



# Oneida Tribe of Indians of Wisconsin

## Certification of Petition Signatures

**TO:** General Tribal Council  
**FROM:** Lisa Summers, Tribal Secretary  
**DATE:** February 25, 2015  
**RE:** Leah Sue Dodge, Michael T. Debraska, Franklin L. Cornelius, Bradley Graham  
 Petition re: Various Tribal Election Issues

**Certification of Sufficient Petition Signatures:**

Petitioner Name: Leah Sue Dodge, Michael T. Debraska, Franklin L. Cornelius, Bradley Graham  
 Date Submitted: August 28, 2014  
 Total # of signatures submitted: 68  
 Total # of invalid signatures<sup>1</sup>: 0  
 Total # of valid signatures: 68

Sixty-eight signatures were verified by the Oneida Enrollment Department on August 28, 2014. The required number of signatures was submitted by the petitioner.

**Petition:** A copy of the petition statement is provided here:

PETITION FORM	
NAME OF PETITIONER: <u>Leah Sue Dodge, Michael T. Debraska, Franklin L. Cornelius, Bradley Graham</u>	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;">           RECEIVED BY BC            ADMINISTRATIVE OFFICE            AUG 28 2014         </div>
PURPOSE: <u>SEE TEXT BELOW ON THIS PAGE</u>	
<hr/> <hr/>	
<small>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 be held &amp; that due notices be made in Kalihwisaks &amp; prominent places 10 days prior to that Caucus &amp; the inaugural Judiciary Election; (4) to address other Tribal election issues.</small>	

The full petition is available per the Open Records and Open Meetings Law. Contact the Business Committee Support Office for more information at (920) 869-4364.

<sup>1</sup> Reason(s) for invalidation: none

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


(920) 869-4327

FAX (920) 869-4065

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

### MEMORANDUM

**TO:** Oneida Business Committee

**FROM:** Jo Anne House, Chief Counsel 

**DATE:** November 13, 2014

**SUBJECT:** Petition – Dodge, et al. – Judiciary Elections

---

You have requested a legal opinion regarding the above petition filed August 28, 2014. The petition contains a sufficient number of signatures as verified by the Enrollment Department. The petition contains the following request.

“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 be held & that due notices be made in Kaliwhisaks & prominent places 10 days prior to that Caucus & the inaugural Judiciary Election; (4) to address other Tribal election issues.”

I have reviewed the Constitution, Election Law, and other tribal laws, actions of the Oneida Business Committee and General Tribal Council and minutes of General Tribal Council meetings in order to formulate this opinion.

There are five issues presented in this opinion – 1) scheduling a meeting; 2) inclusion of a SEOTS polling place in all elections; 3) nullifying an election that does not include a SEOTS polling site; 4) holding a new Judiciary caucus; and 4) other Tribal election issues. A separate legal opinion is included regarding scheduling General Tribal Council meetings to address the request to schedule the meeting on a specific date and at starting at a specific time.

#### **Election Law - Background**

The General Tribal Council has had in place an adopted Election Law since as early as 1936. The law has been amended from time to time to reflect new technologies and processes for conducting an election. All of those actions to adopt amendments or wholesale revisions to the Election Law have been by the General Tribal Council. Although, there have been occasions where the Oneida Business Committee has concluded a General Tribal Council agenda because

of a lack of a quorum which adopted amendments to the Election Law. The current version of the Election Law was adopted on June 19, 1993.

In 1995, the Oneida Business Committee adopted revisions to the law on behalf of the General Tribal Council. Amendments to this document were presented in 1997 and were adopted in July of 1998. Those amendments focused on clarifying timelines and improving existing processes.

In 2002, the Oneida Business Committee adopted resolution # BC-03-13-02-O, *Milwaukee Polling Site*. This resolution was presented based on a legal opinion delivered to the Legislative Operating Committee dated September 15, 1999. The legal opinion identified that the Constitution requires voting for the Oneida Business Committee to be in person and in accordance with a law adopted by the General Tribal Council. Based on the Election Law in effect at that time, the opinion identified that a “polling place” was defined as a tribal facility. So long as the polling place requested in Milwaukee was also a Tribal facility, then a polling place could be set up. The 2002 resolution identified that the polling place will be set up for the 2002 General Elections to be held in July. The resolution also identified interim measures for the Milwaukee polling site to be used by the Election Board, including identifying funding for the extra polling site costs.

