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# KALIHWI-SAKS

NEWSPAPER  
OF  
THE ONEIDA TRIBE OF INDIANS OF WISCONSIN

KALIHWI-SAKS  
P.O. Box 365  
Oneida, WI 54155  
(414) 869-2083

OCTOBER 20, 1982

FOR ONEIDA GENERAL TRIBAL COUNCIL MEMBERS ONLY

CONTINUED

# GENERAL TRIBAL COUNCIL MEETING

## OCTOBER 23, 1982

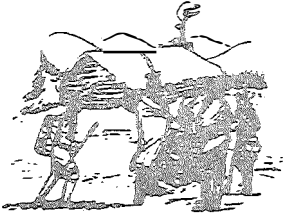
TIME: 10:00 A.M.

PLACE: SACRED HEART CENTER AUDITORIUM

PURPOSE: HEARINGS ON THE REMOVAL FROM OFFICE PURSUANT TO THE ONEIDA REMOVAL ORDINANCE, GARY METOXEN, TRIBAL CHAIRMAN, WENDELL MCLESTER, TREASURER, FRANK CORNELIUS, HOWARD CANNON, AND LLOYD POWLESS, BUSINESS COMMITTEE MEMBERS, FOR DISMISSING A TRIBAL EMPLOYEE, BY DENYING THE TRIBAL EMPLOYEE DUE PROCESS IN VIOLATION OF THE POLICY AND PROCEDURES UNDER THE ONEIDA TRIBAL MANAGEMENT SYSTEM, ADOPTED BY GENERAL TRIBAL COUNCIL TO PROTECT TRIBAL EMPLOYEES RIGHTS. AFTER THE HEARING A DECISION BY VOTE WILL BE RENDERED BY THE ONEIDA GENERAL TRIBAL COUNCIL ON REMOVAL. AND THE CONTINUATION OF THE OCTOBER 11, 1982 ONEIDA GENERAL TRIBAL COUNCIL MEETING.

\*ALL TRIBAL MEMBERS PLEASE ATTEND\*

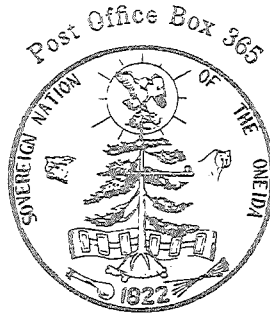




Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

# Oneida Tribe of Indians of Wisconsin

Phone: 869-2771



Post Office Box 365

Oneida, WI 54155

*Accepted & Amended 10/11/82 By GTC*



UGWA DEHOLUH YATENE  
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.

(CORRECTED)  
CONTINUED GENERAL TRIBAL COUNCIL MEETING

SATURDAY, OCTOBER 9, 1982

Norbert Hill, Vice-Chairman, Acting Chairman called the meeting to order at 10:21 A.M.

Amos Christjohn offered a prayer.

Norbert Hill appointed Loretta Metoxen as parliamentarian for the meeting.

Norbert then stated that in the event we don't finish the Agenda, another meeting is set for Monday, October 11, 1982 at the Sacred Heart Auditorium at 7:00 P.M.

The Secretary, Gordon McLester was asked to read the minutes of the actions of the previous week of the appointed Committee; and, ask for ratification of the General Council.

The Secretary stated that as per the instructions of the General Tribal Council of October 1, 1982, Norbert Hill, Gordon McLester, Mark Powless and Tony Benson were appointed to ast as a Committee to conduct the day to day business of the Tribe.

The Secretary read the minutes of the October 4 meeting. (Attachment ) The Secretary then read the minutes of the October 3, meeting. (Attachment ).

The Secretary then asked the General Tribal Council to ratify their actions. Rick Hill moved to ratify the actions of the Committee. Lee McLester Seconded.

Wendell McLester asked a question regarding disbursement of funds under a signature other than the Treasurer of the Tribe as per the Constitution. The Vice-Chairman stated this was a directive of the General Tribal Council to carry out the business of the Tribe.

Loretta Metoxen stated she has been asked to be the parliamentarian for this meeting and under that position she would like people to raise their hands and identify themselves and please do not interrupt.

Vote was taken on the motion. Motion Carried.

Mark stated he had been informed that the news media was in the lobby and wanted to speak to someone. He asked the General Tribal Council to take some type of action in regard to the news media.

Betty Dennison made a motion that we do not deal with any news media. Seconded by

Bobbi Webster. Motion Carried.

