

215 So Frank's request for a motion at this time is out of order. Once we get the main motion voted on, if you
216 want to make , if the group will allow you and entertain a second motion from you, you can do that but we
217 have to work through this process first. Is that correct?
218 John Ori: If we could vote on my amendment also, please. It is still on the floor.
219

220 Greg Matson: It didn't get support John. We are going to the main motion. The main motion reads to
221 approve the agenda with time limits up to 15 minutes for presentation and 3 minutes per individual for
222 questions. I'd like to vote on that with a show of hands all those in favor of that motion, raise your right
223 hand. Those opposed, please raise your right hand. Abstentions. Motion carries. Thank you, we have an
224 agenda. I can see in the other room was overwhelming as well, Leyne.
225

226 Greg Matson: First on the agenda is the judiciary transition update and the amendments. We are going
227 to have Councilwoman Melinda Danforth give you the presentation. It is going to include the adoption
228 resolution of the judiciary law, transition update as well as the adoption resolution for compensation for
229 the judges.
230

231 **New Business**

232 **5. Judiciary transition update and amendments**

233 Melinda Danforth: Good evening General Tribal Council. I apologize because we have 15 minutes for a
234 presentation so I'm going to go over some of the history very quickly. My name is Melinda Danforth, I'm
235 an elected Councilwoman for the Oneida Business Committee and I also currently serve as the
236 Chairperson of the legislative operation committee which is that body as the LOC or the law making body
237 for the tribe. This evening I'm pleased to you present to you an update on the transition from the
238 Oneida's current judicial system also known as the Oneida Appeals Commission to the new judiciary
239 system that the GTC passed in January 2013. I will make this as brief as possible as I only have 15
240 minutes, we'll try to go over this presentation quickly. First, we'll briefly go over some of the key decisions
241 that lead us to today. We're going to look over the transition process that we've been using to transition
242 from the Appeals Commission to the new judiciary. We'll also include key progresses and seven different
243 categories of work that our transition team has been working on. After we complete the review of the
244 transition process, I will share with you what the projected next steps are and what the community can
245 see and I will ask you to consider approving our requested actions. Today, we have 3 requested actions.
246 1. Is a request to the GTC to withhold one of the trial judge positions that was approved in the judiciary in
247 January 2013 and hire an additional family court judge. The second is to approve the resolution that
248 would set the compensation for the judges as that item is in the judiciary law where by GTC has the sole
249 authority to set the first compensation's for the judges. On the agenda, it is listed as 1.a. qualifications of
250 judges, 2. Would be the withholding of the trial court judges for the family court position and item C is the
251 compensation. We are going to go over B & C because I think item 1. A, is going to be lively discussion
252 so we are going to try to get through these 2 agenda items first. Here is some of the background
253 information, in 1982 the GTC directs the BC to stay out of the day to day affairs and they talked about
254 developing a tribal court. In 1991 GTC adopted the APA that created the appeals commission. In
255 November 2010 GTC reviewed the proposed judiciary act and determined that more information is
256 needed and again, it tabled the proposed law in 2011. In May 2011, the presentation to the GTC on
257 qualifications was presented for the judges. That again, was tabled. In January 2012 the GTC directed
258 that additional work be completed on the qualification s of judges. In that mean time, sorry, I'm going
259 back, between May 2011 and January 2012 a new BC was elected and a lot of the work that had been
260 done on the judiciary was purposely done the former LOC Chair, Trish King. Some of the reasons for the
261 tabling is because we asked for it to be tables so we could work on the law a little bit more. On January
262 2013, the GTC approved the judiciary act with the following changes. These changes came right off the
263 floor of the GTC meeting. They added judicial, paralegal or family law to the list of bachelor degrees that
264 a perspective non chief judge must have to qualify. They added the qualification for judge cannot be
265 mentally disabled or unstable. They eliminated the small claims division, believe that mentally stable,
266 disabled was a hard one to implement but we did it. GTC changed the age requirements to 30 years of
267 age and GTC also directed that members of the judiciary judges cannot attend GTC meetings. The
268 changes that GTC had requested went into the law and was adopted with that law on January 7, 2013.
269 Here is what the very high level structure of the new judiciary looks like. We have a court of appeals, we
270 have a family division, which the family division will handle all family matters including, child support,