In 2006, the General Tribal Council directed the Legislative Operating Committee draft amendments to the Election Law with the assistance of the Election Board. Those amendments were presented and finally adopted in 2008. The amendments consisted of conducting primary elections for the Oneida Business Committee.

In 2010, the remainder of the amendments to the Election Law was adopted by the General Tribal Council. These amendments, according to the legislative history in the Whereas sections of resolution # GTC-01-04-10-A, included the composition of the Election Board, limitations on Oneida Business Committee and Oneida Appeals Commission candidates, and filling a vacancy that occurs because a winning candidate withdraws from the election prior to submission of the Final Report.

### **SEOTS Polling Places for All Tribal Elections**

The 2002 resolution adopted by the Oneida Business Committee identified the intent to provide a polling site in Milwaukee for four reasons. First, there is a large population of Oneidas living in the Milwaukee area. Second, there is a tribal facility in Milwaukee. Third, there are Oneidas who are local police officers who can assist in the conduct of the election. Finally, offering this polling place is likely to increase participation in elections.

The General Tribal Council had an opportunity to include a Milwaukee polling place in the Election law when it was presented for amendments in 2006, when action was taken to adopt amendments in 2008, and in 2010. At the January 2006 meeting, a motion to adopt the law contained the following directive – “...the Milwaukee polling site shall continue[.]” The discussion following this motion questioned the constitutionality of the Milwaukee polling site. The Chair, after receiving a parliamentary opinion, ruled the motion to be in order and rejected the constitutional concerns. There was no discussion about specifically including the off-

reservation polling site in the law. This may have been the result of no specific polling site being identified for polling sites located on the Reservation as the polling site changed depending on availability and access to various tribal facilities.<sup>1</sup> Ultimately, the amendments were tabled and acted upon at a later meeting in 2010 with no further discussion regarding polling places.

In 2013, a petition was filed to request the General Tribal Council consider discontinuing the Milwaukee polling site. The legal opinion presented information regarding the polling site in Milwaukee which included voter turn-out at both elections and General Tribal Council meetings for comparison. At that time an average of 12% of the votes were cast at the Milwaukee location. In the 2014 General Election, there were 1685 votes cast, 9% of those votes were cast at the Milwaukee location. Members are encouraged to review the legislative analysis, legal opinion and fiscal impact statement presented in the October 27, 2013, Special General Tribal Council meeting packet available in the Member's Only portion of the Tribe's website.

Based on the information in the October 2013 legal review it is clear that the Milwaukee polling site has not had the intended effect of increasing the number of voters living around Milwaukee. The number remained stable in the General Elections until 2014, when they fell by 3% from previous years. Although, it is equally clear that a polling site located in Milwaukee would be more convenient to the members living in and around that area.

It should be noted there are costs associated with a polling site in Milwaukee. For Special Elections, the average number of voters is significantly smaller than for General Elections. As a result, it would be less expensive to simply hand count the small number of votes cast in Milwaukee and not rent a second voting machine regardless of whether it is a Special or General Election. However, this does not reduce the need to have appropriate election personnel on site to conduct the election.

Finally, based on the research, the intent of the 2002 resolution was to have a polling site in Milwaukee only for General Elections. All of the discussion regarding the Milwaukee polling site have been based on that presumption. Although there have been opportunities to discuss having a Milwaukee polling site for all elections, this question has not been presented.

If this is acted upon, it is recommended that the motion reflect a polling site in Milwaukee, not at a site operated by a specific program, i.e. SEOTS. Although there is no suggestion that SEOTS would no longer be a program of the Tribe, the requirement is the polling site be a tribal facility. This could mean any location owned or leased by the Tribe which makes a convenient polling place for that area.

#### **Nullify Judiciary Election Results if no SEOTS Polling Place**

This section of the petition has been addressed prior to the General Tribal Council meeting. No analysis is conducted on this section. The Special Election for the Judiciary was held with polling places on the Reservation and in Milwaukee. *See resolution # BC-8-28-14-A.*

---

<sup>1</sup> For example, polling sites on the Reservation have been held at the Tribal School gym, Norbert Hill Center cafeteria, Oneida Police Department conference room, and most recently the Oneida Health Center conference room.