Chairman asked the Secretary to read the minutes of the General Tribal Council meeting of September 27, 1982 and October 2, 1982. Minutes of which copies are available when signing in. Secretary then read the minutes and asked if there were any changes.

In minutes of September 27, 1982:

Wendell McLester requested the minutes be changed to state his position on the Tribal Court to read "At the present time I am against the Court but I do think we need a Court but sometime in the future because all the people that are going to be affected by that Court should be in full knowledge about how they are going to be affected"

Under Land Acquisition Plan, Chas Wheelock requested that the statement regarding The Wisconsin Land Claims. It will be corrected to read the only active land claim is the Seminary.

Ernie Stevens requested that in the minutes of October 2, 1982 after the approval of the Resolution 10-2-82-A it be added: "The pay for the suspended Business Committee members and the Tribal Administrator would be reinstated retroactive to the date of suspension if they were found to be not guilty of any wrongdoing." If there are no objections to this addition it will be inserted in the record.

Lee McLester made a motion to approve the minutes as changed or added. Betty Dennison seconded. Motion Carried.

FRANCIS SKENANDORE, ATTORNEY, REPORT AS REQUESTED BY GENERAL TRIBAL COUNCIL

Francis explained the report, what they did and what they looked at. They looked at what was on the record as to whether the proper procedure was followed in dismissing Joe Villagomez from his job.

It is the opinion of the Law Office that; "No, this procedure was not followed in dismissing Joe Villagomez and that he was denied due process that no request goes directly to the Business Committee to dismiss any tribal employee. To do such a thing to request directly to the Business Committee that an employee be dismissed totally circumvents the system, denies the employee due process and in effect says that the Tribal employee would have no rights at all. The suspension request went by proper procedure. The Tribal Administrator, Loretta Webster suspended the person. The person appealed that suspension to the Personnel Selection Committee. The Personnel Selection Committee convened and reviewed the suspension request by the Tribal Administrator. The Personnel Selection Committee said they would have to dismiss the suspension and they basically said it was for two reasons: (1) the procedure was not followed up to the suspension and (2) the cause of the suspension was not listed in the glossary as a cause for suspension. That recommendation from the Personnel Selection Committee went to the Business Committee which was proper. From that point, once they make a recommendation and refer it to the Business Committee, that is the only point and the only place where the Business Committee comes in this procedure for dismissing or suspending an employee. The Business Committee after reviewing that recommendation from the Personnel Selection Committee voted to accept the recommendation of the Personnel Selection Committee and reinstate Joe Villagomez in his job. That ended the suspension unless somebody wanted to take that up to the General Tribal Council and have them review that decision.

On the dismissal, at the same time that Joe Villagomez was suspended he was dismissed. Dismissal didn't follow that procedure. That dismissal went by a direct memo to the Business Committee recommending that he be dismissed and that the matter be taken up

at a meeting on September 24, 1982. That meeting never came about until September 27, 1982. After acting on a recommendation from the Personnel Selection Committee to reinstate Joe Villagomez, they took up the request of the dismissal, which was improper, it should have not been taken up, because no request of dismissal can go directly to the Business Committee. The proper procedure for that dismissal should have been that the employee should have been notified he was dismissed. Then that notice goes to the Personnel Manager, in this case it was the Personnel Manager, so it has to go to someone else, the Tribal Administrator. Someone has to notify the Personnel Selection Committee that there is a request for a dismissal. That dismissal then is referred to the Personnel Selection Committee to schedule a hearing, and a hearing is scheduled on an appeal by the employee or else a hearing is also held irregardless of whether the employee appeals on the suspension/dismissal. The Personnel Selection Committee has to meet under the procedures. That is the procedure that dismissal request should have gone. Only after it had gone that procedure should it have gone to the Business Committee upon the recommendations of the Personnel Selection Committee. Any other manner is in error and in violation of the policies set down in the Red Book.

For those reasons we concluded that the request for his dismissal to the Business Committee was in error and in violation of the Tribal Policies and Procedures as adopted by the General Tribal Council and as revised by the Business Committee in April of 1982.

Also add in policy as to why these procedures must be upheld. Tribal employee's must have rights. If they do not have rights we will not get anybody to come to work for the Tribe. We have to maintain the image of a fair and equal opportunity employer and have got to guarantee your employees rights.

Discussion on the report.

Two different types of employees. A full time employee and a probationary employee. The full time regular employee is guaranteed all these rights. A probationary employee does not have the same rights of a regular employee. A probationary period is three months, and is sometimes extended past that.

Ernie Stevens made a motion to accept Francis Skenandore's report. Seconded by Mark Powles. Vote on the Motion to accept. One Opposed. Motion Carried.

