

Regular Meeting
Chautauqua County Legislature
Wednesday, October 23, 2019 6:30 p.m.
Mayville, N.Y. 14757

Chairman Wendel called the meeting to order at 6:35 p.m.

Clerk Tampio called the roll and announced a quorum present.

MOVED by Legislator Bankoski, SECONDED by Legislator Nazzaro and duly carried the minutes were approved. (9/25/19)

1st Privilege of the Floor

Hello Mr. Chairman and members of the Legislature, my name is John Sedota. I'm a Chautauqua County resident, county employee of twenty-three and a half years with the Department of Health and Human Services and a councilman with the Town of Pomfret. I'm here tonight along with some of my fellow tax paying county employees to share our concerns over the tax increase being proposed by the County Legislature. As tax payers and county employees we do not agree with increasing the tax burden and believe that there is room for increased efficiency within county government. We concur with business leaders in the community such as the chamber of commerce and the manufacturers association of the southern tier who publically expressed their concern in today's Observer. It was mentioned in the article that approximately thirteen departmental budgets are increasing the cost beyond the rate of inflation and we find this trend concerning.

In addition to expressing our concerns we would also like to take this opportunity to express our willingness to offer suggestions and ideas to increase productivity and efficiency in county government to any elected or unelected officials willing to listen and explore cost savings opportunities. As county employees we see firsthand some of the inefficiencies that occur on a regular basis in county government and are willing to share our knowledge and experience. As county employees and tax payers we agree with business leaders in the community. The Legislature should take another look at the budget to seek further cost savings and continue the trend of lowering the Chautauqua County tax rate. Thank you.

Chairman Wendel: Is there anyone else to speak to the first privilege of the floor?

**VETO MESSAGES FROM COUNTY EXECUTIVE BORRELLO
NO VETOES FROM 9/25/19**

COMMENDATION:

**FREDONIA HIGH SCHOOL
2019 NATIONAL BLUE RIBBON SCHOOL**

By
**Legislator Christine Starks,
Legislator Robert Scudder**

PUBLIC HEARING:

**2020 TENTATIVE BUDGET & SEWER
DISTRICT ASSESSMENT ROLLS**

Clerk Tampio: We will now move on to the 2020 tentative budget and sewer district assessment rolls. (6:44 p.m.)

Chairman Wendel: Anyone to speak to the public hearing? Is there anyone to speak to the public hearing? Seeing no one, we'll close the public hearing. (6:45 p.m.)

COMMUNICATIONS:

- 1. Proof of Publication – Public Hearings – 2020 Tentative & Sewer District Assessment Rolls**
- 2. Letter – Chautauqua County Fire Advisory Board- Support for Fourth County ALS Vehicle**
- 3. Letter – County Executive – Appointment – EMS Council**
- 4. Letter – Department of Transportation – Bridge Replacement Project**
- 5. Report – Finance Director Crow – Investment Report – August 2019**
- 6. Drescher & Malecki LLP - County Audit Year Ending 12/31/18**
- 7. Chautauqua County 2020 Tentative Budget**
- 8. Letter – Mary Jantzi – Re: Support for Chautauqua County 4-H**
- 9. Letter – Brian Jantzi – Re: Support for Chautauqua County 4-H**
- 10. Letter – County Executive – Support the Use of Tax Stabilization Fund**

Clerk Tampio: The Legislature office has received the nine communications that are listed on your agenda this evening. This afternoon we also received an additional communication from County Executive Borrello and I'll read the body. Dear County Legislators: Pursuant to Section 6-e of New York General Municipal Law, this letter will confirm my recommendation that the 2020 Tentative Budget be amended to utilize the \$100,060 balance remaining in the County's Contingency and Tax Stabilization Fund, in order to lessen any projected increase in excess of two and one-half percent in the amount of real property tax levy needed to finance the eligible portion of the annual budget for 2020.

Chairman Wendel: Thank you.

LOCAL LAW INTRO. 5-19 – A Local Law to Amend the Sustainable Energy Loan Program in the County of Chautauqua

Legislator Odell: Thank you, Mr. Chairman. This local law will allow the continuance of the property assessed clean energy program through the energy improvement corporation of New York State and allow our commercial institutional-institutions within the county to take advantage of their low interest rates. Thank you.

Chairman Wendel: Anyone else to speak to the local law?