271 child custody, marriage and divorce issues. The general/civil division will handle matters such as debt,
272 evictions, contract disputes and injunctions and a peace making / mediation division is pretty self-
273 explanatory. Transitioning from the current appeals commission to the new judiciary required a lot of
274 work and we developed a team approach to this and there were seven categories of teams that were
275 developed and 15 members were a part of that entire team. We tackled areas like legislative that will
276 deal with all legislation that necessary so that when GTC adopted the judiciary in 2013, you told us that
277 you wanted a judicial canons of ethics, you wanted administrative procedures act to change, the
278 legislative act needed to be enacted, the removal law had to be changed so that team focused on purely
279 legislation. The administrative team focused purely on administrative issues such as development of
280 court seals, proper time and attendance standards along with any policies and procedures that were
281 necessary in order for the court to be up and running at the time. The communication team was
282 responsible working on information pieces that will help the judiciary customers understand what
283 changes may be taking place for things such as filing paperwork or new fee schedules. The personnel
284 team focused on transitioning the current employees, the permanent employees like the court
285 administrator and the clerks. GTC when they passed the resolutions said that those employees would
286 continue to work in to the new system. We worked with HRD to try to make that smooth transition also
287 developing job descriptions for the new judges. The budget team was being led by the Assistant Chief
288 Financial Officer and the current judicial administrator. Both have been working hard to ensure that items
289 that might overlap in 2014 and next year 2015 are being taken care of. Our space location team they
290 were on task to locate a new facility for the judiciary as the current Ridgeview space is inadequate for the
291 new judicial system. The last team is the law training, the development of a training plan for the judges
292 as well as training for the community so there is an understanding how to utilize the new system when it
293 is up and running. By using the team approach we've been able to be inclusive as possible of all the
294 stakeholders and have been able to identify areas that need to be addressed before the new judges are
295 elected. Some of the things that we did, we've been providing the BC with a regular transition update.
296 Our first one was June 12, 2014 and have been quarterly since. Also, as needed when, as you know,
297 implementing a new law or entity of this complexity we have a lot of issues that came forward so the BC
298 has been kept abreast of those issues as well. The election of judges will take place; we'll talk about that
299 today, in 2014 in July. The development of the 2015 judiciary budget which is being completed through
300 the budget process and GTC will see that budget in August of this year. Other major aspects of the
301 implementation of the law, the location for the new judicial system will be the former Human Resources
302 building at the corner of West Mason and Packerland. It is projected to be opened sometime in
303 November, middle of November. The training plan is now complete for the judges and communication
304 efforts are being made through the tribal newspaper and tribal website on how we are transitioning the
305 new judicial system. When GTC passed the judiciary law, there was a resolution that was attached to it
306 that adopted the judiciary and it also gave the Business Committee directions and directives on how to
307 go about completing the transition. The GTC also gave the BC authority to make modification that are
308 needed in order to implement the transition smoothly as possible. The 1st decision that the GTC is going
309 to be asked to make today is to withhold 1 trial judge position from the election and approve utilizing that
310 position in the family court. The reason we are asking for GTC to support that is the BC received a report
311 and you have to remember that new family court has been up and running about 6 or 7 months since
312 October of last year. The family court judge has been providing us statistics on the number of cases he's
313 hearing, the number of new cases that are being filed. When we looked at the family court judges case
314 load and looked at the number of cases that were in the judicial system as a whole, a lot of the cases
315 that are being in the judicial system right now are in family court. As we are continuing to be in cost
316 containment we didn't want to add another judge position to the budget there fore, we are asking GTC to
317 withhold and not elect one of the trial judges and to allow for that judge position to be in family court
318 because that is where most of the cases are at, at this point. We also made that decision, the BC was
319 asked to make that decision because we're looking futuristically at the case load of the family court and
320 its totality. Right now, the family court is hearing cases, child support cases, child custody cases here in
321 Oneida, from Brown county and Outagamie county and we are anticipating also getting the cases from
322 Milwaukee and also the child protective board and Wes martin. I think he spoke at the judiciary adoption
323 in January 2013, looking at taking on Indian child welfare cases. The child protective board is pushing for
324 that so looking futuristically at what the family court is going to be handling that is also another reason for
325 our request. Very briefly, here is a snap shot on the family court filings and hearings, the report that we
326 received from Judge Collins. In September 2013 he had 56 new filings and 2 hearings held, 58 new