### **New Judiciary Caucus**

On February 16, 2014, the General Tribal Council approved the dates for the 2014 General Election which included filling the positions on the Judiciary. Members interested in becoming a candidate attended a caucus held in April, and were able to file applications by petition. The Oneida Business Committee was made aware of an error in the Judiciary law regarding qualifications and adopted emergency amendments to the law. At the June 16, 2014, Special General Tribal Council meeting, the membership received a report on the implementation of the Judiciary law and an update regarding the judicial elections.

In the intervening period, the Oneida Business Committee realized that it had erroneously amended the law and rescinded its prior emergency amendments. At the General Tribal Council meeting, the Oneida Business Committee recommended the election for the new Judiciary be rescheduled from the 2014 General Elections and be scheduled for a Special Election which would have the correct judicial qualifications. A motion to that effect was adopted by the General Tribal Council.

A second caucus for the Special Election for the Judiciary was held July 6, 2014, and application and petitions were due by July 11, 2014. The election was originally scheduled for August 23, 2014, but was rescheduled as a result of litigation filed in the Oneida Appeals Commission to September 27, 2014 with polling places in both Oneida and Milwaukee. The election was concluded, and the Oneida Business Committee accepted the election results. The judicial officers have received the oath of office and training has been completed, and cases are being transferred.

It is not clear why another caucus would be needed for this election. As of the date of the litigation, a second caucus had been held and all interested parties were able to either participate at the caucus or file a petition to be a candidate. Notwithstanding this, the Special Election has been accepted and individuals have begun working in reliance on that approval. If a third caucus was desired, it should have been requested before the election and action should have been taken before candidates campaigned, members voted, and the election results declared.

The authority of the General Tribal Council is limited by the rules and processes it has put in place for its use. In this case, Robert's Rules of Order, as used in General Tribal Council meetings and amended by tribal law, prohibits amending or reconsidering actions that have been taken and relied upon by others. In this case, the Special Election and declared results. If this were not the case, it would be difficult for any person to rely on the ability of any representative (whether elected or employed) as having the authority to act on behalf of the Tribe. In this case, the ability of the Election Board to rely on the direction to carry out the June 16, 2014, directive of the General Tribal Council in accordance with the Election Law.

### **Other Tribal Election Issues**

This portion of the petition suggests that there may be other issues in regards to Tribal elections that need discussion and potential action. While the Election Law is adopted by the General

Tribal Council and amendments to that law are within the authority, those amendments would be subject to the Public Comment processes set forth in the Legislative Procedures Act. As a result, amendments to the law could be discussed and proposed at a General Tribal Council meeting, but action would need to be subject to the requirements of the Legislative Procedures Act.

In addition, the vague request to discuss "other election issues" would not meet the requirements of the Ten Day Notice Policy adopted by the General Tribal Council. As has been identified in multiple opinions presented to the General Tribal Council, the intent of the Ten Day Notice Policy is to require a minimum notice period regarding subjects being presented to the General Tribal Council, and to require that information regarding those subjects be included in the notice in order to provide for more informed decision making. Although the Ten Day Notice Policy was adopted during a time when it was difficult to obtain quorums for General Tribal Council meetings, it becomes more important to provide information to the 1600 and more members attending a meeting. There are two reasons for this. First, it is not possible for every person in the room to be able to speak about an issue in order to get answers to questions or provide alternative ideas. Second, there are consistently more people voting on an issue at General Tribal Council meetings than ever before. Providing information to this large group of members attending General Tribal Council meeting before the meeting occurs allows those individuals to discuss the matter amongst them where they have time to have interactive discussions and generate ideas and consensus. Simply suggesting that "other election issues" in a petition does not identify sufficient information in which to provide notice, present information, or generate discussion.

As identified above, it is possible to have a discussion regarding tribal election issues at a General Tribal Council meeting and within the authority of that body to hold that discussion. It is also within the authority of the General Tribal Council, and would not conflict with existing laws, to direct the Oneida Business Committee to develop amendments to the Election Law based on the results of the discussion and present those amendments at a General Tribal Council meeting for action. However, it should be noted that the General Tribal Council has identified, by past practice and actions, that discussion of individuals is out of order.

### **Conclusion**

The petition proposes four actions. For the reasons identified above, some of these proposed actions would be in order or out of order if presented to the General Tribal Council and are summarized below.

