a status on its request to fill open positions

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 02 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

ERB Quarterly Report for Oct, Nov, and Dec 2015

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:

Laura Manthe, Director ERB
Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

ENVIRONMENTAL RESOURCE BOARD
FY '16 Quarter Report: October, November, December

ERB MEMBERSHIP

Marlene Garvey, Chair	Al Manders, Vice-Chair	Megan White, Secretary
Shawn Skenandore	Ted Hawk	Gerald Jordan
Tom Oudenhoven	Richard Baird	Nicole Steeber

Oneida Business Committee Liaison: Councilman Tehassi Hill

MINUTES

Action Taken October 20:

- Decision Making training with Attorney Paul Stenzel and Police Commission

Hearing October 21:

- Citation hearings regarding violations of Domestic Animals Ordinance

Hearing October 27:

- Public Hearing regarding land access designations and map defined under the Public Use of Tribal Lands law.

Action Taken November 5:

- Motion to request B.C. to remove moratorium on Where the Waterbirds Nest.
- Motion to maintain current land access designations for the Public Use of Tribal lands laws.

Action Taken December 3:

- Motion to expand recognition of affiliations in hunting law to include not only federally recognized tribes by state recognized and other tribal communities.

Hearing December 17:

- Citation hearings regarding violations of Hunting, Fishing, and Trapping Laws and the Domestic Animals Ordinance.

FINANCIALS

FY2015 Tribal Contribution -	\$ 264,276
Current Month Transactions – October	\$18,910.67
Current Month Transactions – November	\$19,439.06
Current Month Transactions – December	\$22,082.08

SUMMARY OF ACTIVITIES

- The ERB had *citation hearings* on October 21 and December 17 to assist in enforcing health and safety measures for the Oneida community.

- Continued work on *Hunting, Fishing, and Trapping Law* to streamline law and separate policy making and management decisions from the law as coordinated by Oneida Law office. Coordination continues on a draft to deliver to the LOC for adoption.
- Project Manager Chad Wilson job shares and provides *help to the Business Committee* for special project activities of the Business Committee.
- Public Hearing for access issues regarding *Public Use of Tribal Lands law* to continue to ensure safe and proper access to make natural areas safe and enjoyable for all.
- Comments and coordinate on updates to *Domestic Animals Ordinance*.
- The *Safe Routes to School path and bridge* completed to link the new Green Valley Housing subdivision to Site 1 and the Oneida Schools. Walking and biking trail systems are an important part of supporting overall wellness and quality of life in Oneida. The pathway is \$443,174 project utilizing WIS-DOT and IRR funds featuring a new pedestrian bridge spanning Silver Creek (Bread Creek) to unify central Oneida.
- Additional signage posted to properties for Land Access Designations and other usage rules according to the Public Use of Tribal Lands law. *Access to parks, trails, and Natural Areas* in Oneida are designated under this law.
- Continued monitoring and outreach regarding *Onyota'a:ka Lake* including interdepartmental coordination, planning for Phase II, and management planning.
- Ongoing distribution of *Updated Natural Areas and Trails guide* featuring 20 Oneida natural areas in coordination with EH&SD, GLIS, and Health Promotions.
- Participation in the initiatives of the *Wellness team* to improve nutrition, recreation, and flex-time for fitness opportunities.
- *Silver Creek Project Team* coordination meetings for 2016 implementation.
- Assist with *DOE Solar Deployment* technical review and RFP conference calls.
- *Interdepartmental team* activities include Wellness Committee, Website Steering and the Sustainable Resource Advisory Council.

GOALS

#	GOAL STATEMENT
1	To provide the Oneida community with environmental education through community events, workshops, and educational materials. These will include local, regional, and national issues.
2	Monitor environmental and other projects for compliance with community goals, support Sustainable Community development projects and energy efficiency program development, and appropriately manage grant and bonding commitments.
3	Completion of hearing responsibilities related to the Oneida Hunting, Fishing, and Trapping Law, the Domestic Animal Ordinance, the ATV Law, the Water Resources Ordinance, and the Public Use of Tribal Lands Law.

