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ONEIDA TRIBAL JUDICIAL SYSTEM
APPELLATE COURT

Michael T. Debraska, Leah Sue Dodge, Franklin
Cornelius, John G. Orié, Bradley Graham, Appellants
v.
Oneida Business Committee, Oneida Election Board,
Oneida Law Office, Respondents

Case No.: 14-AC-012

Date: November 10, 2014

APPELLANTS' REBUTTAL TO RESPONDENTS' BRIEF

The Respondents' Brief starts off its Argument by saying:

This is a challenge to the Judiciary Election.

Actually, the Appellants' action is a challenge to the unjust discrepancy between the standards by which General Tribal Council (GTC) intended for the election of the Oneida Tribal Judiciary to be conducted during the 2014 General Election, which would have included the Southeastern Oneida Tribal Services (SEOTS) polling site in Milwaukee, as opposed to the way in which the Respondents intended to conduct the Special Election of the Judiciary on August 23, 2014, which would have unnecessarily and unfairly excluded the SEOTS polling site.

The Appellants' action is based on the Oneida Tribal Constitution's intent as affirmed by BC Resolution 03-13-02-O, *Milwaukee Polling Site* [Exhibit A], which states:

[T]he Oneida Constitution reflects an intent to promote the widest possible participation of Oneida people in their governance, and... the use of [the SEOTS] polling site is likely to increase participation in tribal elections [and] an approved facility in compliance with the Oneida Election Law, 2.8-0, Section B, located in Milwaukee, Wisconsin, is hereby designated as a second polling site for Oneida triennial elections, beginning with the July, 2002, election[.]

GTC defended utilizing the SEOTS polling site for elections which affect the governance of the Oneida people by a majority vote at the October 27, 2013, GTC Meeting in rejecting a petition filed by Trust/Enrollment Chair Carole Liggins and signed by members of the Election Board which called for a "Resolution for the Dissolution of the second Polling site for [2014] triannual [*sic*] election to be on the next GTC Mtg. agenda, Semiannual or Special" [Exhibit B].

Instead of eliminating the SEOTS polling site as petitioned, the GTC Action Report for the October 27, 2013, GTC Meeting [Exhibit C] shows that GTC took the following action:

Motion by Madelyn Genskow to allow the voting process in Milwaukee to continue, seconded by Mike Debraska. Motion approved by a show of hands.

GTC's clear intent was for the election of the Judiciary to be conducted in accordance with the conduct of the 2014 General Election, as evidenced by GTC Resolution 01-07-13-B, *Adoption of the Judiciary Law* [Exhibit D], which stated that the election of the Judiciary would take place during the

2014 General Election that would include the SEOTS polling site per GTC's adoption of the October 27, 2013, motion.

The Respondents' official affirmation of the Tribal Constitution's intent, the intent expressed by GTC in its insistence on including the SEOTS polling site in the 2014 General Election, and the intent expressed by GTC to include the Judiciary election in the 2014 General Election in its adoption of the Judiciary Law, all stand in stark contrast to the arbitrary and capricious decision of the Respondents to unnecessarily and unjustly exclude the SEOTS polling site from the delayed Judiciary election.

The withdrawal of the Judiciary election from the 2014 General Election and its delay to a Special Election was demonstrably due to Respondents' actions as admitted by Oneida Business Committee (OBC) Council member (now OBC Vice-Chair) Melinda J. Danforth in the draft Transcript of June 16, 2014, GTC Meeting [Exhibit E; Page 9, Lines 464-473]:

Therefore, the BC, the LRO, my staff, parts of the judiciary team that were responsible for legislation went back and looked through all the documents. ...At that time, the GTC intent was that there were 2 sets of qualifications that were distinctly different for chief judges and non-chief judges. The March 26, 2014 action by the BC was nullified this morning by the BC. However, because it would potentially, negatively impact affect the applicants and the candidates that had applied and those who may have applied, it is the recommendation that we motion to withdraw from this election all of the judges positions and that they be rescheduled to a new special election. That would be fair to all the applicants, it would be fair to the GTC and it unfortunately it is a mistake and an oversight, we'll take responsibility for that."

Unfortunately, the Respondents' desire to be "fair" did not extend to the way in which they planned to conduct the Judiciary election after GTC agreed to allow its delay in that, by excluding the SEOTS polling site, the Special Election scheduled for August 23, 2014, would not have conformed to the standards of the 2014 General Election, which GTC had a reasonable expectation of due to the fact that there was no mention by the Respondents at the June 16, 2014 GTC Special Meeting that it was their intent to exclude the SEOTS polling site from the delayed Judiciary election.

Regardless of what challenges are outlined in the Election Law, the Oneida Tribal Judicial System (OTJS) has jurisdiction to hear cases regarding the Respondents' violation of the Constitution's intent by voluntarily, unnecessarily, and unjustly disenfranchising Tribe members with regard to an election that GTC directed the Respondents to include in the 2014 General Election which included utilization of the SEOTS polling site.

The Respondents' OBC Resolution 08-28-14-A, *Authorizing an Exception to Conducting the Special Election to Elect Judges for new Judiciary To Include Polling Places in Both Oneida and Milwaukee* [Exhibit F] claims the ability to make a "one-time exception to the conduct of the Special Election [to] include polling sites in Oneida and Milwaukee[.]"

The Respondents are essentially arguing that the intent of the Constitution and the GTC Resolution to include the SEOTS polling site in the election of the Judiciary is somehow subordinate to the ability of the Respondents to arbitrarily and capriciously exclude the SEOTS polling site from an

election which involves the governance of the Oneida people as long as there is nothing in the Election Law that specifically requires them to act otherwise.

Appellants also argue that the Respondents' own official recognition of the Constitutional intent compels them to act faithfully and consistently with that intent to the degree that doing so is practicable, as does the GTC Resolution which included the SEOTS polling site in the Judiciary election, and that BC Resolution 08-28-14-A demonstrated that the inclusion of the SEOTS polling site was in fact reasonable.

The Respondents have not demonstrated that there was any distinguishable burden which prevented them from including the SEOTS polling site in the Judiciary election, nor that any harm would result from doing so, nor that there are any Tribal laws which required them to exclude the SEOTS polling site from the Special Election of the Judiciary, nor from any other Tribal election for that matter.

If any such laws did exist it would be within the jurisdiction of the OTJS to overturn such laws, just as it is within the jurisdiction of the OTJS to act with regard to the central question of this case:

Given the Respondents' official recognition of the importance of including the SEOTS polling site in order to facilitate the Tribal Constitution's intent and the conformity of the utilization of the SEOTS polling site to the Oneida Election Law, plus the undisputed fact that all Tribal elections involve the governance of the Oneida people, **why** would the Respondents **ever** opt to exclude the SEOTS polling site from **any** election involving the governance of the Oneida people if not for arbitrary and capricious reasons, especially an election in which it was the express intent of GTC to include the SEOTS polling site through the adoption of GTC Resolution 01-07-13-B and GTC's rejection of a petition to exclude the SEOTS polling site from the 2014 General Election?

Notably, the Election Law, even after being amended in 2008 and 2010, says nothing regarding the SEOTS polling site despite the twelve year existence of BC Resolution 03-13-02-O authorizing the inclusion of the SEOTS polling site in Tribal elections, and no legislation nor amendments regarding the Election Board's policies of including the SEOTS polling site have been forwarded to GTC by Respondents in keeping with Oneida Election Law, 2.2-2, which says:

Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

Respondents state on page 4 of their Brief:

The Trial Court went on to distinguish the Petitioner's claim from the Oneida Election Law recognizing section 2.12 section B as the Business Committee's authority for setting Special Elections.

However, "the Business Committee's authority for setting Special Elections" is not absolute as recently demonstrated by the Respondents being required to comply with the Tribal Constitution and to allow GTC to determine at the October 26, 2014, GTC Meeting if or when to set the date for a Special Election to address an OBC vacancy.

Chief Counsel Jo Anne House stated in her September 15, 2014, Opinion:

Based on the litigation regarding the Special Election for the Judiciary positions, and consistent with electing Oneida Business Committee members, it is recommended that if a Special Election is called that polling places be scheduled on the Reservation as well as in Milwaukee.

Appellants argue that the election of the Judiciary is of equal importance to the election of an OBC Council member with regard to the governance of the Oneida people, and it is the assertion of the Appellants that consideration of the inclusion of the SEOTS polling site for a Special Election of OBC as acknowledged by Chief Counsel Jo Anne House should have been extended by the Respondents to any Special Election for the Judiciary, as was the original intent of GTC in adopting GTC Resolution 01-07-13-B, as well as to all Tribal elections since they all involve the governance of the Oneida people.

Moreover, there is nothing in 2.12, Section B of the Election Law regarding the ability of OBC to exclude the SEOTS polling site from Special Elections nor the basis to the Respondents' claim regarding their ability to arbitrarily and capriciously exclude the SEOTS polling site solely on their interpretation of BC Resolution 03-13-02-O which by now should have been presented to GTC for adoption in keeping with 2.2-2.

What could motivate the Respondents to keep the permanent inclusion of the SEOTS polling site in all Tribal elections in limbo other than their desire to be able to exclude that polling site arbitrarily and capriciously for political reasons, or perhaps their shared intention to try to eliminate the SEOTS polling site as was futilely advocated by members of the Trust/Enrollment Committee and the Election Board?

As for the Respondents' argument that the Petitioners/Appellants did not include "a complete copy of the Rule/Ordinance in question...in the Petition for a declaratory ruling," Appellants do so now by including a complete copy of the Oneida Election Law with this Rebuttal [Exhibit G].

The Respondents also state on page 4:

...the disenfranchisement issue [was] resolved in the decision. The issue of a Milwaukee Polling site for all General Elections and Judicial Elections may be moot as the new Judiciary terms are tri-annual [*sic*], i.e., at three (3) or six (6) years.

The Respondents meant 'triennial' (once every three years, as opposed to 'triannual,' three times per year). Nevertheless their argument has been demonstrated to be faulty by the recent OBC vacancy which may or may not result in a Special Election, as might any vacancies occurring in the Judiciary.