- All tribal elections include the SEOTS polling site - This request is properly before the General Tribal Council and does not affect existing tribal laws. It is recommended that any action taken reflect a polling site "in Milwaukee" and not specifically identifying a program.

Motion to direct that a polling site in Milwaukee be included in all Special or General Elections.

- Nullify the Judiciary Elections if a polling site at SEOTS is not included - This request has been previously addressed and action is unnecessary.
- Schedule a new Judiciary Caucus - There were two caucuses held for the Judiciary elections, one for the July General Elections, and one for the rescheduled Special Elections. This request has been previously addressed and action is unnecessary.

- Address other Tribal election issues - This request is too vague to be acted upon by the General Tribal Council except for discussion purposes. It is possible that at the conclusion of the discussion, the General Tribal Council could direct the Oneida Business Committee to develop amendments to the Election Law based on the discussion.

Motion to direct the Oneida Business Committee to develop amendments to the Election Law as a result of the discussion at this General Tribal Council meeting and present those amendments to the General Tribal Council in a timely manner.

If you have further questions, please contact me.

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

Lynn A. Franzmeier, Attorney  
Taniquele J. Thurner, Legislative Analyst  
Candice E. Skenandore, Legislative Analyst



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

**Memorandum**

**TO:** Oneida Business Committee  
**FROM:** Legislative Reference Office  
**DATE:** October 22, 2014  
**RE:** Petition: Hold a GTC Meeting to Address Tribal Election Issues

---

On September 10, 2014, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on the verified petition which requests a General Tribal Council (GTC) meeting be held to address Tribal election issues.

This petition is requesting a GTC meeting be held in a timely manner on a Saturday or Sunday starting no later than 1 p.m. to allow for greater membership participation. The petition has four components, asking GTC to consider the following:

- Allow all Tribal elections to include the South Eastern Oneida Tribal Services (SEOTS) polling site, including the inaugural Judiciary election. The petitioners claim that this was GTC's intent because GTC voted to include the Judiciary in the 2014 General Election;
- Nullify any Judiciary election that excludes the SEOTS polling site that may have occurred before the requested meeting is held;
- That a new Judiciary caucus be held and that due notices be made in the Kalihwisaks and prominent places ten days prior to the caucus and the inaugural Judiciary election; and
- Address other Tribal election issues.

**SEOTS Polling Site to be utilized in All Tribal Elections**

This petition is asking GTC to consider allowing all Tribal elections to include the SEOTS polling site, including the inaugural Judiciary election. The Milwaukee polling site has been used in General Elections since the adoption of OBC Resolution #03-13-02-O which, in 2002, approved a facility in Milwaukee, Wisconsin as a second polling site for Oneida triennial elections.

Under the Election Law, elections are required to be held in an Oneida Tribal facility(s) as determined by the Election Board; however, no further direction is given to the Election Board as to what constitutes an Oneida Tribal facility [*See Election Law 2.9-2*].

GTC has shown recent support for the continued use of a second polling site in Milwaukee for General Elections. A petition was presented at the October 27, 2013 GTC meeting asking GTC to consider adopting a resolution for the "Dissolution of the second polling site" for triennial elections. This Resolution suggested that it would be fiscally responsible for voters to present themselves at the "official polling site" located within the Reservation [*See*



*GTC Meeting Materials, October 27, 2013, pg. 60 and 61]. GTC voted to allow the voting process in Milwaukee to continue [See GTC Meeting Minutes for October 27, 2013].*

A survey was conducted in southeast Wisconsin asking Tribal members about their participation in Tribal government. The survey produced 258 responses and of those responses, 36% stated that they attended a GTC meeting(s) in the past year while 38% stated that they voted in the 2008 General Election. Of those that did not vote in the election, the most common reasons were distance/location (26%) and lack of information (26%).