LOCAL LAW INTRO. 5-19 – R/C Vote: 19 Yes; 0 No – UNANIMOUSLY ADOPTED

RESOLUTIONS:

RES. NO. 239-19 Confirm Appointments – Emergency Medical Services Council, by Public Safety Committee – UNANIMOUSLY ADOPTED

RES. NO. 240-19 Close Capital Projects and Amend 2019 Budget—Landfill, by Public Facilities and Audit & Control Committees – UNANIMOUSLY ADOPTED

RES. NO. 241-19 Adjust DPF Building and Grounds Accounts, by Public Facilities and Audit & Control Committees – UNANIMOUSLY ADOPTED

RES. NO. 242-19 Adjust D.5112 Capital Improvement Account-Funded Roads, by Public Facilities and Audit & Control Committees – UNANIMOUSLY ADOPTED

RES. NO. 243-19 Amend 2019 Budget for Road Salt, by Public Facilities and Audit & Control Committees – UNANIMOUSLY ADOPTED

RES. NO. 244-19 Amend 2019 Budget for Jury Room Renovations in the Chautauqua County Courthouse and Carpet Replacement in Part 1 Hearing Rooms 103, 104, & 105 in the Mayville Municipal Building, by Public Facilities and Audit & Control Committees – UNANIMOUSLY ADOPTED

RES. NO. 245-19 Authorize Early Voting Aid to Localities Grant Award from the New York State Board of Elections, by Administrative Services and Audit & Control Committees – UNANIMOUSLY ADOPTED

RES. NO. 246-19 Authorize Acceptance of the 2020 Stop Violence Against Women (VAWA) Grant Program, by Public Safety and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 247-19 HazMat Grant Program FY2018, by Public Safety and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 248-19 Fiscal Year 2019 Hazardous Materials Emergency Preparedness (HMEP) Grant Program, by Public Safety and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 249-19 Mental Hygiene HEALing Communities Study, by Human Services and Audit & Control Committees

Legislator Rankin: I just want to commend and thank Mental Hygiene, Pat Brinkman and all the staff there for the great work they've done and that they do every day, but also in bringing in these grants to our county to continue the important work that they do.

Chairman Wendel: Thank you.

RES. NO. 249-19 – UNANIMOUSLY ADOPTED

RES. NO. 250-19 Mental Hygiene Health Resources and Services Administration (HRSA) RCORP-Implementation Grant, by Human Services and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 251-19 Mental Health SAMHSA Expansion Grant/Tapestry, by Human Services and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 252-19 Acceptance of New York State OASAS Funds for Alcoholism and Substance Abuse Prevention and Treatment, by Human Services and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 253-19 Accept Grant Funding from the New York State Department of Agriculture and Markets to Update the Chautauqua County Agriculture and Farmland Protection Plan, by Planning & Economic Development and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 254-19 Environmental Assessment of Projects for 2020 2% Occupancy Tax Projects, by Planning & Economic Development and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 255-19 Authorize Advance of Funds to Chautauqua County Soil & Water for WQIP Projects - Jamestown Riverwalk Restoration and Silver Creek Dam Removal, by Planning & Economic Development and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 256-19 Authorize Agreement with Cassadaga Valley Central School District for School Resource Officer, by Public Safety and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 257-19 Quit Claim Deeds, by Administrative Services and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 258-19 Approving Labor Contract with Chautauqua County Sheriff Employees' Association (CCSEA), by Public Safety, Administrative Services and Audit & Control Committees – R/C Vote: 19 Yes; 0 No – **UNANIMOUSLY ADOPTED**

RES. NO. 259-19 Consider 2020 Tentative Budget, with the Changes Listed Below, and Present Same to the County Executive for His Consideration and Action, by Audit & Control Committee

Legislator Niebel: Mr. Chairman, first of all I'd like to thank everyone who worked on the 2020 budget; the County Executive, Finance, Budget, the department heads and Legislators. Look, preparing the county budget is one of our most important responsibilities. The amendment that we have before us raises the 2020 county tax rate eight cents to \$8.46 per thousand of assessed valuation. Keep in mind then that the 2020 tax levy- the amount of money that we actually raise would increase by \$2.3 million. Folks in favor of raising the tax rate are concerned about the fund balance and I think that's a legitimate concern, but the numbers are based on projections- guesses really as to where the fund balance will be in 2020, 2022 or 2024 or beyond. We're not talking about a household budget or a small business budget over which you have some control; we're talking about a governmental budget and there's just too many variables. In DPW a mild winter could save us hundreds of thousands of dollars and a severe winter could cost us an extra hundreds of thousands of dollars. In the department of HHS a change in the reimbursement rate can affect hundreds of thousands of dollars and who knows, the state may pay us all or part of the tribal compact that they owe us and that's up to \$2.3 million.