For the Trial Court to find that there was "no disenfranchisement" when the Respondents arbitrarily and capriciously excluded the SEOTS polling site from the Judiciary election delayed by the Respondents' own actions, despite the intent expressed in GTC's rejection of the petition to permanently dissolve the GTC polling site plus GTC's adoption of GTC Resolution 01-07-13-B and despite the Respondents' own assessment that the SEOTS polling site "is likely to increase participation...in elections" in keeping with the Tribal Constitution[']s intent to "promote the widest possible participation of Oneida people in their governance," would be laughable, if it weren't so treacherous and treasonous against the supreme governing body of the Oneida Tribe of Indians of Wisconsin.

The Respondents' October 24, 2014, Brief states on page 4:

The proper vehicle to consider the adoption of the Milwaukee polling site for all elections including Special Elections is by present [*sic*] the issue to the Oneida Legislative reference office to consider amending the Oneida Election Law or by presentation of a petition to the GTC. Under the Oneida Election Law §2.2-2, the Law may be amended by the BC or the GTC. Amendments or actions brought by the Election Board are presented to the BC for adoption or the BC can forward to the GTC for adoption.

First, a petition would not have been able to achieve a Stay on the Judiciary election. Secondly, on Thursday, August 28, 2014, the Appellants did submit a petition with 68 signatures [Exhibit H] to the OBC Secretary's office, which has been accepted by the Respondents [Exhibit I], with the intention that:

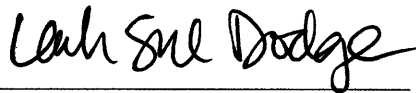
...all Tribal elections include the SEOTS polling site, including the inaugural Judiciary Election as was GTC's intent by voting to include the Judiciary in the 2014 General Election[.]

Yet, the Respondents have failed to act on the Appellants' petition by voluntarily adopting or proposing amendments to the Election Law to permanently include the SEOTS polling site in all elections given the fact that all elections impact the governance of Oneida people.

That is one of the reasons why Appellants have not rescinded this case from the Appellate Court, and why they hereby reiterate their request that the Appellate Court issue a Declaratory Ruling regarding the inclusion of the SEOTS polling site in all Tribal elections in keeping with the Respondents' official assessment in BC Resolution 03-13-02-O that:

"[T]he Oneida Constitution reflects an intent to promote the widest possible participation of Oneida people in their governance, and... the use of [the SEOTS] polling site is likely to increase participation in the elections [and] that an approved facility in compliance with the Oneida Election Law, 2.8-0, Section B, located in Milwaukee, Wisconsin, is hereby designated as a second polling site[.]"

Signed this 10th day of November, 2014,



Leah Sue Dodge, on behalf of co-Appellants
Michael T. Debraska, Franklin Cornelius,
John G. Orie, and Bradley Graham
PO Box 95
Oneida, WI 54155
920-321-8133

All Appellants can be contacted via Leah Sue Dodge, PO Box 95, Oneida WI 54155

Oneida Tribe of Indians of Wisconsin

BUSINESS COMMITTEE



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



EXHIBIT A Page 1 of 3



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.

P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040

Resolution # 3-13-02-O Milwaukee Polling Site

- 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; 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 Constitution reflects an intent to promote the widest possible participation of Oneida people in their governance; and
- WHEREAS,** there is a large community of Oneida members located in the Milwaukee area, which constitutes the largest Oneida community outside of the Green Bay area; and
- WHEREAS,** members of the Oneida community in Milwaukee have sought the establishment of a polling site in Milwaukee; and
- WHEREAS,** there is an Oneida tribal facility located in Milwaukee, the Southeastern Oneida Tribal Services ("SEOTS") Building, which qualifies as a polling site under the Oneida Election Law; and
- WHEREAS,** Oneida members serving as local police in the Milwaukee area have offered their services at the polls; and
- WHEREAS,** the use of such polling site is likely to increase participation in tribal elections;

NOW THEREFORE BE IT RESOLVED: that an approved facility in compliance with the Oneida Election Law, 2.8-0, Section B, located in Milwaukee, Wisconsin, is hereby designated as a second polling site for Oneida triennial elections, beginning with the July, 2002, election;

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Page 2 of 3

Resolution 3-13-02-O
Page 2

BE IT FURTHER RESOLVED: that the Oneida Police Chief is hereby authorized and directed to provide two (2) Oneida Police Officers for the Milwaukee polling site in order to provide the requisite police presence at the polling site required by the Oneida Election Law, at the July, 2002 elections, and for future triennial elections;

BE IT FURTHER RESOLVED, that votes shall be tabulated at the location where the votes were cast and the Election Board shall arrange for the video taping of the vote tallying at the polling locations;

BE IT FURTHER RESOLVED: that the sum of Fifteen Thousand Dollars (\$15,000.00) is hereby appropriated from the fiscal year 2002 General Fund, to cover the costs of providing the additional personnel needed at the site, and their expenses, such expenditures to be made at the direction of the Election Board Chairman; and

BE IT FURTHER RESOLVED: that the Election Board Chairman and the Election Board official designated to serve at the Milwaukee polling site shall arrange a code providing for the secure telephonic or fax transmission of the Milwaukee count for release as preliminary returns at the time the reservation polling site count is released.

NOW THEREFORE BE IT FINALLY RESOLVED: that the Oneida Election Board will work cooperatively with the Southeastern Oneida Tribal Services (SEOTS) Board to determine the location of the Milwaukee polling site.

Certification

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. 8 members were present at a meeting duly called, noticed and held on the 13th day of March, 2002; that the foregoing resolution was duly adopted at such meeting by a vote of 7 members for; 0 members against; and 0 members not voting; and that said resolution has not been rescinded or amended in any way.


Julie Barton, Tribal Secretary
Oneida Business Committee

EXHIBIT A

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Statement of Effect

Resolution Establishing a Milwaukee Polling Site, Providing for a Police Presence, Appropriating Funds for Personnel Cost, and Providing for Transmission of Milwaukee Results

Summary

This resolution is designed for the purpose of facilitating the casting of votes by members of the Oneida community in the Milwaukee area by establishing a tribal polling site in that area, beginning with the July, 2002 election. The resolution (a) designates a facility in Milwaukee be chosen in accordance with the Oneida Election Law, as a second polling site for the July, 2002 and future Oneida elections; (b) authorizes and directs Oneida Police Officer presence as required under the Oneida Election Law; (c) appropriates \$15,000 to cover the cost of election day staffing at the Milwaukee site; (d) and directs Election Board officials to devise a simple code to assure that preliminary Milwaukee returns reported by telephone or fax are authentic.

A public hearing was held on November 15, 2001. Revisions added since the public hearing include: votes shall be tabulated at the location where the votes were cast; and the Election Board shall arrange for the video taping of the vote tallying at the polling locations. Both the Tribal Election Board and Director of SEOTS have reviewed the revised resolution.

Conclusion

There are no legal issues which would preclude adoption of this Resolution.

Page 180 of 360
 5/20 8/18
 Signatures
 (Number of Signatures)

PETITION FORM

NAME OF PETITIONER: Carole Liggins

PURPOSE: Resolution for the Dissolution of the
 second Polling Site for triannual elections
 to be on the next GTC mtg agenda. Semiannual or Special

DATE SUBMITTED TO ONEIDA TRIBAL SECRETARY: _____

TOTAL = 10

Please Print Clearly - Use Full Given Name

Printed Name	Address	D.O.B.	Enrollment #	Signature
1. Evelyn John <u>John</u>	<u>De Rosa</u> N 6396 City H Rd W			<u>Evelyn John</u>
2. Carol L. Paus	N 6267 <u>N 6267 Onondaga</u>			<u>Carol L. Paus</u>
3. Pearl M. Lester	<u>8810 N County Rd Oneida</u>			<u>Pearl M. Lester</u>
4. Tina Rossen	<u>W 280 Lefrimary Rd</u>			<u>Tina Rossen</u>
5. _____	_____			_____
6. June Carmelina	<u>N 5445 Bay Rd De Rosa</u>			<u>June Carmelina</u>
7. Mioshi Castora	<u>4164 Hillcrest</u>			<u>Mioshi Castora</u>
8. Della Adams	<u>1104 Hillcrest</u>			<u>Della Adams</u>
9. Marie Adams	<u>301 Ashpit Rd</u>			<u>Marie Adams</u>
10. Donna Bizevski	<u>1012 74 Towh Rd De Rosa</u>			<u>Donna Bizevski</u>
11. Pixie DeGrand	<u>1520 Belle Plaine Dr Green Bay WI</u>			<u>Pixie DeGrand</u>
12. _____	_____			_____
13. _____	_____			_____
14. _____	_____			_____
15. _____	_____			_____

10
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RECEIVED BY THE OFFICE
 OF TRIBAL SECRETARY
 ONEIDA BUSINESS COMMITTEE

MAY 20 2013

ONEIDA TRIBE OF
 INDIANS OF WISCONSIN

INITIALS

RECEIVED

MAY 20 2013

Oneida Enrollment Dept.

MEMORANDUM

EXHIBIT C
Page 1 of 2

TO: Oneida Business Committee
FROM: Patty Hoeft, Tribal Secretary
DATE: October 27, 2013
RE: Action report for Oct. 27, 2013

The Oneida General Tribal Council met Sunday, October, 2013 in a duly called meeting with 1,676 registered Tribal members in attendance at 1:00 p.m. The meeting was at the Radisson Hotel and Conference Center. Listed below are the actions taken at the meeting:

1. Oneida Veterans Color Guards posting of the colors

2. Opening and announcements

Chairman Ed Delgado called meeting to order at 1:00 p.m. with 1,676 members in attendance

3. Adoption of the agenda

Motion by Madelyn Genskow to adopt the agenda with [the Brian Doxtator petition], item 5.B.2 moved to the top of the agenda to assure that it will be dealt with today and not tabled, seconded by Kathy Mauritz. Motion approved by a show of hands.

4. Tabled Business

a. Oneida 2013 semi-annual report

Motion by David Jordan to take item 4.a off the table, seconded by Vince DelaRosa. Motion approved by a show of hands. Motion by Judy Jourdan to accept the 2013 Semi-Annual and the Corporate reports, seconded by Kathy Mauritz. Motion approved by a show of hands.

5. New Business

A. Employment Questions

- 1. 2012 referendum question:** Should all salaried employees punch in or out to prevent fraudulent claims of work hours?