In 2011, approximately 1578 Tribal members 21 years old or older lived in southeast Wisconsin. During the 2011 General Election, 199 votes were cast at the SEOTS polling site. There are approximately 1500 Tribal members that currently live in the Milwaukee area and are 21 years old or older. In the July 2014 General Election, 160 Tribal members voted at the SEOTS polling site.<sup>1</sup>

### **Nullify any Judiciary Election that Excludes the SEOTS Polling Site**

The Petition is asking GTC to consider nullifying any Judiciary election that excludes the SEOTS polling site. The Judiciary election was initially set to occur during the 2014 General Election, which included polling sites in both Oneida and Milwaukee; however, GTC decided to hold a special election after a misunderstanding regarding the qualifications of judges. GTC scheduled the special election for August 23, 2014; however, the Oneida Appeals Commission granted a stay on the special election because the second polling site in Milwaukee was not being used. OBC Resolution #03-13-02-O only requires the Milwaukee polling site to be used for triennial elections which this special election was not. On September 2, 2014, the OBC designated a second polling site in Milwaukee for the special Judiciary election and the Election Board set the election for September 27, 2014. The special Judiciary election was held on September 27, 2014 and the SEOTS polling site was used. A total of 493 votes were cast in this election, and of those, 73 were cast at the SEOTS polling site. The cost of the special Judiciary election, including compensation for Election Board members, was \$8019.83. Of this total cost, \$3921.45 went towards the SEOTS polling site which included food, stipends, hotel and per diem expenses.<sup>2</sup> A Judiciary election has not been held that excludes the SEOTS polling site; therefore, GTC would not need to consider nullifying the election based on the petition request.

### **New Judiciary Caucus be Held**

The Petition asks that a new Judiciary caucus be held and that due notice be made in the Kalihwisaks and prominent places ten days prior to the caucus and the inaugural Judiciary election. A Judiciary caucus was held on July 6, 2014, and the election stemming from that caucus was held on September 27, 2014. The Election Law requires a caucus of elections, other than the general election, to be held at least 45 calendar days prior to the election, but does not address holding multiple caucuses for one election [*See Election Law 2.6-1*]. The Judiciary caucus and special election complied with the requirements set out in the Election Law.

### **Address other Tribal Election Issues**

The petition requests addressing other Tribal election issues at the GTC meeting; however, it is unknown if this discussion will lead to any impact on Tribal legislation.

---

<sup>1</sup> Figures received from the Tribal Statistician

<sup>2</sup> Figures received from the Election Board

# ONEIDA TRIBE OF INDIANS OF WISCONSIN



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



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

ONEIDA FINANCE OFFICE  
Office: (920) 869-4325 • Toll Free: 1-800-236-2214  
FAX # (920) 869-4024

## MEMORANDUM

DATE: December 2, 2014  
FROM: Larry Barton, Chief Financial Officer  
TO: Patricia King, Treasurer  
Oneida Business Committee  
RE: **Financial Impact of the Petition - Dodge, et al. - Judiciary Elections**

### I. Background

A petition was filed at the Tribal Secretary's Office on August 28, 2014. The petition contains the following request.

"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 be held & that due notices be made in Kaliwhisaks & prominent places 10 days prior to that Caucus & the inaugural Judiciary Election; (4) to address other Tribal election issues."

### II. Executive Summary of Findings

#### Scheduling a GTC Meeting

The petition specifies *"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."* As with all petition requests, there is the cost to hold the meeting no matter what the outcome is on the topic of discussion. According to the Secretary's office, the average cost to hold a GTC meeting is approximately \$220,000.

#### Elections

The petition specifies *"(1) all Tribal elections include the SEOTS polling site"*. General Election for the Oneida Business Committee occurs every three years and Special Elections are historically held in the off years for various Boards, Committees, and Commissions. OBC Resolution 03-13-02-O established a second polling site for Oneida triennial or General Election in Milwaukee. The second polling site in Milwaukee has been open for the General Election since 2002. In 2011, a Primary Election was added to the General Election process. Therefore, two elections every three years include the second polling place in Milwaukee, the Primary & the General Election. Assuming that there is only one Special Election being held each year, 2014/2015 being unique due to the Judiciary and the OBC vacancy, the petitioners request would add the cost of two off-year Special Elections.

According to the Election Board, the average cost for the Milwaukee polling site are approximately \$5,000. The direct expenses and limited expenses such as hotel, per diem, etc. for board members attending are allocated to the Elections Board budget. Other expenses such as wages are absorbed by the impacted departments. The Oneida Police Department estimates the cost for the department to be approximately \$1,100. Trust & Enrollments estimates the cost for the department to be approximately \$1,300. Therefore, the total impact is approximately \$7,400. Projecting forward over 10 years, you would add the two off-year special elections to the Milwaukee Polling site, (8 additional elections over 10 years \* \$7,400) for a total of approximately \$59,200.