327 filings, 55 hearings, 47 new filings in November 2013 and 31 hearings and you can go on from there. As
 328 you can see, it has been increasing for the most part in April of 2014. He had 60 new filings with 53
 329 hearings that month and we have one judge hearing those cases. We thought we'd break down the
 330 information a little bit further and show you exactly, I'm sorry this is not big enough for all you to see, if
 331 you have binoculars, that'd be wonderful. What it says is if you start on the red on the upper left paternity
 332 is 28% of his cases, custody and placement is 29%, divorce is 7%, child support is 10% and contempt is
 333 23% and custodianship is 3% within the family court. Again, the tribal court case load, not the family
 334 court side, but the appeals commission side, the breakdown of cases is 87 active cases for trial court and
 335 8 active cases for appellate court. Most of the cases certainly in that room are tribal debt and
 336 garnishments so, again, on the green part it says tribal debt 59% garnishment, 37% workers comp is 1%
 337 of caseload and other is 3%. The second issue that we'll be talking to GTC about tonight is the
 338 compensation of judges. When the GTC adopted the judiciary law there was a provision within the law
 339 that states compensation for judges shall be initially established by the passage of a resolution by the
 340 Oneida GTC, future compensation shall be in accordance with the tribal budget process. So basically
 341 what that means is that you all get to establish the initial compensation for the judges and that all the
 342 compensation for the judges will continue to be in the budget process for future years so you will only
 343 see it once. As such, the team, the personnel team requested that the Human Resources Department
 344 perform a compensation analysis for judges just like they do for any other positions within the tribal
 345 organization. They get the information on the qualifications and they go out and do an assessment. You'll
 346 find that recommendation from HRD on page 40. Basically HRD went out and researched what other
 347 tribal court judges get paid, they also went and researched what local municipalities and county judges
 348 get paid and from that analysis they came up with a figure which is in your packet as well on page 40. So
 349 basically full time judges range from 50,000 – 80,000, chief judges 57,000 – 90,000 part time appellate
 350 judges based on 29 hours per week is 45,000. As you can see the judiciary team has been working hard
 351 and the next steps we want to complete the budget for fy 15 which will occur again in August. We need
 352 to discuss the election of judges for the 2014 general elections yet and we hope to open the door to the
 353 new judiciary in November 2014. Here are the requested actions, but we still need to talk about 1.a. how
 354 do you want to proceed? Because I am out of time.

355
 356 Greg Matson: Go into discussion.

357
 358 Melinda Danforth: This is why 15 minutes isn't enough.

359
 360 Greg Matson: We can go into discussion, Vince.

361
 362 Vince DeLaRosa: Thank you, Mr. Chair. Melinda, I wonder if you can respond to, I know I pointed this at
 363 the LOC level and I don't recall where we went with this. One of the things that people need to be aware
 364 of and think about might not be able to do within the next year but, we should do it soon. The idea on
 365 your behalf as it relates to your resources, who is prosecuting on your behalf. I think you need to think
 366 that one through. Usually, a court system will have, as an anchor, on behalf of the people's resources.
 367 There will be some sort of an enforcement, a district attorney, an attorney general, you name it. I think
 368 that is critically important. I did point that out. I don't recall where our discussions went around that
 369 particular issue but you know, within the next year or so, I think you guys will want to insist that on your
 370 behalf there is someone prosecuting any offenses against your treasurer or whatever it may be. You
 371 might want to think about that in the future fyi.

372
 373 Melinda Danforth: That issue has been brought up by the LOC, as a matter of fact, my office drafted the
 374 legislative enforcement ordinance which would give that mechanism which would require prosecutor but
 375 since we've been kind of been in cost containment the last couple of years we have to figure how we can
 376 free up some resources in order to fund that kind of a position for the GTC on behalf of the thing, but we
 377 wanted to do it creatively so one of the things that the LOC and 5 of the member of the BC are on the
 378 LOC was to create possibly an administrative hearing body that would consolidate some of the hearing
 379 bodies in the tribe as a whole so there is a possibility we'd be able to free up some money from there.
 380 Again, that takes time, it takes policy and it takes the ability to consolidate those entities that would fall
 381 under that category.

383 Greg Matson: Madam Treasurer.

384
 385 Tina Danforth: General Tribal Council I would like to clarify something for everybody's consideration.
 386 Withholding a judge because of cost containment for hire is inaccurate. As the Treasurer for the last 6
 387 years, any GTC mandate that has been ordered and directed of the BC, especially from a financial
 388 standpoint has been taken care of. There was no reason to withhold a judge position of cost
 389 containment, that is inaccurate and I did tell my peers that at the time they took action. I did not vote in
 390 favor of withholding a judge position because of cost containment or any financial matters. GTC comes
 391 first. Mandates comes first. We will fund them.