Motion by Madelyn Genskow to support all salaried employees punch in or out to prevent fraudulent claims of work hours, seconded by Patti Stueber. Motion failed by a show of hands.

- 2. 2012 referendum question:** Should all managers work under performance contracts, including supervisors, managers, directors, assistant managers/directors, senior management?

Motion by Madelyn Genskow to direct the BC to come back in 90 days with a recommendation to the GTC with a policy regarding performance contracts including disciplinary actions, seconded by Charlene Kasee. Motion failed by a show of hands.

Motion by Brandon Stevens to decline the referendum question, seconded by Larry Smith. Motion carried by a show of hands.

- 3. Petitioner Cathy L. Metoxen:** All supervisory, management, entry-level jobs employed by enrolled Oneidas (petition submitted 03/1/13)

Motion by Patty Hoeft to delete item 5.A.3 from the agenda, seconded by David Jordan. Motion approved by a show of hands.

B. SEOTS Questions

- 1. Petitioner Carole Liggins:** Resolution for the "Dissolution of the second polling site" for tri-annual elections to be on the next GTC meeting agenda, semi-annual or special (*petition submitted 5/20/13*)

Motion by Madelyn Genskow to allow the voting process in Milwaukee to continue, seconded by Mike Debraska. Motion approved by a show of hands.

- 2. Petitioner Brian Doxtator:** The GTC decision on 7-31-04 to "...Direct the BC to provide assistance to the SEOTS program to locate long term facilities for SEOTS program whether rental or purchase." Included rental or purchase, not new construction. This petition is being submitted for GTC to review and possibly amend, modify or overturn the 7-31-04 GTC decision. The petitioners request GTC to convene in executive session so that the OBC disclose to the GTC information and data relative to the construction of a SEOTS building in Milwaukee. The included the 3 bid process, compliance with Indian Preference Law, consultant contract, developer contract (and the consultant/developer relationship if any), extent of SEOTS board input/participation and financing, current enrollment statistics and projected enrollment statistics for 5 years, 10 years, and 15 years within Milwaukee County and all border counties to Milwaukee county (*petition submitted 5/20/13*)

Motion by Brian Doxtator to continue with the 2004 directive to continue on with the SEOTS facility, seconded by Carmen Flores. Motion approved by a show of hands.

6. Adjournment

Motion by Brian Doxtator to adjourn at 3:53 p.m., seconded by Loretta V. Metoxen. Motion approved by a show of hands.

EXHIBIT C

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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.



EXHIBIT D Page 1 of 3



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.

GTC Resolution 01-07-13-B Adoption of the Judiciary 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,** Oneida Business Committee Resolution 5-02-90 established the Administrative Procedures Act, Oneida Tribal Judicial System and the authority to establish regulations to enhance the Oneida judicial decision making process, and
- WHEREAS,** on August 19, 1991, the Oneida General Tribal Council adopted Resolution 8-19-91-A and an addendum to the Resolution, which reauthorized the adoption of the Administrative Procedures Act and the creation of the Oneida Tribal Judicial System, and
- WHEREAS,** the Oneida Tribal Judicial System has, through Tribal law, been given additional authority to hear and adjudicate additional civil and regulatory matters, and
- WHEREAS,** a restructure of the Oneida Tribal Judicial System, with an Oneida Judiciary comprised of a Trial Court and a Court of Appeals would better serve the needs of the Oneida people and expand the exercise of the Tribe's sovereign authority, and
- WHEREAS,** the proposed Judiciary would grant the Trial Court and Court of Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or peacemaking when appropriate, and
- WHEREAS,** public hearings were held for the proposed Judiciary on May 12, 2009 and July 29, 2010 in accordance with the Administrative Procedures Act, and
- WHEREAS,** informational materials on the proposed Judiciary were posted on the Tribal website, mailed to Oneida households and printed in the Kalihwisaks; and nine (9) community meetings were held on the proposed Judiciary in 2010 and 2011, and
- WHEREAS,** a work group established by the Oneida General Tribal Council created additional amendments to the proposed Judiciary, and
- WHEREAS,** on January 2, 2012, the Oneida General Tribal Council deferred the proposed Judiciary for revision to include law school training as a qualification for all Judges.

NOW THEREFORE BE IT RESOLVED, that the attached Judiciary law is hereby adopted and shall be effective January 2, 2014.

BE IT FURTHER RESOLVED, that there shall be no further elections for Judicial Officers of the Oneida Tribal Judicial System.

BE IT FURTHER RESOLVED, that the Oneida Business Committee is hereby directed to implement a Transition Plan to include the following:

- (1) *Elections.* The elections for Judges shall be held during the 2014 general election. The election

EXHIBIT D Page 2 of 3

process shall follow the Oneida Election Law and the Judges shall be elected to the Judiciary as follows:

- (a) The candidate for Chief Judge of the Trial Court with the highest number of votes shall be elected to a term of six (6) years.
 - (b) The one (1) candidate for Trial Court Judge with the highest number of votes shall be elected to a term of six (6) years.
 - (c) The two (2) candidates for Trial Court Judge with the next highest number of votes shall each be elected to terms of three (3) years.
 - (d) The candidate for Chief Judge of the Court of Appeals with the highest number of votes shall be elected to a term of six (6) years.
 - (e) The two (2) candidates for Court of Appeals Judge with the highest number of votes shall each be elected to terms of six (6) years.
 - (f) The two (2) candidates for Court of Appeals Judge with the next highest number of votes shall each be elected to terms of three (3) years.
 - (g) In the event of any tie vote, the provisions of the Oneida Election Law for resolving a tie vote shall determine the outcome.
- (2) *Swearing in.* Judges shall be sworn into office during the 2014 Oneida Business Committee inauguration and in accordance with the Oneida Election Law.
- (3) *Training and Education.* Judges shall complete sixty (60) hours of judicial training and education by November 1, 2014. Prior judicial training and education shall count toward this requirement.
- (4) *Court Opening.* The Judiciary shall accept cases that are filed with the Trial Court and the Court of Appeals beginning on November 1, 2014.
- (a) Beginning November 1, 2014, the Oneida Tribal Judicial System shall no longer accept new filings and shall notify all parties to any case on its docket that the Oneida Tribal Judicial System will be dissolved on March 1, 2015. The Oneida Tribal Judicial System shall also notify the parties that:
 - (i) They have the option of having their case transferred to the Judiciary;
 - (ii) If they do not request a transfer to the Judiciary, their case will remain with the Oneida Tribal Judicial System until it is concluded or until March 1, 2015, whichever occurs first; and
 - (iii) If their case is not concluded as of March 1, 2015, the case will be dismissed without prejudice and the parties may re-file in the Trial Court or Court of Appeals, as is appropriate and if the Court is authorized to hear the case.
 - (b) *Transfer of Cases.*
 - (i) If the parties disagree as to whether their case should be transferred, the Oneida Tribal Judicial System shall determine where the case will be heard.
 - (ii) All cases transferred to the Judiciary shall be heard in accordance with the Judiciary's applicable rules of procedure.
 - (iii) Cases transferred in accordance with this Resolution shall not be subject to any transfer or filing fees.
- (5) *No Dual Office Holding.* It is impermissible for an individual to hold simultaneously the offices of Judicial Officer of the Oneida Tribal Judicial System and Judge or Chief Judge. An Oneida Tribal Judicial Officer who runs for and is elected to the office of Judge or Chief Judge, shall, prior to swearing in to such new office, resign from the Oneida Tribal Judicial System. Pending case assignments of the resigning Judicial Officer(s) shall be re-assigned to another Judicial Officer of the Oneida Tribal Judicial System.
- (a) The Oneida Tribal Judicial System may appoint pro tem judges to the Oneida Tribal Judicial System during the Transition Period, as necessary to conduct business.
 - (b) Prior to the 2014 general election, the Oneida Tribal Judicial System shall select and identify one (1) remaining Judicial Officer to take over the duties of the Chief Judicial Officer as necessary, as of the date that Judges are sworn in to office and lasting until the Oneida Tribal Judicial System is finally dissolved.
 - (i) If no Judicial Officer is able or willing to remain and to take on such responsibilities, then the Oneida Tribal Judicial System shall identify one (1) pro tem judge to serve in such capacity.
- (6) *Dissolution of the Oneida Tribal Judicial System.* The Oneida Tribal Judicial System shall be dissolved March 1, 2015.

EXHIBIT D Page 3 of 3

(a) The Oneida Tribal Judicial System shall make a good faith effort to conclude the cases that remain on its docket prior to its dissolution.

(b) Any cases not concluded by the Oneida Tribal Judicial System on or before March 1, 2015 shall be dismissed without prejudice and may be re-filed in the Trial Court or Court of Appeals, as is appropriate and if the Court is authorized to hear the case. Individuals who re-file a case in accordance with this Resolution shall not be subject to any filing fees.

(7) *Oneida Tribal Judicial System Personnel.* Oneida Tribal Judicial System personnel who are not Judicial Officers shall carry over into the Judiciary and shall simultaneously work for both entities during the Transition Period and then for the Judiciary after the Transition Period has concluded.

BE IT FURTHER RESOLVED, that the following canons, procedures, codes and amendments shall be adopted in accordance with the time lines set out below:

(1) By July 2013, adoption of Judicial Canons of Ethics by the Oneida Business Committee.

(2) By January 2014, adoption by the Oneida Business Committee or the General Tribal Council of the following:

(a) Rules of Civil Procedure;

(b) Rules of Appellate Procedure;

(c) Small Claims Procedure;

(d) Evidence Code; and

(e) Administrative procedures for the Judiciary. After the initial adoption of these administrative procedures, the Judiciary shall be responsible for maintaining and amending them.

(3) By January 2014, adoption by the Oneida Business Committee of amendments to Tribal laws, except for the Removal Law and Oneida Election Law, to substitute references to the Oneida Appeals Commission or Oneida Tribal Judicial System with terms consistent with the Judiciary. This may be accomplished in one resolution which identifies all the necessary amendments.

(4) By July 2014, adoption by the General Tribal Council of amendments to the following laws to substitute references to the Oneida Appeals Commission or Oneida Tribal Judicial System with terms consistent with the Judiciary:

(a) Removal Law; and

(b) Oneida Election Law.