Questions and comments on the report. Request was made to hear from the suspended members regarding the action they took.

Gary Metoxen stated he was obliged to break the tie and he felt it was for everyone. He felt this action would get to the hearing. He thought his action was right to give due process to the Personnel Manager.

Wendell McLester stated that his reasons for voting were that the merits of that case were not reviewed. He had a question on the Resolution to suspend the Business Committee members and when this Resolution was adopted. The Secretary is directed to look up the information on this ordinance.

Frank Cornelius stated he did what he thought was right and two wrongs don't make a right. Never heard testimony.

Lloyd Powless stated he thought by voting on the dismissal it would go back to a hearing. He did what he thought was right and whatever the General Tribal Council decides he will abide by it.

Howard Cannon felt that the recommendation did not deal with the merits and felt

Oneida Tribe of Indians of Wisconsin  
General Tribal Council Continued Meeting  
October 9, 1982 - Page 4

the action taken did not follow his due process on the action taken on October 2, 1982.

Francis stated again that they did not look at the merits of the case at all and that the only process they looked at is whether the procedures were followed.

Loretta Webster stated Red Book needs to be worked on some more. There needs to be revisions. Her concern is how the Tribal government has been disrupted. She will accept the decisions of the General Tribal Council.

Bobbie Webster said she thinks direction should be given to the Business Committee and have the proper procedures followed and charges be issued. Give the people suspended a chance to answer the charges.

Questions and discussion on the statements of the members. Francis read back the minutes of that Business Committee meeting regarding this action.

Harriet Reiter stated the procedures the Personnel Selection Committee followed when they reviewed the suspension appeal. There was only one letter of suspension in that file, nothing more. On that basis they felt they couldn't go any further than that because policies and procedures had not been followed.

Question on whether Loretta Webster wasn't a Probationary employee.

Chas Wheelock questioned articles on the news.

Gary Metoxen responded he had numerous calls to find out what happened. He did have an interview to let these people know.

Discussion time limit was over.

Loretta Webster made a motion to rescind Resolution 10-02-81-A and Be it further resolved, that any personnel action involving the personnel manager (Joe Villagomez) be resolved according to the procedures outlined in the Tribe's Management System. Gary Metoxen seconded.

Ralph Powless made a motion to have a stand up vote.

Lee McLester asked how the voting would have to be on this to rescind that Resolution. It was stated it would have to be carried by 2/3 of the voters.

Clarify what will happen is a yes vote and a no vote. Francis stated if you vote yes, you overturn the Resolution of last week and the Business Committee will be reinstated. If you vote no, they will not be reinstated and the Resolution from last week stands.

Amendment to the motion that a stand up vote be taken on the motion. Seconded by Lee McLester. Motion Carried.

Vote on the main motion by stand up vote: There were two members in wheelchairs whose vote will be counted. Vote taken was Yes: 66; No: 130. Motion Denied.

The resolution failed by not having 2/3 of the majority vote.

Bobbie Webster made a motion that all Business Committee members be served with charges by the four (4) existing Business Committee members. An appeal date set and they get 30 days to respond to charges. Betty Derrison seconded. (Motion amended as per GTC meeting of 10/11/82 to comply with the Removal Ordinance.)

Francis stated that he would be glad to read Tribal Administrator also.

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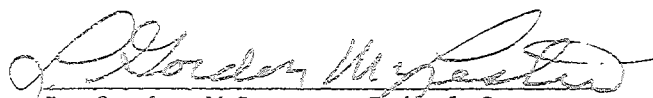
Betty Dennison Seconded. Amendment voted on. Motion Carried.

Vote on main motion. Motion Carried.

Winnifred Thomas moved to recess until Monday, October 11, 1982 at 7:00 P.M.  
John Powless Seconded. Motion Carried.

Meeting recessed at 12:05 P.M.

Respectfully Submitted,

  
L. Gordon McLester, Tribal Secretary  
Oneida Business Committee



Oneida 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



USWA DENDLER YATENE

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.

Phone: 868-9771

Post Office Box 365



Oneida, WI 54155

*Approved as corrected or amended per GTC meeting 10/9/82*

(CORRECTED)

CONTINUED

## SPECIAL GENERAL TRIBAL COUNCIL MEETING

OCTOBER 2, 1982

Meeting reconvened at 10:27 A.M. with no quorum.

Gary Metoxen gave a prayer.

### CONTINUATION: EDUCATION PRIORITIES

There was a question on Education Priorities. Jerry asked who drafted the priorities. Frank Cornelius said the Business Committee developed over-all priorities and the Education Department study is going to start in October of this year.