OBJECTIVES

#	OBJECTIVE STATEMENT	MEASUREMENT	COMPLETION DATE	GOAL # (above)
1	Community outreach regarding Onyota'a:ka Lake management and planning Phase II activities.	Provide coordination with Planning and EH&SD	Ongoing meetings with consultants and staff	1
2	Implement Wis-DOT grant funded Safe Routes to School trail and other Community Trails connections	Coordination with Facilities, Engineering, and Community Trails team	Completion in November, 2015	2
3	Creation of Natural Areas and Trails Guide. 2,000 deluxe color copies produced for Oneida community.	Outreach to tribal members about natural resources/recreation available.	Public Hearing on Land Access October, 2015	3

MEETING REQUIREMENTS

The ERB currently holds meetings once a month. Meetings are normally held on the 1st Thursday of each month. Hearings are held as required. ERB also attends Business Committee meetings, other public meetings, and performs volunteer service in the community as required or deemed appropriate by the ERB. Yaw^ko!

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 2 / 24 / 16

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Debra Danforth, School Board Chair
Your Name, Title / Dept. or Tribal Member

Additional Requestor: Sharon Mousseau, School Superintendent
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

School Board Quarterly report for acceptance and updated ONSS Contract Personnel Salaries and Benefits SOP as an FYI item for review.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

ONEIDA NATION SCHOOL SYSTEM

Oneida Nation Elementary School
 P.O. Box 365
 N7125 Seminary Road
 Oneida, WI 54155
 Phone (920) 869-1676
 FAX (920) 869-1684



Oneida Nation High School
 P.O. Box 365
 N7210 Seminary Road
 Oneida, WI 54155
 Phone (920) 869-4308
 FAX (920) 869-4045

February 15, 2016

BOARD: Oneida Nation School Board
MEMBERS: Debra Danforth, Chair
 Rhiannon Metoxen, Secretary
 Melinda K. Danforth, Member
 Todd Hill, Member
 Dewain Danforth, Member
 Apache Danforth, Member
 Fred Muscavitch, Member
CONTACT PERSON: Rhiannon Metoxen
OBC LIAISON: Fawn Billie
MINUTES: November 2015
 December 2015

UPDATES

15-16 School Year Student Enrollment: K-8 = 305 9-12 = 123 Total = 428

The school system students are currently participating in their second set of testing in the MAPS (Measures of Academic Progress) program. Students are tested 3 times during the school year for progress monitoring. These results along with other measurements are sent to the Bureau of Indian Education for determination of Adequate Yearly Progress (AYP).

Dr. Valerie Todacheene, Education Support Specialist with the BIE's Department of Performance and Accountability Office will be at ONSS April 14 & 15, 2016 for a Monitoring Review of our FACE, Title and Special Education Programs.

The school system has 9 staff members who are participating in the Bureau of Indian Education's National Board Certification program for teachers. The Bureau of Indian Education is providing for a monetary bonus to each teacher that successfully completes the program.

The School Board is in the process of scheduling a retreat to review the draft education code which was previously submitted to the LOC.

GOALS AND OBJECTIVES

Our students continue to increase their knowledge of Oneida language and culture, as they attend language / culture and social dance classes as part of their daily education. Improving daily attendance and raising the reading and mathematics academic levels continue to be the overall goals for this school year.

The FACE program center-based program for the 3 to 5 year olds is currently full and taking names for a waiting list. This literacy based program is growing in popularity and families are referring families due to the success of the early childhood program.

Both schools will be implementing Stage two of the Positive Behavior Intervention and Supports (P.B.I.S.) program.

The Bureau of Indian Education requires quarterly reporting on the Indistar Program, which provides goals and activities for the categories of School Leadership & Decision Making; Curriculum, Assessment and Instructional Planning; Classroom Instruction, which includes parental communication. The annual updates for the Parent Involvement Policy and Home/School/Community Compact have been completed.

MEETING REQUIREMENTS

The Oneida Nation School Board meets the first Monday of every month at 5:00 p.m. in the library at the Elementary School, and meetings are open to the public. Special meetings are called by the School Board Chair when deemed necessary.