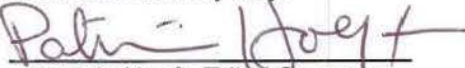
BE IT FURTHER RESOLVED, that sections 1.9-1 through 1.1-17 of the Administrative Procedures Act and the addendum to the Administrative Procedures Act adopted August 19, 1991 are hereby repealed, effective March 1, 2015.

BE IT FURTHER RESOLVED, that beginning with the Fiscal Year 2014 budget, the expenses associated with the implementation and maintenance of the Judiciary shall be included in the Tribe's annual budget.

BE IT FINALLY RESOLVED, that the Oneida Business Committee is authorized to make such modifications and additions to the above Transition Plan as it deems necessary to implement the Judiciary in accordance with the proposed timelines, and shall subsequently file a report at the annual or semi-annual meeting of the General Tribal Council that occurs after the modifications or additions are made.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council, in session with a quorum of 2,032 members present, at a meeting duly called, noticed and held on the 7th day of January, 2013; that the forgoing resolution was duly adopted at such meeting by a two-thirds vote of those present and that said resolution has not been rescinded or amended in any way.


Patricia Hoeft, Tribal Secretary
Oneida Business Committee

application process. I would suggest that is an easier course but I'll throw it back to you and we can talk here.

Greg Matson: We have a motion with support, still in discussion. Corinne.

Corinne Robella-Zhuckkahoese: My privileged question is, will that affect the process of, what do you call that before, you go through the primary?

Melinda Danforth: No, it will not affect the primary because the judges did not have to go through the primary.

Corinne Robella-Zhuckkahoese: Oh, ok.

Melinda Danforth: Thank you.

Greg Matson: There is a privileged question, Sharon House; can you get to the microphone, Sharon?

Sharon House: Good afternoon, has anyone asked for any other ideas how to deal with this? With all due respect, or was it just the council?

Melinda Danforth: It was just the council in discussion this morning.

Sharon House: It is my understanding that was a chief justice position that was in question? Is that correct?

Melinda Danforth: Yes.

Sharon House: And it was the trial judge's chief judge? Is that correct?

Melinda Danforth: It would be the chief judges all together.

Sharon House: Was anyone else denied?

Melinda Danforth: I'm not sure about that.

Greg Matson: That's where we're not sure if there would have been other applicants or not.

Sharon House: Would you ask who the election board if it was denied, they are sitting there right? Was somebody else denied, with all due respect? The suggestion is no matter what she says, just kidding, is to just do it for that position then instead of a whole new election for everyone. To open up the applications for that position because how much does it cost for an election?

Greg Matson: That is what we're talking about, where Vince's recommendation was to open that up.

Sharon House: I would recommend, with all due respect, dealing with just the chief judges position because we have 4 weeks approximately. Please answer.

Lisa Liggins: There were 5 denials for eligibility, total. 1 for chief judicial judge and the rest were non chief judges. Does that answer the question? Ok, thank you.

Greg Matson: Thank you. We have a motion with support and a call for the question.

Tina Danforth: Mr. Chairman, can you clarify the motion because it was hard to read it as she was saying and I didn't know that was going to be the motion so I would have wrote more notes. I'm not really sure what I'm voting on right now.

Melinda Danforth: Basically, in January 7, 2013 when the GTC passed the judiciary they also passed the qualifications for judges and at that time the qualifications for chief judges, and we're going to call them non chief judges, so chief judges are chief judges appellate court, chief judge of trial court and also the non chief judges would be the trial court judges, they are not chief judges. Basically the GTC approved 2 sets of qualifications. They said that for chief judges you have to meet all of these qualifications, you have to either have a Juris doctorate degree, a master's degree and you have to have bachelor's degree, it didn't matter, in any kind of field. And also 3 years of experience. For the non-chief judges it was Juris doctorate degree, a master's degree and a bachelor's degree, and the GTC laid out a whole entire field of degrees that would have to, a bachelor's degree in one of the following fields and it lists out criminal justice, education, political science, human rights, journalism, legal studies, etc. But at the time GTC was in discussion of January 2013 they also added provisions as you seen in the presentation off the floor. They added in a degree in family law which you can't go get a family law degree in any accredited institution, they added a number of other degrees. So basically, there were 2 sets of qualifications when you passed the law in January 2013. What had transpired when our team, our judiciary team was looking at the qualifications it was thought the GTC was intending that those bachelor's degree fields would apply also for the chief judges. In March of this past year, the BC took emergency action, which they have the right to do under the legislative procedures act, we have a right to change laws based on an emergency basis and the qualifications of judges were changed to include those specific bachelor degree for chief judges positions. When that occurred, the candidates went to go apply and after that, in April the candidates went and applied to be a judge, this is the position I'm running for. And unfortunately, the information that was in the candidates packet that the election board had sent out had incorrect information on the qualifications for judges. At that time as well, we were going through the process these last couple of weeks as well because we did receive a challenge. The election board did receive a challenge from an applicant that thought they were qualified based upon GTC's motion in January 2013. Therefore, the BC, the LRO, my staff, parts of the judiciary team that were responsible for legislation went back and looked through all the documents. They went through the GTC meeting minutes, line by line. They went through the LOC meetings to look at the intent. They went through all the record to say what is exactly it is the intent of the GTC. At that time, the GTC intent was that there were 2 sets of qualifications that were distinctly different for chief judges and non-chief judges. The March 26, 2014 action by the BC was nullified this morning by the BC. However, because it would potentially negatively impact affect the applicants and the candidates that had applied and those who may have applied, it is the recommendation that we motion to withdraw from this election all of the judges positions and that they be rescheduled to a new special election. That would be fair to all the applicants, it would be fair to the GTC and it unfortunately it is a mistake and an oversight, we'll take responsibility for that.

Greg Matson: Thank you, Melinda.

Loretta Metoxen: Mr. Chairman, I move that recommendation.

Greg Matson: We're going to have some discussion on that as well. Loretta, your motion is to support the special election?

Loretta Metoxen: Pardon?

Greg Matson: Your motion is to recognize what Melinda is proposing and that is to hold a special election?

Loretta Metoxen: Yaw-ko and there is a second right behind me here.

Greg Matson: We have a motion by Loretta, supported by Don McLester. Discussion, Vince.

Vince DeLaRosa: Loretta and all due respect Mr. McLester and Melinda, we talked about this earlier Melinda. We really could just reopen the application process. We could simply just do that. That is all 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

EXHIBIT E

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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.

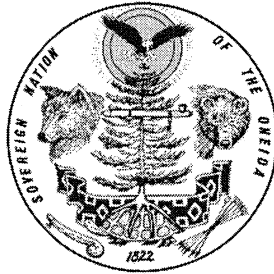


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UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

BC Resolution 08-28-14-A

Authorizing an Exception to Conducting the Special Election to Elect Judges for new Judiciary To Include Polling Places in Both Oneida and Milwaukee

- 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 General Tribal Council as adopted an Election Ordinance which identifies General Elections to be held every three years and Special Elections that would be held in the intervening years; and
- WHEREAS,** Resolution # BC-03-13-02-O designated Milwaukee as a second polling site for Oneida Triennial (General Elections) only, not for Special Elections; and
- WHEREAS,** the General Tribal Council adopted Resolution # GTC-01-07-13-B which requires the new Judiciary to officially open as of November 1, 2014 and requires the newly elected Judges to have sixty (60) hours of training; and
- WHEREAS,** GTC action at the June 16, 2014 meeting, by two-thirds vote, amended the directives in Resolution # GTC-01-07-13-B by withdrawing the election of the Judges from the 2014 general election and rescheduled it to a Special Election; and
- WHEREAS,** a request for an Injunction to stop the election of judges on August 23, 2014 was filed on August 20, 2014, denied by the Trial Court of the Oneida Appeals Commission, but granted on appeal on August 22, 2014 by the Appellate Court of the Oneida Appeals Commission; and
- WHEREAS,** the Appellate Court is not expediting the appeal and has scheduled the appellants to submit a brief in support of their complaint by September 22, 2014 after which the Tribe will be scheduled to submit response briefs thus causing an undue delay to the implementation of the Judiciary as directed by the General Tribal Council; and
- WHEREAS,** further delay of elections for the new Judiciary until the Appellate Court of the Oneida Appeals Commission rules on the merits of the case would make it impossible to train new Judges and have them ready by the November 1, 2014 deadline; and
- WHEREAS,** it is the intent of the Oneida Business Committee to support the Judiciary and be proactive by approving an exception to the rule that Special Elections are held only in Oneida and that a Milwaukee polling site be included.

NOW THEREFORE BE IT RESOLVED, that the Oneida Business Committee finds that having the election take place in Milwaukee is not required by Resolution # BC-03-13-02-O nor the GTC action that took place on June 16, 2014;

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee finds that to maintain the transition timelines set forth in resolution # GTC-01-07-13-B, as amended by the two-thirds vote of the General Tribal Council on June 16, 2014, a Special Election is called for the Judiciary and a one-time exception to the conduct of the Special Election shall include polling sites in Oneida and Milwaukee.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 9 members were present at a meeting duly called, noticed and held on the 28th day of August, 2014; that the forgoing resolution was duly adopted at such meeting by a vote of 8 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Tribal Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."

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**Oneida Tribe of Indians of Wisconsin
BUSINESS COMMITTEE**



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



**EXHIBIT G
Page 1 of 16**



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.

**P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040**

**GTC Resolution 01-04-10-A
*Amendments to the Oneida Election 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, at the 2006 General Tribal Council (GTC) Annual Meeting, the GTC directed the Legislative Operating Committee and the Election Board to work together to create amendments to the Oneida Election Law (Law); and

WHEREAS, proposed amendments to the Law were presented to the GTC on October 11, 2008 and the GTC approved the amendments that pertained to conducting primary elections and deferred the rest of the amendments to the July 11, 2009 GTC meeting; and

WHEREAS, at the July 11, 2009 GTC meeting the Election Law amendments were deferred to the August 1, 2009 GTC meeting; at the August 1, 2009 GTC meeting, the meeting was recessed until October 31, 2009 before the Election Law amendments were addressed; and at the October 31, 2009 GTC meeting the Election Law amendments were tabled; and

WHEREAS, the Legislative Operating Committee met with the Election Board to develop the attached proposed amendments to ensure that elections are conducted in a fair and orderly manner; and

WHEREAS, significant amendments include changes in the composition of an *elected* Election Board, Oneida Business Committee discretion in filling Board positions between elections, allowing the Election Board to declare the next highest vote recipient the winner when the highest vote recipient declines the position, provisions for challenging an election, and limiting candidates for Oneida Business Committee and Oneida Appeals Commission positions to run for *one* specific office.