Question on how the Policy Statement effects Oneida's that don't live in Oneida. The way the BIA view the policy when they cut back is the Oneida's on or near the Reservation would get funds first and then in the State and then outside the State.

A quorum was present at 11:07, with a total of 78 Tribal members present.

John Powless made a motion to change the Agenda, in order to present a Resolution. Lee McLester seconded. Motion Carried.

John Powless then presented Resolution No. 10-2-82-A.:

WHEREAS: The Oneida General Tribal Council is vested with the sovereign power to make laws and policies for the Oneida Tribe of Indians of Wisconsin, and;

WHEREAS: The Oneida General Tribal Council in a duly held session, adopted a policy and procedures manual (commonly known as the "Red Book"), and instructed the Oneida Business Committee to follow this manual, in the administration of Tribal Programs, and;

WHEREAS: The Oneida Business Committee at a duly called meeting on September 28, 1982 voted 5 to 4, to dismiss a Tribal employ ee on the recommendation of the Tribal Administrator and sent the case to the Personnel Selection Committee for a hearing, and;

WHEREAS: The Oneida Business Committee has violated the tribal statute of a Tribal

employee by denying the employee due process, since all decisions of the Personnel Selection Committee are either upheld or overturned by the Oneida Business Committee, the Oneida Business Committee in dismissing a Tribal employee have prejudiced themselves by voting to dismiss, and therefore, cannot review an appeal from the Personnel Selection Committee, and,

WHEREAS: The Oneida General Tribal Council has the power to review all decisions of the Oneida Business Committee and can either support or over-rule the decisions made by the Oneida Business Committee; and,

NOW THEREFORE BE IT RESOLVED, that the employee who was dismissed on September 28, 1982 be reinstated with back-pay to time of dismissal.

BE IT FURTHER RESOLVED, that the five Business Committee members who voted for this dismissal, Gary Matoken, Frank Cornelius, Wendell McLeister, Howard Cannon, and Lloyd Powless, and the Tribal Administrator, Loretta Webster, be suspended without pay.

AND BE IT FURTHER RESOLVED, that the Oneida Law Office is directed to investigate the actions of the Business Committee in regard to the dismissal and submit a full report to the Oneida General Tribal Council within one week.

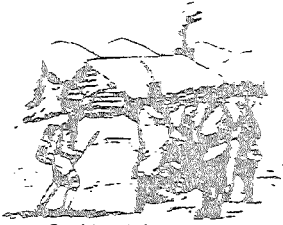
Ralph Powless made a motion to approve General Tribal Council Resolution #10-2-81-A. Lee McLeister Seconded. Loretta Matoken moved to amend the Resolution to read, under BE IT FURTHER RESOLVED, to be added, "for a duration of three (3) weeks and the Vice-Chairman will be in charge with the assistance and consent of the other three (3) Business Committee members to continue with the day-to-day business of the Tribe." Lee McLeister seconded the amendment to the Resolution. Question called on the Amendment Motion Carried. Question called on the Resolution. Motion Carried. "The pay for the suspended Business Committee members and the Tribal Administrator would be reinstated retroactive to the date of suspension if they were found to be not guilty of any wrongdoing." (amended as per GTC meeting of 10/9/82) For The Record: "It will not affect anyone's job as Tribal employee's on the way they vote on this Resolution." Francis Skenandore stated that due to the fact that he had resigned, as of October 12, 1982, it would have to be within one weeks time.

Anna John made a motion that we have Attorney Francis Skenandore draw up whatever he can find with this and we will not adjourn but we will recess until that time. Seconded by Lee McLeister. Motion Carried.

Meeting recessed at 12:10 P.M. until next Saturday, October 9, 1982 at 10:00 A.M.

Respectfully Submitted,

  
L. Gordon McLeister, Tribal Secretary



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

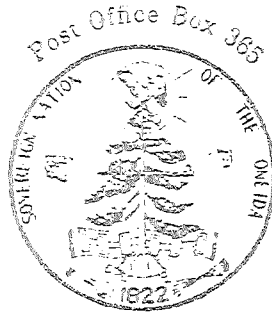
# Oneida Tribe of Indians of Wisconsin



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Because of the help of this Onida Chief in cementing a friendship between the six nations and the Colony of Pennsylvania, a new nation, the United States was made possible.