#### **Nullify Election**

The petition states “(2) to nullify any Judiciary Election that excludes the SEOTS polling site that may have occurred before the requested meeting is held”. In response to this request, BC 8-28-14-A 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. The issue was addressed by including Milwaukee. The estimated \$7,400 cost of opening the polling place has already been expensed and is therefore a sunk cost.

#### **Judiciary Caucus**

The petition states “(3) a new Judiciary Caucus be held & that due (public) notices be made in Kaliwhisaks & prominent places 10 days prior to that Caucus & the inaugural Judiciary Election” According to the Election Board, the expenses for a caucus are approximately \$400. An initial caucus was held for the Judiciary in April of 2014. Due to corrections that impacted the qualifications of the candidates, a second caucus was held in July of 2014. As with the previous request, the point is mute as the issue has already been addressed and these are sunk costs.

#### **Other Election Issues**

The petition states “(4) to address other Tribal election issues.” Finance cannot predict an impact without more specification.

### **III. Financial Impact**

- a. GTC meeting - \$220,000
- b. Milwaukee polling location for all elections
  - i. Approximately \$7,400 per election
  - ii. \$59,200 over the next 10 years
- c. Other expenses are sunk costs or indeterminable.

### **IV. RECOMMENDATION**

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

RE: PETITIONERS LEAH SUE DODGE,  
MICHAEL T. DEBRASKA, FRANKLIN L.  
CORNELIUS, BRADLEY GRAHAM –  
VARIOUS TRIBAL ELECTION ISSUES

---

## **PETITIONERS' MATERIALS**

## Defending Oneida Tribal Democracy & Voting Rights

OBC Resolution 03-13-02-O says: **“The 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[.]”**

On **October 27, 2013**, GTC rejected a petition to eliminate the SEOTS polling site and voted instead to continue including the SEOTS polling site in Tribal elections.

On **January 7, 2014**, GTC voted to include the election of Oneida Judiciary in the 2014 General Election which would have included the SEOTS polling site.

On **June 16, 2014**, OBC Vice-Chair Melinda Danforth admitted to GTC that she, OBC, and the Judiciary Transition Team screwed up the qualifications for judicial officers and asked GTC to agree to delay the Judiciary election, and GTC allowed the delay.

GTC was never told that allowing that delay meant OBC, the Oneida Election Board (OEB), and the Oneida Law Office (OLO) would try to exclude the SEOTS polling site from the Special Election of the Judiciary despite GTC’s directives and against the Oneida Constitution’s intent for the widest possible participation of Oneida people.

When five GTC members took these matters to the Appeals Commission, the OBC, OEB, and OLO **all fought to continue excluding the SEOTS polling site** rather than just admit that it was wrong for them to try to do so and simply agree to present GTC an amendment to include the SEOTS polling site in all future Tribal elections.

Instead, OBC adopted OBC Resolution 08-28-14-A which claims that the OBC has the ability to make a **“one-time exception** to the conduct of the Special Election [to] include polling sites in Oneida and Milwaukee,” as if voting rights are a gift to GTC.

In other words, OBC, OEB, and OLO are claiming that the Constitution’s intent and GTC’s directive to include the SEOTS polling site in the Judiciary election are somehow subordinate to their ability to exclude the SEOTS polling site on a whim.

**How could any Tribal election not affect the governance of the Oneida people?**

**Why** would OBC, OEB, and OLO ever exclude the SEOTS polling site from any election given the Oneida Constitution’s intent and GTC’s expressed political will?

**Why** wouldn’t OBC, OEB, and OLO simply agree to let GTC vote on the matter rather than claim that they should have the power to make that important decision for GTC?

**It’s clear now: GTC must defend its civil and voting rights against the actions of the OBC, OEB, and OLO. The future of the Oneida Tribe depends on it.**

Visit [OneidaEye.com](http://OneidaEye.com) for more information

## **Defending Oneida Tribal Democracy & Voting Rights**

On **August 20, 2014**, five GTC members filed a class action lawsuit to defend Tribal democracy & voting rights against OBC, OEB, and OLO (Docket 14-TC-173), but the Oneida Appeals Commission's Trial Body wrongly dismissed that case on **August 21, 2014**, and wrongfully denied the request by Tribe members for a Declaratory Ruling whether the SEOTS polling site should be included in all Tribal elections.