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Page Two
Resolution 01-04-10-A

NOW THEREFORE BE IT RESOLVED, that the attached amendments to the Oneida Election Law are hereby adopted and shall become effective January 4, 2010.

BE IT FINALLY RESOLVED, in order to decrease the number of permanent positions on the Election Board from twelve (12) to nine (9), as specified in the amendments, at each of the first three (3) elections that are held after the adoption of this resolution, there shall be three (3) positions for the Election Board on the ballot.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council in session with a quorum of 1,117 members present at a meeting duly called, noticed, and held on the 4th day of January, 2010; that the foregoing resolution was duly adopted at such meeting by a majority vote of those present and that said resolution has not been rescinded or amended in any way.



Patricia Hoelt, Tribal Secretary
Oneida Business Committee

EXHIBIT G

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Chapter 2

ONEIDA ELECTION LAW

OnΛyoteʔa·ká· Tho Ni· Yót Tsiʔ Λyethiyataláko Tsiʔ KayanlÁhsla

People of the Standing Stone how it is we will appoint them the kind of laws we have

2.1. Purpose and Policy	2.7. Notice of Polling Places
2.2. Adoption, Amendment, Repeal	2.8. Registration of Voters
2.3. Definitions	2.9. Election Process
2.4. Election Board	2.10. Closing Polls and Securing Ballots
2.5. Candidate Eligibility	2.11. Election Outcome and Ties
2.6. Selection of Candidates	2.12. Elections

2.1. Purpose and Policy

2.1-1. It is the policy of the Tribe that this law shall govern the procedures for the conduct of orderly Tribal elections, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

2.1-2. This law defines the duties and responsibilities of the Election Board members and other persons employed by the Oneida Tribe in the conduct of elections. It is intended to govern all procedures used in the election process.

2.2. Adoption, Amendment, Repeal

2.2-1. This law was adopted by the Oneida General Tribal Council by resolution # GTC 7-06-98-A and amended by resolution #GTC-01-04-10- A. The amendments adopted by resolution #GTC-01-04-10-A shall be effective January 4, 2010.

2.2-2. This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Business Committee or the Oneida General Tribal Council. Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

2.2-3. 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.

2.2-4. Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law.

2.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

2.3. Definitions

2.3-1. 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.

2.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

2.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

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- 2.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding Tribal holidays.
- 2.3-5. "Campaigning" shall mean all efforts designed to influence Tribal members to support or reject a particular Tribal candidate including, without limitation, advertising, rallying, public speaking, or other communications with Tribal members.
- 2.3-6. "Candidate" shall mean a petitioner or nominee for an elected position whose name is placed on the ballot by the Election Board after successful application.
- 2.3-7. "Clerk" shall mean the election official who identifies proper registration for the purpose of determining voter eligibility.
- 2.3-8. "Close of business" shall mean 4:30 p.m. Monday through Friday.
- 2.3-9. "Conflict of Interest" shall mean any interest, whether it be personal, financial, political or otherwise, in which a Tribal elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Tribe to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida Tribe, or as defined in any law or policy of the Tribe.
- 2.3-10. "Election" shall mean every primary and election.
- 2.3-11. "General election" shall mean the election held every three (3) years in July to elect the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the Business Committee and may include contests for elected boards, committees and commissions positions.
- 2.3-12. "Judge" shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.
- 2.3-13. "Lot drawing" shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.
- 2.3-14. "Oneida Police Officer" shall mean an enrolled member of the Oneida Tribe of Indians who is a police officer on any police force.
- 2.3-15. "Private property" shall mean any lot of land not owned by the Tribe, a residential dwelling or a privately owned business within the boundaries of the Reservation.
- 2.3-16. "Prominent locations" shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations.
- 2.3-17. "Qualified voter" shall mean an enrolled Tribal member who is 21 years of age or older.
- 2.3-18. "Rejected Ballots" shall mean those ballots which are rejected by the vote tabulating machine.
- 2.3-19. "Spoiled Ballot" shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.
- 2.3-20. "Teller" shall mean the election official in charge of collecting and storing of all ballots.
- 2.3-21. "Tribal newspaper" shall mean the Kalihwisaks, or any other newspaper operated by the Tribe for the benefit of transmitting news to Tribal members which is designated by the Election Board as a source for election related news.
- 2.3-22. "Tribe" means the Oneida Tribe of Indians of Wisconsin.

2.4. Election Board

Section A. Establishment, Composition and Election

- 2.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this law

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and Article III, Sections 2 and 3 of the Oneida Constitution.

2.4-2. The Election Board shall consist of nine (9) elected members. All members shall be elected to terms of three (3) years, not to exceed two (2) consecutive terms.

2.4-3. *Recusal.* An Election Board member shall recuse himself/herself from participating as an Election Board member in any pre-election, election day, or post-election activities while he or she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of interest.

2.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member who is removed from the Election Board shall be ineligible to serve on the Board for three (3) years from the time he or she is removed from the Election Board.

2.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.

2.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

2.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist with election day and pre-election activities.

2.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in the By-laws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and Secretary.

Section B. Duties of the Election Board

2.4-9. The Election Board shall have the following duties, along with other responsibilities listed throughout this law.

- (a) The Election Board shall be in charge of all registration and election procedures; and
- (b) Upon completion of an election, the Election Board shall make a final report on the election results as set out in this law.

Section C. Specific Duties of Officers and Election Board Members

2.4-10. Specific duties of the Chairperson and other Election Board members, in addition to being present at all Election Board meetings and assisting the handicapped through the voting process, are as set out herein:

- (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing body for applicants found to be ineligible in accordance with 2.5-6 in the event of an appeal; shall oversee the conduct of the election; shall dismiss the alternates and Oneida Enrollment Department personnel when their election day duties are complete; and shall post and report election results.
- (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.
- (c) Secretary: Shall keep a record of the meetings and make them available to the Tribal Secretary, other Election Board members and the public as required in the Open Records and Open Meetings Law.
- (d) Clerks: Shall implement the requirements of identifying and registering all voters and determining voter eligibility. Clerks shall work in conjunction with the Oneida Enrollment Department personnel in the registration process, and assist the Chairperson as directed in

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conducting the election. Clerks cannot be currently employed by the Oneida Enrollment Department.

(e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as determined by this law. Shall assist the Chairperson in conducting the election.

(f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between Tribal members and Election Board members, or any controversy regarding voter eligibility, the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.

Section D. Compensation Rates

2.4-11. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Business Committee. The Election Board shall have a budget, approved through the budgeting process of the Tribe.

2.4-12. The Oneida Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets.

2.5. Candidate Eligibility

Section A. Requirements

2.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-laws or other documents, all applicants shall meet the minimum requirements set out in this section in order to become a candidate.

2.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled Tribal member, as verified by membership rolls of the Tribe.
- (b) be a qualified voter on the day of the election.
- (c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through one (1) or more of the following:
 - (1) a valid Wisconsin driver's license;
 - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
 - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

2.5-3. No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

2.5-4. Applications and petitions where the applicant was not nominated during caucus shall be filed by presenting the information to the Tribal Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, within five (5) business days after the caucus. No mailed, internal Tribal mail delivery, faxed or other delivery method shall be accepted.

2.5-5. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Board's designated agent.

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Section B. Eligibility Review

2.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Oneida Appeals Commission on an accelerated schedule and in compliance with the Administrative Procedures Act.

2.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

- (a) Position for which they were considered
- (b) Qualification of the position and citation of the source. (Copies of source may be attached.)
- (c) A brief summary explaining why the applicant was found to be ineligible.
- (d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal Tribal mail, faxed or other delivery method will be accepted.

Section C. Campaign Financing

2.5-8. Contributions:

(a) Solicitation of Contributions by Candidates.

(1) Candidates shall only accept contributions from individuals who are members of the Tribe or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.

(2) Candidates shall not solicit or accept contributions in any Tribal office or business/facility.

(b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

2.5-9. Campaign Signs and Campaigning:

(a) Placement of campaign signs:

(1) Campaign signs shall not be posted or erected on any Tribal property except for private property with the owner/tenant's permission.

(2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.

(3) No campaign sign shall project beyond the property line into the public right of way.

(b) Removal of campaign signs. All campaign signs shall be removed within five (5) business days after an election.

(c) Employees of the Tribe shall not engage in campaigning for Tribal offices during work hours. Tribal employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

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(d) Enforcement. The Zoning Administrator shall cause to be removed any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreland Protection Law.

(e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

Section D. Candidate Withdrawal

2.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.

2.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.

2.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.

2.5-13. Candidates withdrawing by any method listed herein shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

2.5-14. *Candidate Withdrawal After Winning an Election.*

(a) In the event a candidate declines an office after winning an election, the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.6. Selection of Candidates

Section A. Setting of Caucus

2.6-1. The Election Board shall be responsible for calling a caucus before any election is held. The caucus for the general election shall be held at least ninety (90) calendar days prior to the election date. Caucuses for other elections shall be held at least forty-five (45) calendar days prior to the election date. In a general election year, caucuses shall be combined so that candidates for the Business Committee and elected boards, committees and commissions are nominated at the same caucus.

2.6-2. The procedures for the caucus shall be as follows:

(a) Candidates shall be nominated from the floor.

(b) Candidates present at the caucus will accept/decline their nomination at the caucus. Candidates nominated at the caucus, but not present to accept the nomination, shall be required to follow the petition process.

(c) Nominations shall consist of the following positions: Chairperson, Vice-Chairperson, Treasurer, Secretary, Council Member and other elected positions as required by by-laws or

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creating documents of a board, committee, or commission.