Phone: 869-2771



Oneida, WI 54155

*Approved and corrected per GTC meeting 10/9/82*

## GENERAL TRIBAL COUNCIL MEETING

(CORRECTED)

SPECIAL

SEPTEMBER 27, 1982

A quorum was present. All Business Committee members were present. Meeting was called to order at 7:10 P.M. by Chairman. Prayer was offered by Gary Motoxen.

The purpose of the meeting was stated; which was, to review proposed revision of the Tribal Constitution, Tribal Court System, other designated items in the February 25, 1982 Resolution, and other current and pertinent issues affecting the Tribe: a. Update on O.T.E. Lawsuit, b. Arts and Crafts Shop, c. O.J.T. Contract with J & K Machine Shop, d. Update on Smerud case.

Norbert Hill was appointed parliamentarian. Gary asked for adoption of the Agenda.

Lee Mc Lester made a motion to adopt the Agenda and that we complete the whole Agenda. Mark Powless seconded. Motion Carried.

### REVISION OF THE ONEIDA TRIBAL CONSTITUTION

Jerry Hill gave a report on the Revision. There were five options given:

- (1) Leave Constitution as is;
- (2) Incorporate all present amendments;
- (3) Revise Text of Constitution;
- (4) Include specific provision for Separation of Powers;
- (5) Traditional Form of Oneida Government.

There was discussion on the options given, for and against the Revision of the Constitution.

Genny Gollnick made a motion to have the Sub-Committee and Jerry Hill develop options #3 and #5, and bring this information back to the General Tribal Council for review at the next General Tribal Council Semi-Annual Meeting. Kathy Webster Seconded. Motion Carried.

### TRIBAL COURT by Jerry Hill

Jerry Hill gave a report on the development of a court system for the Tribe. He has been working on the project for two (2) years. There were six points he has been working on:

- (1) Study our present system
- (2) Visit other Tribal Courts - Court personnel practicing Indian Attorneys and organizations.
- (3) Present reports of analysis to the Business Committee.
- (4) Present draft of Proposed codes to the Business Committee
- (5) Adopt Systematic plan for the presentation to the Oneida General Tribal Council
- (6) Final plan of implementation after adoption.

At this time, the Tribal Court project is on schedule. Jerry asked for a provisional adoption with a final and formal adoption by the Oneida General Tribal Council occurring on a date to be scheduled.

There were statements made for and against the Tribal Court System. The General Tribal Council asked the Business Committee members which way each member felt on the Tribal Court. Mark Powless stated he was for the Tribal Court, as did Lloyd Powless, Tony Benson, Norbert Hill, Gordon McLester and Gary Metoxen. Frank Cornelius and Wendell are against the Court and Howard Cannon is for what the people want. Wendell McLester "At the present time, I am against the Court but I do think we need a Court but sometime in the future because all the people that are going to be affected by that Court should be in full knowledge about how they are going to be affected".

Norbert Hill made a motion to support and proceed with the Tribal Court. Lee McLester Seconded. Ernie Stevens asked that we stand to be counted. 89 yes, 16 no, 2 abstained. Motion Carried.

#### LAND ACQUISITION PLAN, DISCUSSION

A land acquisition plan was handed out at the July 10, 1982 General Tribal Council meeting. There was discussion on the land acquisition plan and what ways would be best to increase our land base. Part of the discussion also covered the land claims. The Claim for land in New York is still in the courts and at this time, it is only guesswork, maybe 4 or 5 years. The Wisconsin Land Claims: The only active land is the Seminary. The Catholic Church has agreed to return the title to the Tribe. This is still being negotiated.

There was discussion on the amount of money to be set aside for the Land Acquisition. After a lengthy discussion, Ernie Stevens made a motion that \$.30 from every carton of cigarettes that are sold be used for land purchases and the land committee is to be involved in all purchases. Discussion. Amelia Cornelius asked if Ernie Stevens would amend his motion to include: That the Business Committee be directed that any and all land purchases be sent through the Land Committee. Ernie Stevens agreed. Winnie Thomas Seconded. Motion Carried.

#### EDUCATIONAL PRIORITIES

A question was brought up regarding High School students not participating in any extra curricular activities at the other High Schools and if the Tribe is or will be considering a High School on the Reservation. John Powless stated that the Education Board will be discussing the possibility of a High School on the Reservation in the next year.

The hour was getting late and the time would not permit finishing the Agenda. Amelia moved to recess until Saturday, October 2, 1982 at 10:00 A.M. Bobbie Webster seconded. Motion Carried.

General Tribal Council Meeting recessed at 10:20 P.M.

Respectfully Submitted.