On **December 18, 2014**, the Appeals Commission's Appellate Body ruled that the Trial Body's inaction was arbitrary & capricious and violated the Indian Civil Rights Act and the Oneida Tribal Constitution, and violated the Oneida Tribe members' right to due process, thereby violating GTC's civil and voting rights as a class.

The Appellate Body remanded the case back to the Trial Body despite the GTC members' motion for recusal of those same hearing officers who had violated GTC's due process & civil rights in the original complaint. The Trial Body refused to recuse themselves during the hearing held on **January 16, 2015**, and a decision by the Trial Body is now supposed to be issued within 30 days of **February 12, 2015**.

On **August 28, 2014**, the petition now before GTC regarding the Judiciary election and other election matters was submitted which seeks the following:

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 be held & that due notices be made in Kalihwisaks & prominent places 10 days prior to that Caucus & the inaugural Judiciary Election; (4) to address other Tribal election issues.

On **September 27, 2014**, a Special Election of the Oneida Judiciary was held despite the pending litigation and the petition submitted by GTC members.

On **September 29, 2014**, a representative of the Oneida Enrollment Department who observed the September 27, 2014, Special Election submitted her concerns in a letter to the OBC & OEB regarding their failures to follow Election Law procedures, including the lack of verification that the Oneida polling site's ballot counting machine was empty and prepared before the polls opened at 7:00 a.m. that day.

Despite the various violations of the Election Law during the Special Election of the Judiciary (see included letter), the OBC certified the Special Election results upon the submission of the OEB's Final Report at the **October 8, 2014**, OBC meeting.

Visit **OneidaEye.com** for more information

# Defending Oneida Tribal Democracy & Voting Rights

On **November 17, 2014**, the Wisconsin State Supreme Court held an open hearing on a petition submitted by Oneida Tribal members seeking the dissolution of Wisconsin State Statute 801.54, 'Discretionary Transfer of Civil Actions to Tribal Court.' The Supreme Court is scheduled to hear that petition and conduct a general review of the State's transferral of court cases to Tribal Courts in the autumn of 2015.

In other words, **80% or more** of the Oneida Judiciary's projected caseload could possibly disappear based on the Wisconsin Supreme Court's decisions this year.

## What must GTC do to protect its voting rights in all elections going forward?

1. Demand that all Oneida Tribal elections, both General and Special elections, include the Milwaukee SEOTS polling site in keeping with the Constitution's intent.
2. Demand that the rescheduling of any Tribal election must be approved by GTC with a 2/3 (two-thirds) majority hand-counted vote.
3. Demand that a locked ballot box and sealable ballot envelopes be on hand at all times in case of the failure/unavailability of electronic ballot counting machines.
4. Demand that the ballot counting process be video-recorded in the presence of a police officer and that the recording be available upon request by GTC members.
5. Demand that all election results (General and Special) be certified by a 2/3 (two-thirds) majority hand-counted vote of General Tribal Council rather than by the OBC who have an obvious conflict of interest approving their own election results.
6. Demand that GTC maintains and reserves the right to nullify any Tribal election at any time if information comes to light which undermines the integrity of an election as determined by a 2/3 (two-thirds) majority hand-counted vote of GTC.
7. Demand that Election Board members who are immediate family members of candidates for and current members of the Oneida Business Committee, Oneida Judiciary, and the other elected Boards, Committees and Commissions be dismissed from Election Board duties, and that the term "immediate family" be defined in accordance with the Judiciary's Canons of Judicial Conduct, which states:

"the term 'immediate family' shall be defined as husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law, brother-in-law, sister-in-law, first or second cousin, step-parent, or someone who is recognized by the Oneida General Tribal Council and/or its delegate as a member of the Judge's extended family." [For example, the nephew-/niece-in-law of a judicial officer.]

Visit **OneidaEye.com** for more information

September 29, 2014

Tina Danforth, Tribal Chairwoman

Melinda Danforth, Tribal Vice-Chairwoman

Lisa Summers, Tribal Secretary

Melinda Danforth, Election Vice-Chairwoman

Michelle Doxtator, Election Chairwoman

Dear Representatives:

I worked the Special Election on Saturday, September 27, 2014 as a representative of the Oneida Enrollment Department. In all good conscience, I feel compelled to report this election did not follow established procedures according to the Election Law. It all started with the electronic ballot counting machine. As I recall, someone on the election committee (I don't recall who) asked if myself, Cynthia Niesen and Officer Lyle Metoxen could come into the voting area and validate that the voting box was empty.