<p style="text-align: center;">ONEIDA TRIBE OF WISCONSIN</p> <p style="text-align: center;">ONEIDA NATION SCHOOL BOARD</p> <p style="text-align: center;">STANDARD OPERATING PROCEDURE</p>	<p>TITLE: ONSS Contract Personnel Salaries and Benefits</p>	<p>ORIGINATION DATE: 02/06/15</p> <p>REVISION DATE: 02/04/2016</p> <p>EFFECTIVE DATE: One week after last signature</p>
<p>SOP NUMBER: 10</p>	<p>APPROVED BY: Oneida Nation School Board</p>	<p>DATE: 02/04/2016</p>
<p>PAGE NO. 1 of 3</p>	<p>REVIEWED BY: Oneida Business Committee</p>	<p>DATE:</p>

1. PURPOSE

1.1 The General Tribal Council provided for the autonomous administration of the Oneida Nation School System (ONSS) (formerly known as the Oneida Tribal School) through the administration of the Oneida Nation School Board (formerly known as the Oneida Tribal School Board). By agreement with the Oneida Business Committee in the Memorandum of Agreement (“MOA”) dated March 21, 1988, the Oneida Nation School Board, in its responsibilities related to all personnel matters, is to ensure that personnel decisions are based upon sound educational administration policies.

1.1.1 The MOA also directed that the Personnel Policies and Procedures system (formerly known as the Oneida Tribal Management System) shall be revised to accommodate the decisions made by the Oneida Nation School Board related to personnel.

1.2 The MOA also provides that the Oneida Nation School Board (hereafter referred to as “School Board”) has the authority to enter into contracts, including contracts with personnel, as necessary for the sound educational administration of ONSS.

1.2.1 The MOA further directs that all contracts related to the operation or planning of the ONSS shall be first reviewed, endorsed, and approved by the School Board.

1.2.2 The School Board's initiation, review, endorsement, and approval of contracts, including personnel contracts, shall be presented in writing to the Oneida Business Committee at times consistent with existing Oneida Tribe of Indians Personnel Policies and Procedures or with the ONSS hiring and/or contract renewal timeline.

1.2.3 The MOA provides that the decisions and actions of the School Board shall be followed by the Oneida Business Committee, unless good cause to the contrary is shown.

1.3 This Standard Operating Procedure is enacted for the purpose of promulgating a rule that provides for the School Board's determination and approval of the salaries and benefits of ONSS contracted personnel.

1.3.1 The School Board's decisions for ONSS contracted personnel salaries and benefits shall be based on sound educational administration that considers the professional and educational needs of the ONSS, the School Board's ability to recruit and hire qualified personnel, and any annual funding constraints of the Oneida Tribe.

1.3.2 The School Board has determined that the salaries and benefits for ONSS personnel, who are required to satisfy certain licensing and certification requirements for employment, and the School Board's ability to successfully recruit and hire personnel for the ONSS are market driven by the public, private, and tribal schools within the region and athletic conference of the ONSS, and that it is fiscally responsible to review and determine personnel salaries and benefits on an annual basis to remain competitive in the market place for such personnel, consistent with sound educational administration.

1.3.3 The School Board has determined that certain contracted personnel may be eligible for compensation that exceeds his or her maximum contract salary, which is typically based upon education and experience, under terms and conditions as specifically provided in the personnel contract(s).

2. DEFINITIONS

- 2.1 Blue Book – Oneida Tribe of Indians Personnel Policies and Procedures
- 2.2 Contracted Personnel/Employee– An individual who is issued a contract of employment with the ONSS from the School Board and who has accepted employment with the ONSS.
- 2.3 MOA – March 21, 1988, Memorandum of Agreement between the Oneida Business Committee and the Oneida Nation School Board approved by the General Tribal Council
- 2.4 ONSS – Oneida Nation School System
- 2.5 Salary and Benefits – Financial compensation for work performed under the ONSS personnel contract, such as base salary, and may include, but not be limited to, additional duties compensation, merit pay or bonuses, paid personal leave

time, and health insurance, dental insurance, retirement benefits, life insurance, and short- and long-term disability insurance.