The point is we just don't know, but what we do know is that the County Executive and our experienced and dedicated department heads have put together a responsible budget; one that calls for no tax rate increase. The budget process for them began in July and continues even now. I have confidence in the County Executive, the Finance Budget office and our department heads. I was a county department head a few years ago and if I've learned two things is it's very difficult to predict budgets more than a year or two in advance and if government raises additional revenues it finds a way to

spend it. Let's let our tax payers keep their money and let's go with the County Executive and the department heads budget and let's vote no on this amendment.

Chairman Wendel: Thank you. Anyone else to speak?

Legislator Chagnon: Thank you, Mr. Chairman. Considering these resolution I hearken back to the comments dated June 20, 2019 from the Independent Auditors' report of the 2018 county audit. One comment was that The General Fund had a variance in the year 2018 from the final budgetary appropriations and estimated revenue of \$1,966,577. The variance is primarily due to the County receiving significantly less revenue for federal aid, state aid, and departmental income than anticipated. That shortfall was \$9.7 million. This was partially offset by spending less than anticipated on health and economic assistance and opportunity of \$7.7 million thus the net loss of \$1.9 million-nearly \$2 million.

The County's combined spending for its three primary operating funds has been limited to 2.2% average annual increases from the year ended December 31, 2016 to the year ended December 31, 2018, however, revenues have not increased over the same period to meet spending levels. As a result of this operations trend, fund balances have deteriorated.

And the third comment included said we recommend that the County carefully monitor its fund balance position to prevent further deterioration. The County should pursue potential cost-cutting and/or revenue enhancing options, including a real property tax increase to create a sound plan to balance its future budgets

We know the 2019 Budget has some of the same issues as 2018, which became evident after the 2019 Budget was adopted. We began work with the County Executive, Finance Director, and Budget Director in early 2019 to implement corrective actions to mitigate these impacts to the greatest extent possible. Through concerted efforts we were able to identify reduced appropriations and increased revenue totaling just over \$1.3 million to offset an anticipated equal amount of reduced revenue. We adopted Budget amendments in August to capture these changes. However, that still left \$900,000 of anticipated reduced revenue not offset, thus still facing us this year. This is the reason we added an appropriation to the 2020 Budget to contract with an expert in federal and state reimbursement processes to make sure we maximize our revenue generation from those sources.

The 2020 Budget includes nearly \$500,000 for new unfunded state mandates. We need new recurring revenue to compensate for these new recurring expenditures. To implement the new mandates, the Budget includes additional staff in the offices of the District Attorney and Sheriff due to new legal discovery rules, additional staff for Probation due to bail reform, and an additional sanitarian due to lower blood lead levels requiring action.

Additional expenditures associated with new mandates are compounded by the lack of revenue from the tribal compact and a decrease in the subsidies that offset the reduction of the NRG Payment In Lieu Of Taxes.

The \$1 million use of fund balance in the Tentative Budget would have caused the general unobligated fund balance to drop below 5% of revenues. Our Financial

Management Policy requires the unobligated fund balance to remain between 5% and 15% of general fund revenues.

The County continues to face challenges in 2019 that will make it difficult to meet the 2019 budget. Consequently, an unplanned use of fund balance may be needed to balance the 2019 financial results. The challenges include higher than anticipated expenditures for road salt, as we've seen this evening and lower than anticipated revenues for Social Services.

There are also several significant risks embedded in the 2020 Budget. The Budget includes \$1 million in revenue for a contract to produce renewable natural gas at the landfill, and that contract has been seriously delayed. The County's weekly Medicaid payment amount, usually updated by New York State every April, still has not been updated. Two labor contracts remain unsettled, now, only one. The nearly \$1 million budgeted reduction in local share of safety net is based on continuation of the trend of lower expenses. Budgeted increases in sales tax revenue is uncertain. Both Road Salt usage and cost continue to increase. The uncertainties related to these and other items could affect the use of fund balance after the budget is adopted, therefore it is important to preserve fund balances.

We know some people have pointed out that several departments have increased appropriations in the 2020 Budget beyond the rate of inflation. This is true, however, it is explained by increased New York State unfunded mandates, the ravaging costs of the opioid epidemic, and increased appropriations funded by new grants. One person pointed out that one department increased appropriations by 31%; this increase is completely covered by increased grant funding leaving the local share for that department completely unchanged.