# Oneida Tribal Law Office

P. O. BOX 129 • ONEIDA, WISCONSIN 54155

PHONE 414 / 869-2724

## MEMORANDUM

TO: Oneida General Tribal Council

FROM: Francis R. Skenandore  
Attorney

DATE: October 9, 1982

RE: Report on Oneida General Tribal Council Resolution - 10-2-82

On October 2, 1982 the Oneida General Tribal Council by voice-vote adopted Resolution No. 10-2-82 (See attachment "A"). In brief the resolution stated that the following Business Committee members, Gary Matoken, Frank Cornelius, Wendell McLester, Howard Cannon, Lloyd Powless and Tribal Administrator Loretta Webster be suspended without pay in that they had violated the civil rights of a tribal employee, Joe Villagomez, by denying the tribal employee due process in dismissing him from his job as Personnel Manager in violation of the policy and procedures as set forth in the Oneida Tribal Management System. The resolution further resolved that the Oneida Law Office is directed to investigate the actions of the Oneida Business Committee in regard to the dismissal and submit a full report to the Oneida General Tribal Council within one week. The facts relating up to the adoption of the resolution by the General Tribal Council at the meeting on October 2, 1982 are as follows:

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Oneida General Tribal Council  
October 9, 1982

STATEMENT OF FACTS

On September 21, 1982 Loretta Webster, Tribal Administrator, by memo to Joe Villagomez immediately suspended Joe Villagomez from his job as Personnel Manager. In the same memo she further stated she would seek a final determination from the Oneida Business Committee for his dismissal. (See attachment "B"). On the same day, September 21, 1982 Loretta Webster, Tribal Administrator by memo to the Oneida Business Committee with the subject "Recommendation For Dismissal: Joe Villagomez" requested and recommended to the Oneida Business Committee that Joe Villagomez be dismissed and that this matter be taken up at the 9:00 a.m. meeting on September 24, 1982. (See attachment "C").

On September 22, 1982 Joe Villagomez by memo to Gary Metoxen, Tribal Chairman, requested a hearing with the Personnel Selection Committee regarding his suspension. Gary Metoxen, the same day, September 22, 1982 on the same memo from Joe Villagomez in form of a memo to Loretta Webster, Tribal Administrator, instructed Loretta Webster to comply with the request of Joe Villagomez for a hearing pursuant to the procedures described in the Oneida Tribal Management System. (See attachment "D").

On September 23, 1982 the Personnel Selection Committee convened to review the immediate suspension imposed on Joe Villagomez, Personnel Manager by the Tribal Administrator, Loretta Webster. The Personnel Selection Committee dismissed the suspension stating that on the basis of documentation presented by Loretta Webster, Tribal Administrator, the proper procedure relating to the suspension had not been followed as described and set forth in the Oneida Tribal Management System. They further stated (Personnel Selection Committee) that the cause for immediate suspension was not a cause as listed in the Oneida Tribal Management System. They further

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recommended that Joe Villagomez be reinstated in his position with full benefits. In addition the Committee further recommended that Loretta Webster, Tribal Administrator, review carefully and familiarize herself with the contents of the Oneida Tribal Management System in that they seen this failure to follow procedure in a matter of such importance as a very serious problem. (See attachment "E" & "E-1").

On September 27, 1982 the Oneida Business Committee convened in a special meeting on the request of Loretta Webster, Tribal Administrator to dismiss Joe Villagomez as Personnel Manager. In this meeting the recommendation of the Personnel Selection Committee to reinstate Joe Villagomez with full benefits was discussed first. Following this discussion, Lloyd Powless made a motion to approve the recommendation of the Personnel Selection Committee that Joe Villagomez be reinstated in his job with full benefits. The following five people voted in favor of approving the Personnel Selection Committee recommendation: Lloyd Powless, Mark Powless, Tony Benson, Gordon McLester & Norbert Hill. The following people opposed approving the recommendation of the Personnel Selection Committee: Wendell McLester, Howard Cannon, and Frank Cornelius. In this same meeting, after the Business Committee approved the recommendation of the Personnel Selection Committee to reinstate Joe Villagomez in his job with full benefits, Frank Cornelius moved to accept the recommendation of the Tribal Administrator Loretta Webster to dismiss Joe Villagomez from his job. After a lengthy discussion as to whether the proper procedures were followed as to the request and recommendation from Loretta Webster, Tribal Administrator, to dismiss Joe Villagomez, the question was called for. The vote came out to a four-to-four tie with Frank Cornelius, Wendell McLester, Lloyd Powless, & Howard Cannon voting to dismiss Joe Villagomez from his job upon the

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October 9, 1982

opposed dismissing Joe Villagomez from his job on the grounds that the proper procedures were not followed: Tony Benson, Mark Powless, Gordon McLester, and Norbert Hill. The Chairman, Gary Metoxen, voting to break the tie, voted to dismiss Joe Villagomez from his job as Personnel Manager and that proper procedures were followed for dismissal. (See attachment "F").