392
 393 Melinda Danforth: Mr. Chairman, I guess I'd like to clarify. It wasn't an excuse to withhold the judge, it
 394 was the fact that we looked at the data from what the court was giving us and we saw that the workload
 395 was in family court so recognizing that the tribe is in cost containment and respecting the fact that we
 396 needed to save dollars, we made that decision to try save GTC and the tribe dollars so that we didn't
 397 have to go forward with judges in the trial court area and we wanted to reallocate those resources into
 398 the family court. It wasn't an excuse, it was an actual thought out thing, where we wanted to base our
 399 decision off of data and actually try not to spend additional resources so that would free up money for
 400 other areas within the tribe.

401
 402 Tina Danforth: Your clarification is contradictory because you said cost containment twice, we did not
 403 withhold the election of a judge because of finances, because of cost containment or any other
 404 consideration. Like I said, GTC is the governing body and they direct us, the BC to act accordingly. \\
 405

406 Greg Matson: Thank you, both. Loretta, at the microphone.

407
 408 Loretta Metoxen: Mr. Chairman and BC and Melinda, thank you for that update. I'm in complete
 409 concurrence with that stuff but I have a question for you. Is there a challenge on the election roster for
 410 any of the judges? And if so, how did the BC handle that ?

411
 412 Melinda Danforth: That is the last item that we wanted to speak to. I was asking Greg how he wants to
 413 handle this because we have some decisions to make on either asking GTC to withhold the one judge
 414 also compensation and that would be the last discussion. If we can, I don't know Greg, how do you want
 415 to do this, do you want to just try to go in order to decide on the withholding then save the discussion for
 416 last on the qualifications?

417
 418 Greg Matson: If we address all 3 at the ends, we can have that discussion.

419
 420 Loretta Metoxen: Then I may have some more questions, it depends on what that report is. Thank you.

421
 422 Melinda Danforth: The last discussion that we need to have is, so this is all great news and we've been
 423 doing well so far but with any large project of this nature there is going to be a tendency to over sigh on
 424 an issue and unfortunately, we do have an over sight on one issue. That is the qualifications for the
 425 judges. I don't have it on the presentation. The BC met this morning on an emergency basis to try to
 426 address the issue. I will try to explain the issue and then because it becomes very convoluted and very
 427 complex but at the end we have a solution and I hope GTC will be amenable to that.

428
 429 Greg Matson: Time.

430
 431 Melinda Danforth: I know that is what I mean, do we have time or not.

432
 433 Greg Matson: There again, if we can move towards the ability for discussion on this 3rd item with the new
 434 time set then we can do that and give you 3 minutes.

435
 436 Melinda Danforth: Is that ok with you guys, 3 minutes? No, yes? Yes? Thank you.

437
 438 Greg Matson: Thank you.