For these reasons, Mr. Chairman, I fully support this resolution. Thank you.

Chairman Wendel: Thank you very much. Anyone else to speak to the budget?

Legislator Nazzaro: First of all I would like to thank Legislator Chagnon for his detailed analysis of the budget. It's very accurate and spot on. I would also like to thank the entire Legislature, particularly the Audit & Control Committee for their hard work and all the department heads, the finance director, budget director and the County Executive. Legislator Chagnon went over a lot of the facts in this budget and there's just a couple things I want to add. This legislature- I've been involved now in twelve budgets and every time we do everything we can to control expenses, find realistic revenue and keep the tax rate flat or even decreased.

Back in 2006 the tax rate per thousand was \$9.49. Currently the tax rate before this passes, if it does, is \$8.38. We're proposing a 1% increase or \$8 per thousand. To put that in perspective that is \$8 on a \$100,000 home. To the points that Legislator Chagnon brought out, if we do not approve this amendment and these do not go in then you'll have a budget that has an operating deficit and what that means is we're spending more than we're taking in.

Additionally, if we do not approve this budget, we all just unanimously approved a labor agreement. This amendment has in it the effects of that labor agreement and how

we're going to pay for it. So, if this resolution does not pass then we are not funding that contract that we just unanimously approved.

I agree with Legislator Niebel- he used such words as could, can, estimated, who knows- we don't know for sure what can happen, but we have to look at projections and (*inaudible*) eventually, it's not if it's when we will go again into a recession. It's an 8-10 year cycle. It's an economic fact of life. So, we have to prepare ourselves for when there is a down turn in the economy. We have to maintain our fund balance at a reasonable level, which is 5% minimum of revenue and we need a plan for the future. If next year, for those that are here, are working on the 2021 budget things change, we have an increase in revenue, we can adjust that tax rate again up or down. This is the prudent thing to do and we need to follow our legislative policy of maintaining the fund balance. So, I really encourage everyone to do the right thing and approve this budget with this amendment. Thank you.

Chairman Wendel: Thank you. Anyone else to speak?

Legislator Odell: Thank you very much Mr. Chairman. As was alluded to as part of startling foreshadowing from our audit report as reported by Legislator Chagnon earlier this summer, (*inaudible*) budget shortfalls and concerns that we're going to see. Although County Executive Borrello has worked tirelessly and very effectively with the department heads and all involved to maximize the efficiency of every dollar in every department and presented a very sound budget proposal, as a legislator who has always maintained a strictly business mindset I concur with the budget adjustments presented by the Audit & Control Committee to ensure the fiscal stability in the forthcoming year.

In the past five years we have been able to eliminate the budget structural deficits, drawn the County back from the brink of our reserves being fully depleted and we've reduced the County's tax rate five years in a row. As chairman of the Planning & Economic Development Committee I would normally be against this in principle but understand its necessity. I was very pleased to see the divisions under our direct oversight present a cumulative budget that was actually half a percent under budget, so thank you for that. Others committees and departments were not so fortunate, particularly those dealing with the unfunded state mandates as discussed. Thank you.

Chairman Wendel: Thank you. Anyone else to speak?

Legislator Rankin: I'm so impressed with the work that all the committees have done, especially Audit & Control and the recommendations that they've made. I am grateful for all the work that the County Executive and the departments have done as well. It's unlike me to be taking a stand against what they recommend. The last time this group discussed a property tax reduction we talked about how much we should reduce it and I was conservative and voted for- I wanted a lower amount because I didn't want to then turn around and have to increase it again and that's what we're doing and I understand what they're saying that it's not a great increase, but when I talk to my constituents what they say is it's on top of this and that and they're feeling overwhelmed. In my district I have people in Jamestown who are- many of them are at the high end of

property taxes and paid more over twenty years in taxes than they paid for their house originally and then I've got at the other end of my district people who struggle to make ends meet and can't afford anymore property taxes. So, in spite of all that they're doing and it's very compelling and I've really been on the fence, I've promised to fight against any tax increases and I'd like to wait another year and so I can't support this right now. Thank you very much.

Chairman Wendel: Thank you. Anyone else to speak to this resolution?