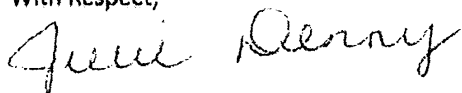
I went outside as Officer, Lyle Metoxen was in his squad car and I informed Lyle the Election Committee is requesting our presence to validate the election box is empty; Lyle looked at his watch and made the comment "this should have been done over an hour ago".

The three of us proceeded into the voting area and here is my recollection:

1. It was approximately 8:03 am when I verified the electronic ballot counting machine was empty.
2. I can honestly say the ballot box was indeed empty.
3. The tape was presented for my signature. Never was I instructed by the Judge to review that ballot counting machine printer tape to see if it had a zero total count, (this is cited in Section 2.9 Election Process, 2.9-3 (a)). I never looked for that information on the tape as I didn't know I had to.
4. Also, according to the Election Law in Section 2.9 Election Process, 2.9-3 that ballot box shall be prepared prior to 7am on the day of election.
5. Despite signing that ballot machine printer tape, I did not feel comfortable doing it simply because it was at least an hour after the polls had already been opened and numerous voters had already casted their votes.
6. I could verify the voting box was indeed empty but that leaves a question in my mind to where did the ballots go that were cast between 7am-8am?

I bring this to your attention, because I believe processes were not followed and their needs to be accountability for such an important event. If you have any further questions, please feel free to contact me at 920-869-6212 (w).

With Respect,



Julie Denny, Estate Claim Assistant

Cc: Cheryl Skolaski, Enrollment Director



RE: PETITIONERS LEAH SUE DODGE,  
MICHAEL T. DEBRASKA, FRANKLIN L.  
CORNELIUS, BRADLEY GRAHAM –  
VARIOUS TRIBAL ELECTION ISSUES

---

**BUSINESS COMMITTEE  
RECOMMENDATION**



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

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



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



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

MEMORANDUM

TO: General Tribal Council  
FROM: Oneida Business Committee  
DATE: February 25, 2015  
SUBJECT: Leah Sue Dodge and others – Judiciary Election Petition

Leah Sue Dodge and other members filed a petition regarding the election of the Judiciary that was to be held in the 2014 General Election and who were eventually elected during a Special Election. The petition asks for many things that have already been addressed or occurred after the election was held. However, one item remains to be addressed by the General Tribal Council – a polling place in Milwaukee for every election.

The Milwaukee polling site has been a recent addition to our election process in the history of our Tribe. The Oneida Business Committee, by resolution # BC-03-13-02-O, directed that a polling place be made available in Milwaukee for the General Elections of the Tribe. Over time, the Milwaukee polling site has drawn sharply divided opinions both on and off the reservation. When the General Tribal Council adopted the recent amendments to the Election Law in 2010, there was discussion regarding whether or not there should continue to be a Milwaukee polling site and whether it should be placed in the law. The amendments to the Election Law were adopted and the 2002 Oneida Business Committee resolution continues to guide us in having a polling site in Milwaukee during General Elections.

In 2013 Carole Liggins brought a petition to rescind the requirement for a Milwaukee polling site. During the meeting, she indicated her intent was based on saving expenses and to engage the discussion regarding the need for a polling site in Milwaukee. The General Tribal Council reaffirmed the polling site requirement at that meeting.

However, none of the discussion of the General Tribal Council has reflected on a desire to

change the current status which requires a Milwaukee polling site only during General Elections. There has been no indication by the members or the General Tribal Council that this should change until the submission of the current petition. We believe it is time for the General Tribal Council to have this discussion and to provide direction regarding this issue.

Voter turnout overall and specifically in Milwaukee would appear to support a second polling site. We note that the cost of a second site is not significant and can be mitigated by taking action to train election personnel in Milwaukee to lower those costs. However, Special Elections have significantly lower voter turnout and may not warrant an increased polling site.

The Oneida Business Committee continues to commit to the polling site in Milwaukee during General Elections.

**Recommended Action:**

**Motion to direct that polling places be held on the Reservation and in Milwaukee for all elections of the Tribe.**

**OR**

**Motion to direct that polling places be held on the Reservation and in Milwaukee for only the General Elections of the Tribe.**