Section B. Petition

2.6-3. Any eligible Tribal member may petition to be placed on a ballot according to the following procedures:

- (a) Each petitioner, not nominated at caucus, shall file a petition containing endorsee's original signatures; photocopies shall not be accepted.
- (b) Petitioners shall use an official petition form as designated by this law which may be obtained in the Tribal Secretary's Office or from the mailing for that caucus.
- (c) The petition form shall consist of each endorsee's:
 - (1) printed name and address;
 - (2) date of birth;
 - (3) Oneida Tribal Enrollment Number; and
 - (4) signature.
- (d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as defined under this law.
- (e) Petitions shall be presented to the Tribal Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than prior to close of business five (5) business days after the caucus. The location to drop-off petitions shall be identified in the mailing identifying the caucus date.
- (f) The Tribal Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.
- (g) The Election Board shall have the Oneida Enrollment Department verify all signatures contained on the petition.

2.6-4. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

2.7. Notice of Polling Places

2.7-1. The Election Board shall post a notice in the prominent locations, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of Tribal businesses/facilities.

2.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

2.7-3. Except for a Special Election, notice for the election shall be mailed to all Tribal members, stating the time and place of the election and a sample of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The Oneida Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing.

2.7-4. Notice of the election shall be placed in the Tribal newspaper.

2.8. Registration of Voters

Section A. Requirements

2.8-1. *Registration of Voters.* All enrolled members of the Tribe, who are twenty-one (21) years of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the Oneida

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Tribal Constitution.

Section B. Identification of Voters

2.8-2. All voters must present one of the following picture identifications in order to be able to vote:

- (a) Tribal I.D.
- (b) Drivers License.
- (c) Other I.D. with name and photo.

Section C. Registration Procedures

2.8-3. Voters shall physically register, on the day of the election, at the polls.

2.8-4. Oneida Enrollment Department personnel shall be responsible for verifying Tribal enrollment. Conduct of Oneida Enrollment Department personnel is governed by the Election Officials during the voting period.

2.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration Form containing the voter's following information:

- (a) name and maiden name (if any);
- (b) current address;
- (c) date of birth; and
- (d) enrollment number.

Section D. Qualification/Verification of Voter Eligibility

2.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote, the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with the Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned and shall make such decisions from the facts available, whether the applicant is, in fact, qualified/verifiable under the Oneida Tribal Constitution, Article III Section 2, to vote in tribal elections.

2.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of the voter shall be written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they desire to challenge the decision made by the Election Officials. The Election Board shall make a final decision, within five (5) business days of receiving the appeal and shall report this decision in the final report sent to the Oneida Business Committee.

2.9. Election Process

Section A. Polling Places and Times

2.9-1. In accordance with Article III, Section 4 of the Tribal Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special Elections shall be set in accordance with 2.12-6.

2.9-2. Elections shall be held in an Oneida Tribal facility(s) as determined by the Election Board.

2.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line to

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vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four (4) Tribal members verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

2.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results posted.

2.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such that there is an area with at least two sides and a back enclosure.

2.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.

2.9-7. No one causing a disturbance shall be allowed in the voting area.

2.9-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

Section B. Ballot Box

2.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

Section C. Spoiled Ballots

2.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

2.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials and placed in an envelope marked as "Spoiled Ballots."

2.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

Section D. Rejected Ballots

2.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Officials to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 2.9-10 through 2.9-12.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."

2.10. Tabulating and Securing Ballots

Section A. Machine Counted Ballots

2.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

2.10-2. At least six (6) Election Board members shall sign the election totals, which shall include the

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tape signed by the Tribal members before the polls were opened per section 2.9-3(a).

Section B. Manually Counted Ballots

2.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.

2.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.

2.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.

2.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

Section C. Securing Ballots

2.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

2.11. Election Outcome and Ties

Section A. Election Results Announcement

2.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

"The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"

2.11-2. The Election Board shall post, in the prominent locations, and publish in the Tribal newspaper, the tentative results of an election.

Section B. Tie

2.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

2.11-4. For Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount. For all other positions, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing,

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which shall be open to the public.

(a) The Election Board shall notify each of the tied candidates and the public of the date, time, and place of the drawing at least one (1) business day before the drawing. Notice to the tied candidates shall be in writing. Notice to the public shall be posted by the Election Board in the prominent locations.

(b) On the date and at the time and place the drawing was noticed, the Election Board Chairperson shall clearly write the name of each tied candidate on separate pieces of paper in front of any witnesses present. The pieces of paper shall be the same, or approximately the same, color, size, and type. The papers shall be folded in half and placed in a container selected by the Election Board Chairperson.

(c) The Election Board Chairperson shall designate an uninterested party to draw a name from the container. The candidate whose name is drawn from the container first shall be declared the winner. An Election Board member other than the Chairperson shall remove the remaining pieces of paper from the container and show them to the witnesses present.

Section C. Recount Procedures

2.11-5. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater.

A candidate requests a recount by hand delivering a written request to the Tribal Secretary's Office, or noticed designated agent, within five (5) business days after the election. Requests shall be limited to one (1) request per candidate. The Tribal Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

2.11-6. The Election Board shall respond by the close of business on the fifth (5th) day after the request regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.

2.11-7. All recounts shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.

2.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

2.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

2.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior to

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using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or Election Board.

Section D. Challenges and Declaration of Results

2.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Oneida Appeals Commission within ten (10) calendar days after the election. The Oneida Appeals Commission shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Oneida Appeals Commission shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

(b) If the Oneida Appeals Commission invalidates the election results, a Special Election shall be ordered by the Commission for the office(s) affected to be held on a date set by the Commission for as soon as the Election Law allows for a Special Election.

2.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Tribal Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting.

(b) Total votes cast for each candidate by subsection of the ballot.

(c) List of any ties and final results of those ties, including the method of resolution.

(d) List of candidates elected and position elected to.

(e) Number of spoiled ballots.

(f) Cost of the election, including the compensation paid to each Election Board member.

2.11-13. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

2.11-14. Candidates elected to the Business Committee shall resign from any salaried position effective prior to taking a Business Committee oath of office

2.11-15. Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee.

(a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.11-16. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

2.12. Elections

Section A. Primary Elections; Business Committee

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2.12-1. When a primary is required under 2.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

2.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-large council member positions.

(a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.

(b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.

(c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

2.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary.

2.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 2.5-11 and 2.5-12 shall be followed, including the requirement to print a notice in the Tribal newspaper if time lines allow.

Section B. Special Elections

2.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

2.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Oneida Appeals Commission in connection with an election challenge.

2.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Tribal newspaper not less than ten (10) calendar days prior to the Special Election.

2.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

Section C. Referendums

2.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.

(a) Referendum elections in which a majority of the qualified voters who cast votes shall be binding on the Business Committee to present the issue for action/decision at General Tribal Council.

(b) Referendum requests may appear on the next called for election.

(c) Referendum questions are to be presented to the Tribal Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the Tribe or general membership.

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Section D. Initiation of Special Elections

2.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

2.12-11. Special Election may be requested by a Tribal member to the Business Committee or General Tribal Council.

2.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.

End.

Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

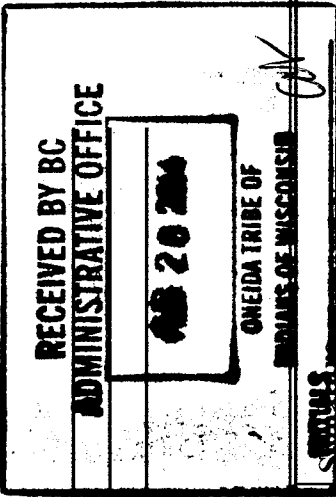
Amended- October 11, 2008 (General Tribal Council Meeting)

Amended-GTC-01-04-10-A

NAME OF PETITIONER: Leah Sue Dodge, Michael T. Debraska, Franklin L. Cornelius, Bradley Graham

PURPOSE: SEE TEXT BELOW ON THIS PAGE

DATE SUBMITTED TO ONEIDA TRIBAL SECRETARY: _____



Printed Name	Address	D.O.B.	Enrollment #
1. FRANK CORNELIUS	116126 COUNTY ROAD E De Pere	03-15-33	0652
2. Eleanor Bailey	W 485 Hillside Dr. De Pere	5-8-39	183
3. Clyde Shenandore	W 628 County Road E De Pere	03-24-07 12/1/56	15011
4. David H Jordan	633 Fitch creek Rd De Pere	3-30-49	2946
5. Yvonne Cornelius	15629 Skyline Dr De Pere	4-16-35	4838
6. LEONARD CORNELIUS	15629 SKYLINE DR DE PERE	5-24-45	932
7. Benjamin Cornelius	W 1265 TIP Rd De Pere	08-31-57	757
8. JAMES L. STEVENS	N 5799 CTY. RD. E De Pere	12/20/44	5665
9. ANDREW A SOHN	W 2811 E E BOSEYMAN	2/9/34	2727
10. Ben John	P.O. Box 365, Oneida, WI	2/10/52	2733
11. MYRON SOHN	P.O. Box 351 ONEIDA WI	3-16-09	2821
12. Korraneh Antone	N 6021 County Rd H w. De Pere	1/25/73	0095
13. Michelle Ambrosius	N 10017 County Rd H De Pere WI 54115	4-25/63	16098
14. Gabriel Nicholas	11002 FARMER Rd	10-1-46	4019
15. Josephine Daebler	W 370 Hillside Dr. De Pere 54115		900

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For a GTC Meeting to be held in a timely manner on a Saturday or Sunday starting no later than 1 p.m. to allow for greater membership participation, and that GTC vote whether: (1) all Tribal elections include the SEOTS polling site, including the inaugural Judiciary Election as was GTC's intent by voting to include the Judiciary in the 2014 General Election; (2) to nullify any Judiciary Election that excludes the SEOTS polling site that may have occurred before the requested meeting is held; (3) a new Judiciary Caucus will be held & that due notice be made in Kalihwisaks & prominent places 10 days prior to that Caucus and the inaugural Judiciary Election; (4) to address other Tribal election issues.