RES. NO. 259-19– R/C Vote: 15 Yes; 4 No – **ADOPTED** (No: Niebel, Proctor, Rankin, Wilfong)

Chairman Wendel: At this time I would like to concur what has been said this evening. Thank you to our County Executive and department heads for coming up with a budget that was well stated and well-funded. This is never an easy task, but maintaining that fiscal stability is what's imperative as we move forward. Thank you.

MOTION:

A. Proclaiming October 2019 as Domestic Violence Awareness Month in Chautauqua County

Legislator Rankin: Earlier this month County Executive Borrello declared October domestic violence awareness month. Legislator Wilfong and I proposed this motion to remind residents about this terrible condition that we should do whatever we can to support efforts of prevention and to affirm that domestic violence is not acceptable in Chautauqua County or anywhere else. Thank you.

Chairman Wendel: Thank you. Anyone else to speak to the motion?

UNANIMOUSLY ADOPTED

ANNOUNCEMENTS

Legislator Rankin: It's a follow up to that- I'd like to announce that domestic violence advocates are asking people to wear purple tomorrow on Thursday in support of victims and domestic violence awareness.

Chairman Wendel: Thank you. Any other announcements?

PRIVILEGE OF THE FLOOR

Karen Engstrom- Mayville – We're talking about a budget tonight and therefore we must be concerned about the value of the properties that we're taxing and that property value is going to be impacted by these large industrial wind turbine projects in our community. I have an announcement; there is a rally to oppose Lake Erie wind turbines. It's called defending Lake Erie from wind turbines. It's this Saturday at 11 a.m. at Cabana Sam's patio in Irving and I encourage everyone to come because I know there will be people from Buffalo coming who are going to advocate for supporting wind turbines in Lake Erie.

Our group, Concerned Citizens Against Wind Turbines has sent you an email and I hope you take a look at it. It does indicate that there's still a chance to stop the Cassadaga Wind Project because the U.S. Army Corp of Engineers does give a permit for that project and they have not done so. They're asking for comments from officials and from the public regarding that project. The deadline is November 1, although they extended last year's for an additional six months.

There are many new things that have occurred since the last time we asked for comments to the U.S. Army Corp of Engineers and the most recent one is not in your letter in your email. It is that (*inaudible*) in Cattaraugus County, the Town of Freedom New York won in State Supreme Court its suit against the town board. The Supreme Court ruled that the Freedom town board acted illegally in approving a wind law for 600 foot turbines, sighting corruption of that town board. This is similar situation that is occurring in our County. That's the most recent thing.

Another thing that you may not be aware of is that your resolution to ask the IDA to not issue payment in lieu of taxes to large industrial wind turbines has gone to four counties in Western New York now. So, Cattaraugus, Chautauqua, Oswego County and Jefferson Counties have all passed no pilot resolutions, which will help make these turbine companies become competitive within the communities and they are not now because they are subsidized at such a high rate.

There are five other items in the letter that we sent to you. I hope you'll take a look at it. We've had a number of victories. The listing of the damages being sought by the Arkwright people who have been, since September 8th of 2018, exposed to industrial wind turbines. A hundred people have filed suit to protect themselves and to gain some advantage over the suffering they've experienced both in terms of their property values diminishing and their health affects they've experienced. I hope you'll take a look at that letter that's in your email and the Army Corp is soliciting comments from officials and the public regarding the second of three large industrial wind turbines in our County. Thank you.

Chairman Wendel: Thank you. Anyone to speak to the second privilege of the floor?

Mr. Heitzenrater: Thank you, Mr. Chairman. Dan Heitzenrater- 20 Harmon Avenue, Falconer. I just wanted to bring to the Legislature's attention that in addition to domestic violence awareness month and breast cancer awareness month, it is also pregnancy and infant loss awareness month. I'm a bereaved father of our son, Elliott

Johnson Heitzenrater, and County Executive Borrello on October 15th had a nice event with the Western New York Perinatal Bereavement Network and UPMC Chautauqua to proclaim Pregnancy and Infant Loss Awareness and Remembrance Day. So, I appreciate very much your personal support and condolences in the past and wanted to remind everybody to also raise awareness that one in four pregnancies unfortunately ends in a loss. Thank you.

Chairman Wendel: Thank you. Anyone else to speak to the second privilege of the floor?

MOVED by Legislator Gould, SECONDED by Legislator Bankoski and duly carried the meeting was adjourned. (7:19 p.m.)

Respectfully submitted and transcribed,
Olivia Ames, Deputy Clerk/Secretary to the Legislature