2.6 School Board – Oneida Nation School Board

3. WORK STANDARDS

3.1 The School Board shall make an annual determination of the nature and type of salary and benefits that will be offered to current and new employees under a contract with the ONSS to be issued by the School Board.

3.2 The annual review and determination of the ONSS contracted employees' salary and benefits shall be made in a timely manner and based on sound educational administration practices and market forces related to the recruitment and employment of educational personnel.

3.3 The School Board shall revise the then-current employee contracts based on its annual review, at its sole discretion as it deems necessary, and prior to any employee renewal notification that may be required under the then-current employee contracts.

3.4 The School Board shall determine the salary and benefits terms and conditions that will be offered to contracted personnel, including exceptions to the then-current Blue Book.

3.5 The School Board shall adopt the annual employee contract(s), including the terms and conditions for salaries and benefits, by motion at a properly convened meeting of the School Board.

3.5.1 Supervisors are responsible for monitoring employee vacation/personal time accruals, scheduling employees' working hours and approving or denying time off requests.

3.5.2 Employees are responsible for requesting time off utilizing personal, vacation, banked, and donated hours, if applicable, and shall comply with the procedures established by the ONSS Administration for documentation of the use of personal leave time, including approval.

3.5.3 Trade-back for cash of unused personal leave time shall be governed by the ONSS Standard Operating Procedure Number 8, ONSS Employee Indirection Compensation: Trade Back for Cash.

3.6 Consistent with the MOA, the Blue Book shall be revised to accommodate the decisions made by the Oneida Nation School Board related to personnel, including the ONSS salary and benefit determinations for personnel contracts.

3.6.1 The Oneida Human Resource Department shall process ONSS Contracted Employees' salaries and benefits consistent with the then-current terms and conditions of the ONSS employee contracts.

4. REFERENCES

4.1 Memorandum of Agreement between the Oneida Business Committee and the Oneida Nation School Board, March 21, 1988

4.2 Oneida Tribe of Wisconsin, Personnel Policies and Procedures

4.3 ONSS Employee Contracts

4.4 ONSS Standard Operating Procedure Number 8, ONSS Employee Indirection Compensation: Trade Back for Cash

Food Sovereignty Summit Video:

<https://www.youtube.com/watch?v=ELxhkD2B6SM>

The Oneida Nation of Wisconsin and First Nations Development Institute co-hosted the Third Annual Food Sovereignty Summit in October 2015. Tribes came to the Oneida Reservation from all over the U.S. and from Canada and South America to share their experiences in an effort to build healthier food systems for their communities. The Oneida Nation produced this video about the Summit.

Business Committee Meeting
9:00 A.m. Wednesday, February 24, 2016
Thank you for printing clearly

Ken House
Wanda McClach
Heraldine Deaufelt
Joe V
Jeff P. Dwyer
Rose Melchert
BRAD GRAHAM
BILL GRAHAM
TAYLOR PETERS
Neale Corwin
Judi Skeneadore
Debbi Dwyer
Jeanette Dwyer
John Dwyer
FLOYD HILL
Amyl Thayer
Kaye M. Dwyer
Briano Torres
Susan Torres
Marsha Danforth
Kathleen M. Metzger

Ken House
Pat Dwyer
L. M.
Dennis Brown
Tricia S. Dwyer
Susan White
John
Cheryl
Sherrale Benton
Dylan Benton
Kaye Dwyer
Krystal John
MANKIN PERKINS
Madelyn Gensko
D. S. Dwyer
Gandy Dwyer
JERRY CORNELIUS
Alicia Fusco
Diana Hernandez
EMERSON K. REED
Nathan S. Smith
Gina Bueavostro

Business Committee Meeting
9:00 A.m. Wednesday, February 24, 2016
Thank you for printing clearly

Lynn Orsico

Mike Sell

Dennis M. Kasper

Bebbi Roberts

PAUL WITEK

Lisa Higgins

Bonnie P. Smead

Tim Dunklee

C. S. Metz

Sandra Reveles

Bill VanVas

John Buckley

Karen Metcalfe

Jason W. Poirier

Jeff P. Metoxon

Janice Hirth

Cheryl Stevens

Nephtie Dwyer

Linda Jenkins

Shauna M. Moushon

Laure Marthe