439
 440 Melinda Danforth: Basically, in January 7, 2013 when the GTC passed the judiciary they also passed the
 441 qualifications for judges and at that time the qualifications for chief judges, and we're going to call them
 442 non chief judges, so chief judges are chief judges appellate court, chief judge of trial court and also the
 443 non-chief judges would be the trial court judges, they are not chief judges. Basically the GTC approved 2
 444 sets of qualifications. They said that for chief judges you have to meet all of these qualifications, you
 445 have to either have a Juris doctorate degree, a master's degree and you have to have bachelor's degree,
 446 it didn't matter, in any kind of field. And also 3 years of experience. For the non-chief judges it was Juris
 447 doctorate degree, a master's degree and a bachelor's degree and the GTC laid out a whole entire field
 448 of degrees that would have to, a bachelor's degree in one of the following fields and it lists out criminal
 449 justice, education, political science, human rights, journalism, legal studies, etc. But at the time GTC was
 450 in discussion of January 2013 they also added provisions as you seen in the presentation off the floor.
 451 They added in a degree in family law which you can't go get a family law degree in any accredited
 452 institution, they added a number of other degrees. So basically, there were 2 sets of qualifications when
 453 you passed the law in January 2013. What had transpired when our team, our judiciary team was looking
 454 at the qualifications it was thought the GTC was intending that those bachelor's degree fields would
 455 apply also for the chief judges. In March of this past year, the BC took emergency action, which they
 456 have the right to do under the legislative procedures act, we have a right to change laws based on an
 457 emergency basis and the qualifications of judges were changed to include those specific bachelor
 458 degree for chief judges positions. When that occurred, the candidates went to go apply and after that, in
 459 April the candidates went and applied to be a judge, this is the position I'm running for. And
 460 unfortunately, the information that was in the candidates packet that the election board had sent out had
 461 incorrect information on the qualifications for judges. At that time as well, we were going through the
 462 process these last couple of weeks as well because we did receive a challenge. The election board did
 463 receive a challenge from an applicant that thought they were qualified based upon GTC's motion in
 464 January 2013. Therefore, the BC, the LRO, my staff, parts of the judiciary team that were responsible for
 465 legislation went back and looked through all the documents. They went through the GTC meeting
 466 minutes, line by line. They went through the LOC meetings to look at the intent. They went through all the
 467 record to say what is exactly it is the intent of the GTC. At that time, the GTC intent was that there were 2
 468 sets of qualifications that were distinctly different for chief judges and non-chief judges. The March 26,
 469 2014 action by the BC was nullified this morning by the BC. However, because it would potentially,
 470 negatively impact affect the applicants and the candidates that had applied and those who may have
 471 applied, it is the recommendation that we motion to withdraw from this election all of the judges positions
 472 and that they be rescheduled to a new special election. That would be fair to all the applicants, it would
 473 be fair to the GTC and it unfortunately it is a mistake and an oversight, we'll take responsibility for that.
 474
 475 Greg Matson: Thank you, Melinda.
 476
 477 Loretta Metoxen: Mr. Chairman, I move that recommendation.
 478
 479 Greg Matson: We're going to have some discussion on that as well. Loretta, your motion is to support the
 480 special election?
 481
 482 Loretta Metoxen: Pardon?
 483
 484 Greg Matson: Your motion is to recognize what Melinda is proposing and that is to hold a special
 485 election?
 486
 487 Loretta Metoxen: Yaw<ko, and there is a second right behind me here.
 488
 489 Greg Matson: We have a motion by Loretta, supported by Don McLester. Discussion, Vince.
 490
 491 Vince DelaRosa: Loretta and all due respect Mr. McLester and Melinda, we talked about this earlier
 492 Melinda. We really could just reopen the application process. We could simply just do that. That is all
 493 we'd have to do is just because we have a course that is already set. All we have to do is just reopen the

494 application process. I would suggest, that is an easier course but I'll throw it back to you and we can talk
 495 here.
 496
 497 Greg Matson: We have a motion with support, still in discussion. Corinne.
 498
 499 Corinne Robelia-Zhuckkahosee: My privileged question is, will that affect the process of, what do you
 500 call that before, you go through the primary?
 501
 502 Melinda Danforth: No, it will not affect the primary because the judges did not have to go through the
 503 primary.
 504
 505 Corinne Robelia-Zhuckkahosee: Oh, ok.
 506
 507 Melinda Danforth: Thank you.
 508
 509 Greg Matson: There is a privileged question, Sharon House; can you get to the microphone, Sharon?
 510
 511 Sharon House: Good afternoon, has anyone asked for any other ideas how to deal with this? With all
 512 due respect, or was it just the council?
 513
 514 Melinda Danforth: It was just the council in discussion this morning.
 515
 516 Sharon House: It is my understanding that was a chief justice position that was in question? Is that
 517 correct?
 518
 519 Melinda Danforth: Yes.
 520
 521 Sharon House: And it was the trial judge's chief judge? Is that correct?
 522
 523 Melinda Danforth: It would be the chief judges all together.
 524
 525 Sharon House: Was anyone else denied?
 526
 527 Melinda Danforth: I'm not sure about that.
 528
 529 Greg Matson: That's where we're not sure if there would have been other applicants or not.
 530
 531 Sharon House: Would you ask who the election board if it was denied, they are sitting there right? Was
 532 somebody else denied, with all due respect? The suggestion is no matter what she says, just kidding, is
 533 to just do it for that position then instead of a whole new election for everyone. To open up the
 534 application s for that position because how much does it cost for an election?
 535
 536 Greg Matson: That is what we're talking about, where Vince's recommendation was to open that up.
 537
 538 Sharon House: I would recommend, with all due respect, dealing with just the chief judges position
 539 because we have 4 weeks approximately. Please answer.
 540
 541 Lisa Liggins: There were 5 denials for eligibility, total. 1 for chief judicial judge and the rest were non chief
 542 judges. Does that answer the question? Ok, thank you.
 543
 544 Greg Matson: Thank you. We have a motion with support and a call for the question.
 545
 546 Tina Danforth: Mr. Chairman, can you clarify the motion because it was hard to read it as she was saying
 547 and I didn't know that was going to be the motion so I would have wrote more notes. I'm not really sure
 548 what I'm voting on right now.
 549