Motion by Melinda J. Danforth to accept the Oneida Child Protective Board quarterly report, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

3. Anna John Nursing Home Commission – Carol Elm, Chairwoman

Motion by Melinda J. Danforth to accept the Anna John Nursing Home Commission quarterly report, seconded by Trish King. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

4. Oneida Nation Commission on Aging – Wes Martin Jr, Chairman

Motion by Melinda J. Danforth to accept the Oneida Nation Commission on Aging quarterly report, seconded by Jenny Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

EXHIBIT I

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X. Standing Committees

A. Legislative Operating Committee – Brandon Stevens, Chairman *(No Requested Business)*

B. Finance Committee – Treasurer Trish King, Chairwoman

1. Approve Finance Committee Minutes of September 5, 2014

Motion by Melinda J. Danforth to approve the Finance Committee meeting minutes of September 5, 2014, with the exception of agenda item VII.18., titled "ADD ON Plantscape, Inc.-Painted bark for Longhouse Project", being deferred to a work meeting of the Business Committee, seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

C. Community Development Planning Committee *(No Requested Business)*

D. Quality of Life *(No Requested Business)*

XI. General Tribal Council

A. Petitioners Leah Sue Dodge, Michael T. Debraska, Franklin L. Cornelius and Bradley Graham.: to hold a GTC Meeting to address various Tribal election issues.

Motion by Melinda J. Danforth to accept the verified petition submitted by: Leah Sue Dodge, Michael T. Debraska, Franklin L. Cornelius and Bradley Graham, seconded by Lisa Summers. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

Motion by Melinda J. Danforth to send the verified petition to Law, Finance, and Legislative Reference offices for the Legal, Financial and Legislative analyses to be completed, seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

Motion by Melinda J. Danforth to direct the Law, Finance and Legislative Reference offices submit the requested analyses to the Tribal Secretary's office within 45 days, and that a progress report be submitted in 30 days, seconded by Lisa Summers. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

Exhibit I

Page 2 of 2

XII. Unfinished Business

A. Update on reorganization of Environmental, Health & Safety Division, Division of Land Management and Housing

Sponsor: Butch Rentmeester/Pat Pelky

Excerpt from August 13, 2014: Motion by Vince DeLaRosa to defer update on reorganization of Environmental, Health & Safety Division, Division of Land Management and Housing to the new council for their consideration, seconded by Tina Danforth. Motion carried with one opposed

Motion by Lisa Summers to defer the Update on reorganization of Environmental, Health & Safety Division, Division of Land Management and Housing to a work meeting of the Business Committee scheduled for Thursday, September 25, seconded by Jenny Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

XIII. New Business/Requests

A. Approve activation of remaining \$92,000 of the \$280,000 from the approved FY2014 CIP budget for CIP #10-011 Oneida Golf Enterprise Remodel

Sponsor: Butch Rentmeester, Division Director

Motion by Melinda J. Danforth to approve the activation for of remaining \$92,000 of CIP #10-011 Oneida Golf Enterprise Remodel, seconded by Jenny Webster. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

B. Approve Election Board recommendation – Special Election Date of September 27, 2014

Sponsor: Lisa Summers, Tribal Secretary

Motion by Melinda J. Danforth to approve the Election Board recommendation for the Special Election date for the Judiciary of September 27, 2014, seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Melinda J. Danforth, Trish King, Lisa Summers, Fawn Billie, Brandon Stevens, Jenny Webster

Not Present: Ben Vieau, Tehassi Hill

XIV. Travel

A. Travel Reports (No Requested Business)

B. Travel Requests

1. Comprehensive Health – GE Centricity Health User Group conference & training – Palm Desert, CA Oct. 8-12, 2014

Sponsor: Debra Danforth/Dr. Vir, Division Director

Motion by Melinda J. Danforth to approve a procedural exception to cost containment and procedural exception to the travel policy to allow five instead of three, seconded by Brandon Stevens. Motion failed with four opposed:

JO ANNE HOUSE, PHD
CHIEF COUNSEL
JAMES R. BITTORF
DEPUTY CHIEF COUNSEL
REBECCA M. WEBSTER, PHD
SENIOR STAFF ATTORNEY

ONEIDA LAW OFFICE

N7210 SEMINARY ROAD
P.O. BOX 109
ONEIDA, WISCONSIN 54155

PATRICIA M. STEVENS GARVEY
CAROYL J. LONG
KELLY M. MCANDREWS
MICHELLE L. MAYS

(920) 869-4327


FAX (920) 869-4065

MEMORANDUM

Exhibit J

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TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel 

DATE: September 15, 2014

SUBJECT: Opinion – Filling a Vacancy on the Oneida Business Committee

You have requested a legal opinion regarding the filling of a vacancy on the Oneida Business Committee resulting after an election has been finalized and oath of office taken. Council Member Ben Vieau submitted a resignation from the Oneida Business Committee effective September 12, 2014 at the close of business. Chairwoman Cristina Danforth has requested a Special Oneida Business Committee to call a Special General Tribal Council meeting to fill the vacancy.

Applicable Law

The Constitution contains the following language in Article III, section 3.

The General Tribal Council may at any regular or special meeting fill any vacancies that occur on the Business Committee for the unexpired term.

Article III, Section 4, the Constitution contains the following language.

...The General Tribal Council shall enact necessary rules and regulations governing the election of tribal officials....

The General Tribal Council adopted the current Election Law in 1993, and the latest amendments by resolution # GTC-1-04-10-A. This law addresses calling elections, operating elections, and closure of elections. There is no rule or regulation regarding filling a vacancy on the Oneida Business Committee after an election has been concluded and during the course of a term of office.¹

The Oneida Business Committee is delegated Article IV authority under action taken by the General Tribal Council in 1969 and further identified in subsequent actions.² However, election

¹ Although the issue presented here is a vacancy resulting from a resignation and not a removal, the Removal Law was reviewed to determine if any guidance exists to fill a vacancy under this law. There is no direction in this law. It should be recommended to the Legislative Operating Committee that this be addressed and amendments presented for adoption by the General Tribal Council to avoid the questions raised in the event of a removal and how that vacancy would be filled.

² For example, see the Legislative Procedures Act (*formally the Administrative Procedures Act*) regarding adoption of laws, and Election Law regarding setting Special or Regular election dates.

or selection of Oneida Business Committee members is not in Article IV. Direction regarding filling vacancies resides in Article III. As a result, the Oneida Business Committee has not been delegated authority to address this matter, even to the extent of calling a Special Election to fill the vacancy.

Past General Tribal Council Actions

The General Tribal Council has addressed the issue of a vacancy on the Oneida Business Committee on several occasions, although no more recent than the 1980s. A review of those prior General Tribal Council actions back to 1969, when amendments to the Constitution were adopted, identifies the following actions of the General Tribal Council regarding filling vacancies on the Oneida Business Committee. Prior to 1969, the Executive Committee minutes and General Tribal Council minutes is rather sparse making it difficult to identify actions with any level of certainty.

1976-1978

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Between 1976 and 1978 there were a series of vacancies on the Oneida Business Committee. These vacancies were addressed in 1976, 1977 and then again in 1978 and are described below. I have used the minutes of the General Tribal Council or the Oneida Business Committee to identify the membership on the Oneida Business Committee where there is no other clear indicator of who filled the vacancy. I have underlined the vacancies discussed between the different ‘sets’ of Oneida Business Committee membership.

Oneida Business Committee identified on May 25, 1976 Minutes

Purcell Powless, Chair, Norbert Hill, Vice-Chair, Alma Webster, Treasurer, Amelia Cornelius, Secretary, and Council Members Rick Hill, Irene Moore, Joy Ninham, Ruth Baird, and Mervin Jordan.

- May 17, 1976: Motion to “hold Ruth Baird’s resignation in abeyance[.]” *Oneida Business Committee, Minutes, pg. 2.*³
- May 25, 1976: Motion to “consider a leave of absence from Council member Ruth Baird for an indefinite time[.]” *Oneida Business Committee, Minutes, pg. 1.*
- October 25, 1976: Motion to “accept the resignations of Peter Mervin Jordan from the Business Committee, O.T.D.C. and Nursing Home project superintendent[.]” *Oneida Business Committee, Minutes, pg. 2.*
- November 15, 1976: Motion to “accept Ruth Baird’s resignation from Oneida Business Committee[.]” *Oneida Business Committee, Minutes, page 2.*

³ During this time period many meetings began as General Tribal Council meetings but as a result of the lack of a quorum the Oneida Business Committee concluded the agenda or took action. Most often, that occurred immediately after identifying that a quorum did not exist. As a result, the minutes may identify that a General Tribal Council meeting began, but the action taken was that of the Oneida Business Committee. I have referred to the action as coming from either the Oneida Business Committee or the General Tribal Council minutes based on which entity was called to order at the time, even though the minutes appear to be a combination of both.

Based on a review of minutes of the Oneida Business Committee minutes in the time period between May 17, 1976 and January 1977, it is presumed that the vacancies being filled are for Peter Mervin Jordan, who resigned October 25, 1976, Ruth Baird, who resigned November 15, 1976, and Irene Moore. It is not clear when the vacancy for Irene Moore was declared.

- December 6, 1976: “Nominations for 3 vacant council members[.]” *Oneida Business Committee, Minutes, December 6, 1976.*
- January 8, 1977: excerpt from minutes of General Tribal Council. *General Tribal Council Minutes, January 8, 1977.*
 - “Loretta Metoxen moved to fill the vacant Business Committee terms as the next item of business.”
 - “Jerry Hill stated that [under] the Constitution and By-Laws [it is] the General Tribal Council fills unexpired terms of office.”
 - “Loretta Metoxen moved that a special election to fill the three (3) vacancies on the Oneida Business Committee take place today, Jan. 8, 1977, in the Oneida Nation Memorial Building gym by the previously prepared ballot with three clerks appointed, the election hours being 11:30 am til 4 p.m.”
 - “Jackie Thomas, Ann Skenandore, Sherman Thomas volunteered to be appointed to the election committee.”

Oneida Business Committee identified in Oneida Business Committee meeting minutes of January 17, 1977, and Special General Tribal Council meeting minutes of January 29, 1977
Purcell Powless, Chair, Norbert Hill, Vice-Chair, Alma Webster, Treasurer, Amelia Cornelius, Secretary, and Council Members Joy Ninham, Rick Hill, Wendall McLester, Robert Thomas, and Loretta Metoxen.