#### ISSUE PRESENTED

The issue in this matter is whether the five members of the Oneida Business Committee voting to dismiss Joe Villagomez from his job as Personnel Manager upon the direct request and recommendation by memo, from Loretta Webster, Tribal Administrator, denied the tribal employee due process and was such dismissal in violation of the Oneida Tribal Management System, adopted by the General Tribal Council as revised April 1982.

#### APPLICABLE POLICY AND PROCEDURES

The following policies and procedures are set forth in the Oneida Tribal Management System as adopted by the Oneida General Tribal Council and as revised by the present Oneida Business Committee, April 1982, with the exception of Lloyd Powless who was not on the Business Committee at that time.

Under II - Role and Policy Definition. B(1)(d)5 the Oneida Business Committee is to insure compliance with Tribal policy and procedure. Under II - Role and Policy Definition C 1 & 2, Tribal Officers, the Chairman is to fulfill the Tribal Constitution, By-Laws, and enforce official tribal policies and procedures. Under II - Role and Policy Definition E, 4(b) the Tribal Administrator is to follow the tribal policies and procedures. As to suspension and dismissal under III - Operational Procedures B,4 Suspension/Dismissal it states:

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"Any employee, including program heads and the Administrator may be suspended or dismissed for violation of policies and procedures, or directives (reference P.O. 2 and Glossary for detailed definitions of procedures and cause)."

Under Glossary, Suspension, Cause it states:

"All tribal employees are subject to disciplinary action, suspension, or dismissal for violations of tribal policies, rules, and regulations governing personal conduct, safety, care of tribal property and rights of other employees and clients."

It further states under Part 2 of the Glossary:

"Violations of any of the following rules will be handled in the following manner:

First Offense -----Verbal warning  
Second Offense-----Written warning  
Third Offense-----Written warning

possible suspension or dismissal."

Under Procedural Outline 2 - Definition of Suspension/Dismissal

Procedure, A. Immediate Supervisor, it states in pertinent part:

"Upon receipt of an appeal or a suspension/dismissal, the Personnel Office shall:

- Notify the Personnel Selection Committee
- Schedule a meeting, the date of which shall not exceed five (5) working days from time of receipt.
- Notify Administrator of date, time and place of meeting.

An order entered by the Personnel Selection Committee shall be:

- Subject to reversal by five (5) concurring votes of the Business Committee.
  - in writing and generally state:
    - ..the charges raised against the employee
    - ..the committee's findings as to charge
    - ..the committee's final determinations
  - forwarded to:"

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ANALYSIS

Applying the facts to the policies and procedures as set forth in the Oneida Tribal Management System it is the conclusion of this office that Joe Villagomez, Personnel Manager, was denied due process in being dismissed in violation of the policies and procedures as set forth in the Oneida Tribal Management System.

It is true that an immediate supervisor can suspend an employee and request that the employee be dismissed under III - Operational Procedures E 4, Suspension/Dismissal. Loretta Webster did suspend Joe Villagomez immediately in her memo dated September 21, 1982. She at the same time by memo to the Business Committee requested that he be dismissed and that request be taken up at and acted upon at the September 24, 1982 Business Committee meeting. This direct request to the Business Committee to dismiss Joe Villagomez did not comply with the policies and procedures set forth in the Oneida Tribal Management System, P.O. 2 Definition of Suspension/Dismissal Procedure, A. Immediate Supervisor. No request for dismissal can go directly to the Business Committee from an immediate supervisor including the Tribal Administrator. The suspension/dismissal is one action and may not be separated to circumvent tribal policies and procedures, P.O. 2 Definition of Suspension/Dismissal Procedure, A. Immediate Supervisor. The immediate supervisor must suspend and request dismissal in the manner prescribed in the Oneida Tribal Management System, but may not separate the dismissal from the procedure through the Personnel Selection Committee by directly requesting a dismissal from the Business Committee P.O. 2 Definition of Suspension/Dismissal Procedure, A. Immediate Supervisor.

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The Tribal employee shall and must receive a verbal warning, and two other written warnings before a suspension/dismissal can be requested.

Glossary, Part 2. If immediate suspension is sought it must be for one of the causes set forth in the Glossary. Glossary, Suspension, Cause. After the immediate supervisor has issued the appropriate warnings, the requested suspension/dismissal shall be forwarded to the Personnel Manager's office who in turn schedules a meeting with the Personnel Selection Committee within five (5) days receipt. P.O. 2, Definition of Suspension/Dismissal Procedure, A. Immediate Supervisor. A meeting of the Personnel Selection Committee shall be held on an appeal or suspension/dismissal of the tribal employee. If there is no appeal a meeting shall still be held on the suspension/dismissal as set forth in the P.O. 2, Definition of Suspension/Dismissal Procedure, A. Immediate Supervisor, which in the relevant part states as follows:

"Upon receipt of an appeal or a suspension/dismissal, the Personnel office shall:

- Notify the Personnel Selection Committee
- Schedule a meeting, the date of which shall not exceed five (5) working days from time of receipt.
- Notify Administrator of date, time and place of meeting."

The Personnel Selection Committee after considering all the evidence that has been presented may enter an order supporting the suspension/dismissal, enter an order dismissing the matter or continue the matter until a second meeting within ten days. Any order entered by the Personnel Selection Committee is then forwarded to the Business Committee with their recommendation. It is only at this point that the Business Committee can become involved in personnel matters of this kind. The Business Committee can only overturn a recommendation of the Personnel Selection Committee by five (5) concurring votes. P.O. 2, Definition of Suspension/Dismissal Procedure, A. Immediate Supervisor. The Oneida General Tribal Council has in

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in the past by Resolution No. 1-1-76 and Resolution No. 2-25-82 directed the Business Committee to fully implement the Oneida Tribal Management System and maintain a separation of legislative and administrative responsibilities to ensure that the Business Committee not intervene in personnel matters until the proper procedures have been followed.

#### CONCLUSION

For the reasons above, the request and recommendation by Loretta Webster, Tribal Administrator, directly to the Business Committee to dismiss Joe Villagomez as Personnel Manager was in error and in violation of the policies and procedures set forth in the Oneida Tribal Management System. Under II - Role and Policy Definition E - (b), the Tribal Administrator is to follow the Tribal policy and procedures. The record does indicate that Loretta Webster, Tribal Administrator, was confused as to the procedures on September 27, 1982 when she met with the Business Committee on her request to dismiss Joe Villagomez. The record further indicates that she was seeking direction from the Business Committee as to what procedures to follow. For the same reasons the Business Committee members who voted to accept the request and recommendation from Loretta Webster, Tribal Administrator, to dismiss Joe Villagomez was also in error and in violation of the policies and procedures as set forth in the Oneida Tribal Management System. The action of the four Business Committee members voting to dismiss Joe Villagomez and deciding vote cast by Gary Hetonen, Chairman, violated the employee rights of Joe Villagomez by denying him due process in dismissing him from his job as Personnel Manager. Under II - Role and Policy Definition, C 1 & 2, Tribal Officers the Chairman is to fulfill the Tribal Constitution, By-Laws and enforce official tribal policy and procedure.

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The purpose of requiring suspensions/dismissals actions to be sent to the Personnel Selection Committee is to protect the rights of all employees. If it were otherwise, any supervisor could proceed with a recommendation of dismissal directly to the Business Committee against their subordinates without recourse for the employee. Thus, the policy consideration is to protect the rights of employees by insuring that arbitrary dismissals do not occur. Such policy further enhances the morale of employees who know they will be treated fairly throughout the Tribe. Without such protections the Tribe would be unable to hire professional and other highly trained and experienced persons. No reasonable person would come to work for the Tribe, knowing that they could be dismissed arbitrarily, summarily and immediately without recourse by a immediate supervisor and majority of the Oneida Business Committee arbitrarily or summarily agreeing with the supervisor. The Tribe must maintain its image that it is a fair and equal opportunity employer as set out in the Oneida Tribal Management System to attract highly qualified professional and trained people to work for the growth and benefit of the Tribe and its members as a whole.

One purpose of the Oneida Tribal Management System is to ensure that personnel matters of this type are handled internally within the Tribe to protect the public image of the Tribe as an employer. The Oneida Tribal Management System is the official set of policies and procedures of the Oneida Tribe of Indians of Wisconsin to be used by all Tribal Officers and employees. This application of the Tribal policies and procedures must be uniform over people and programs if they are to be effective. The Oneida Business Committee is to insure compliance with Tribal policy and procedure under II - Role and Policy Definition, B(1)(b) 5, Oneida Tribal Management System.