- March 7, 1977: Motion to “accept Alma Webster resignation [.]” *Oneida Business Committee Minutes, March 7, 1977, pg. 6.*
- March 7, 1977: Motion to “accept the resignation of Joy Ninham from the Oneida Business Committee[.]” *Oneida Business Committee Minutes, March 7, 1977, pg. 6.*
- March 21, 1977: excerpt from minutes of Oneida Business Committee. *Oneida Business Committee Minutes, March 21, 1977.*
 - “Wendell McLester moved to request secretary to get information to Trea. in regard to election and special election so they can be compensated per request of March 7, 77.”
 - “Norbert Hill moved to have nomination for vacant tribal positions tribal treasurer and member at the next regular meeting.”
 - “Amelia Cornelius moved to have a Special General Tribal Council meeting on April 16, 1977 at 9 am. to fill vacant positions.”
- April 16, 1977: excerpt from minutes of General Tribal Council. *General Tribal Council Minutes, April 16, 1977.*

- “Anna John present the Resolution 4-16-77-A for adoption which calls for the use of portions of the Election Ordinance and a election on the April 23, 1977. Second by Dale Webster.”⁴
- [Nominations were taken for the vacant position from the floor.]
- “The chairman explained that other candidates could get the signatures of 15 persons and still be on the ballot.”
- April 25, 1977: “Swearing in ceremony conducted by Mr. Manydeeds for Chester Smith, Jr. and Margaret Doxtator.” *Oneida Business Committee Minutes, April 25, 1977.*

Oneida Business Committee identified in Oneida Business Committee meeting minutes between April 25th and May 16th, 1977

Purcell Powless, Chair, Norbert Hill, Sr., Vice-Chair, Chester Smith, Treasurer, Amelia Cornelius, Secretary, and Council Members Rick Hill, Wendall McLester, Robert Thomas, Loretta Metoxen, and Margaret Doxtator.

Oneida Business Committee after July 1, 1978 General Election based on General Tribal Council minutes between August 19th and September 16th, 1978

Purcell Powless, Chair, Norbert Hill, Sr., Vice-Chair, Patricia Misikin, Secretary, Chester Smith, Treasurer, and Council Members Margaret Doxtator, Mark Powless, Edwin King, Sr., Myron Smith and Eugene Danforth.

- August 19, 1978: except from minutes of General Tribal Council. *General Tribal Council Minutes, August 19, 1978, no quorum.*
 - “Due to lack of quorum [the Chairman] suggested we have a caucus at the first regular meeting on September 5, 1978, to nominate people to fill Eugene Danforth’s position on the Business Committee.”
 - “Bob Thomas suggested we taken the person with the next highest ballot count to fill the vacancy. Suggestion was invalid because however or whatever route is chosen, we have to follow the regular election ordinance; i.e., nominate four people, set a time and date and vote by ballot. The election ordinance needs to be revised or amended for General Tribal Council adoption to provide for procedures when situations like this occur.”⁵
 - [Rescheduled special General Tribal Council meeting for September 16, 1978.]
- September 16, 1978: “Quorum of general membership was not present at 1:30 p.m. so it was suggested that the business be handled at the next regular meeting of the Business Committee on Monday, September 18, 1978.” *General Tribal Council Minutes, September 16, 1978, no quorum.*

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⁴ There are two versions of this resolution identified. One appears to be a draft document from the record which would delegate authority to the Oneida Business Committee to schedule special elections to fill vacancies. Subsequently a signed version of resolution # GTC-04-16-77-A was located. This resolution addressed the April 16, 1977 action specifically.

⁵ A review of the minutes of both the General Tribal Council and the Oneida Business Committee does not identify that these revisions have been presented or adopted. A review of prior versions of the Election Ordinance does not identify language that was considered to address the vacancy issue.

There is no identification in any minutes regarding how this was addressed. Based on the discussion in the minutes above, it is presumed that a caucus was held and a special election was scheduled.

Oneida Business Committee after based on Oneida Business Committee minutes of between October 3, 1978, and February 6, 1979

Purcell Powless, Chair, Norbert Hill, Sr., Vice-Chair, Patricia Misikin, Secretary, Chester Smith, Treasurer, and Council Members Margaret Doxtator, Mark Powless, Edwin King, Sr., Myron Smith and Loretta Metoxen.

1982

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There are no further vacancies identified on the Oneida Business Committee until 1982. In 1982, there are two sets of vacancies occurring. First, a vacancy occurred in June-July when a Council Member resigned. Second, vacancies occurred in October when four members of the Oneida Business Committee were removed from office.

Oneida Business Committee based on February 25, 1982 General Tribal Council minutes.

Gary Metoxen, Chair, Norbert S. Hill, Vice-Chair, Gordon McLester, Secretary, Wendell McLester, Treasurer, and Council Members Joy Ninham, Mark Powless, Tony Benson, Frank Cornelius, and Howard Cannon.

Joy Ninham was elected on the July 1981 General Elections based on the identification of members of the Oneida Business Committee in the minutes of the Oneida Business Committee and General Tribal Council. June 25, 1981, is the last set of minutes of the Oneida Business Committee or the General Tribal Council which references Joy Ninham as being on the Oneida Business Committee. In the July 1, 1982, Oneida Business Committee minutes Lloyd Powless is identified as a Council Member, presumably filling Joy Ninham's position. There is no record of how this took place.

I spoke with Bobbi Webster, Communications, Mark Ninham and Paul Ninham (Joy Ninham's sons) who confirm the resignation during that time frame. I also spoke with Lloyd Powless regarding this and he indicated that a special election was called to fill the vacancy for the remainder of the term. Finally, Records Management was able to locate August 2, 1982, Oneida Business Committee minutes which accepts the results of the special election in which Lloyd Powless was elected.

Oneida Business Committee based on August 8, 1982, Oneida Business Committee minutes.

Gary Metoxen, Chair, Norbert S. Hill, Vice-Chair, Gordon McLester, Secretary, Wendell McLester, Treasurer, and Council Members Lloyd Powless, Mark Powless, Tony Benson, Frank Cornelius, and Howard Cannon.

The General Tribal Council adopted resolution # GTC-10-02-82-A which suspended Oneida Business Committee members Gary Metoxen, Frank Cornelius, Wendell McLester, Howard Cannon, and Lloyd Powless. This resulted in a lack of a quorum for the Oneida Business Committee. The resolution further identified that "the Vice-Chairman will be in charge with the

assistance and consent of the other three (3) Business Committee members to continue with day-to-day business of the Tribe.” This set in place an interim Oneida Business Committee.

- October 23, 1982: Gary Metoxen, Wendell McLester, Frank Cornelius, Howard Cannon were removed from office. Excerpts from the meeting minutes regarding filling these vacancies below. *General Tribal Council Minutes, October 23, 1982.*
 - “Mark Powless stated that a process is set in place now and the things that were just suggested [regarding the employment policies of the Tribe] need to be heard but the process now should be the process for election to fill the vacant positions. A caucus date should be set.”
 - “Parliamentarian stated that the Acting Business Committee and the attorneys and herself did work on a process to do what needed to be done. Discussion on next procedures.”
 - “Bobbie Webster made a motion to delegate to the Business Committee the setting of the caucus for the vacancies on the Business Committee.”
 - “Lee McLester moved to recess until November 1, 1982 at 7:00 P.M. at the Sacred Heart Auditorium and finish the original agenda and to hold the Caucus.”
- November 1, 1982: “Bobbie Webster moved to go to the caucus and table the balance of the Agenda.” *General Tribal Council Minutes, November 1, 1982.*

Oneida Business Committee based on December 1, 1982 Oneida Business Committee minutes. Purcell Powless, Chair, Norbert Hill, Vice-Chair, Kathy Hughes, Treasurer, Gordon McLester, Secretary, and Council Members Lois Powless, Loretta Metoxen, Lloyd Powless, Tony Benson, and Mark Powless.

Exhibit J **Page 6 of 7** **Analysis**

There are no laws or regulations regarding how a vacancy on the Oneida Business Committee is filled. Although the General Tribal Council recognized this gap needed to be filled at the meeting of August 1978, the procedural gap was not corrected.

There were 5 occasions when vacancies occurred on the Oneida Business Committee. Four of the five occasions occurred as a result of resignations. The October 1982 vacancies were the result of a removal. The records are clear about how all the vacancies occurred and filled. Although, it is not clear how the special election to fill Joy Ninham’s vacancy occurring in 1982 was called – i.e. by the Oneida Business Committee or the General Tribal Council.

Where there is discussion on the record regarding filling a vacancy on the Oneida Business Committee the process has been consistent.

- Call a General Tribal Council meeting, regular or special
- Notify of the vacancy(-ies) resulting on the Oneida Business Committee
- Call a caucus to nominate candidates at the meeting and notify the members that petitions will be accepted as identified in the Election Law
- *Direct Oneida Business Committee to schedule a special election*
- Accept candidate petitions

- *Conduct special election*

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The Election Board is now a formal institution of the Tribe and does not need to be appointed at the meeting. Initially, the special elections were scheduled from the floor of the General Tribal Council meeting. However, later actions directed the Oneida Business Committee to schedule the special election. Since the Election Law identifies specific timelines for the conduct of an election including petition deadlines, it is consistent with the Oneida Business Committee approving a Special Election date recommended by the Election Board. This would accommodate not only the nomination/petition process, but also scheduling the voting machines and ordering the ballots.

I have also highlighted two additional steps which would be affected by the current Election Law. First, General Elections for Oneida Business Committee members now have a primary election. Second, General Elections have polling places on the Reservation as well as in Milwaukee.

Based on the litigation regarding the Special Election for the Judiciary positions, and consistent with electing Oneida Business Committee members, it is recommended that if a Special Election is called that polling places be scheduled on the Reservation as well as in Milwaukee. However, it is not entirely clear if a primary election should be held. The purpose of a primary election was to reduce the number of candidates to either the top two (officer positions) or 15 candidates for the five Council member positions. This would equal either three candidates for a single Council member position, or 15 candidates for a single Council member position. The legislative history suggests the former is the intent. Since this is for a single position, it is not likely that a primary will result in narrowing the field considerably since 15 candidates would be transferred to the final ballot. It is a policy decision regarding whether a primary should be conducted if a Special Election is called.

Conclusion

The Constitution identifies that the General Tribal Council fills a vacancy on the Oneida Business Committee for the remainder of the term. The prior actions of the General Tribal Council have identified a preference for calling a special election to fill the vacancies. It is recommended that the Oneida Business Committee call a Special General Tribal Council meeting to hold a caucus and request a Special Election be scheduled. If this is the desired action, a resolution should be presented to the General Tribal Council for consideration which would identify the process for scheduling the Special Election.

If you have further questions, please contact me.