

Agenda

Administrative Services Committee

**October 19, 2020, 5:00 p.m., Legislative Chambers and
Virtual Meeting via Zoom**

Gerace Office Building, Mayville, NY

- A. Call to Order
- B. Approval of Minutes (08/17/20)
- C. Privilege of the Floor
 - 1. Proposed Resolution – Amend 2020 Budget Appropriations and Revenues – County Executive’s Office
 - 2. Proposed Resolution – Amend 2020 Budget Appropriations – Real Property Tax
 - 3. Proposed Resolution - Authorize Transfer of Tax Foreclosure Property to Chautauqua County Land Bank Corporation
 - 4. Proposed Resolution – Denial of Level 3 Communications, LLC Applications for Refunds/Credits or Real Property Taxes Form RP 556 for the 2017-2018 School Tax Year
 - 5. Proposed Resolution – Confirm Appointment – Luz Torres (D) Commissioner of Elections
 - 6. Discussion – Administrative Code Letter – Steve Abdella
 - 7. Other

**CHAUTAUQUA COUNTY
RESOLUTION NO. _____**

KMD 09/28/20
PMW 10/1/2020
SMA 10/1/20
KLC 10/2/20
PMW 10/5/20

TITLE: Amend 2020 Budget Appropriations and Revenues--County Executive's Office

BY: Administrative Services and Audit & Control Committees:

AT THE REQUEST OF: County Executive Paul M. Wendel, Jr.:

WHEREAS, per Resolution 58-20, the County accepted New York State funding for 2020 Census outreach efforts; and

WHEREAS, the amount allocated to Chautauqua County from New York State was reduced from \$220,778.00 to only \$110,389.00, with no local share; now therefore be it

RESOLVED, That the Director of Finance is hereby authorized and directed to make the following changes to the 2020 Adopted Budget:

DECREASE APPROPRIATION ACCOUNT:

A.1230.----.4	Contractual--County Executive	\$110,389
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DECREASE REVENUE ACCOUNT:

A.1230.----.R308.9000	New York State Aid--Other State Aid	\$110,389
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APPROVED

VETOES (VETO MESSAGE ATTACHED)

County Executive

Date

**CHAUTAUQUA COUNTY
RESOLUTION NO. _____**

TJB 09/23/20
KMD 09/23/20
KMW 09/24/20
SMA 09/25/20
KLC 9/28/20
PMW 9/28/20

TITLE: Amend 2020 Budget Appropriations–Real Property Tax

BY: Administrative Services and Audit & Control Committees:

AT THE REQUEST OF: County Executive Paul M. Wendel, Jr.:

WHEREAS, some Real Property Tax departmental expenditures have exceeded initial budgetary estimates, as well as some appropriations have a surplus; therefore be it

RESOLVED, That the Director of Finance is hereby authorized and directed to make the following changes to the 2020 Adopted Budget:

INCREASE APPROPRIATION ACCOUNT:

A.1330.----.4	Contractual - Real Property Tax	\$11,720
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DECREASE APPROPRIATION ACCOUNT:

A.1364.----.4	Contractual - Exp: Prop Acquired - Tax	\$11,720
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APPROVED

VETOES (VETO MESSAGE ATTACHED)

County Executive

Date

**CHAUTAUQUA COUNTY
RESOLUTION NO. _____**

TITLE: Authorize Transfer of Tax Foreclosure Property to Chautauqua County
Land Bank Corporation

BY: Administrative Services Committee:

AT THE REQUEST OF: County Executive Paul M. Wendel, Jr.:

WHEREAS, New York State's land bank legislation was enacted to address the negative impacts of distressed or at-risk structures and abandoned vacant property in New York's communities; and

WHEREAS, pursuant to the "side lot" program promoted by the Chautauqua County Land Bank Corporation (CCLBC), vacant properties acquired through tax foreclosure are conveyed to neighboring property owners when possible; and

WHEREAS, CCLBC has received a proposal for the vacant "side lot" property at 256 Willard Street Extension in the City of Jamestown from the neighboring property owner who shall merge said vacant property with its primary residence; therefore, be it

RESOLVED, That the County Executive is authorized and empowered to execute all necessary documents to transfer a vacant tax foreclosure "side lot" property at 256 Willard Street Extension in the City of Jamestown (387.12-5-3) to the Chautauqua County Land Bank Corporation, for no monetary consideration and upon such terms and conditions negotiated by the County Executive.

APPROVED

VETOES (VETO MESSAGE ATTACHED)

County Executive

Date

CHAUTAUQUA COUNTY
RESOLUTION NO. _____

TITLE: Denial of Level 3 Communications, LLC Applications for Refunds/Credits of Real Property Taxes Form RP 556 for the 2017–2018 School Tax Year

BY: Administrative Services and Audit & Control Committees:

AT THE REQUEST OF: County Executive Paul M. Wendel, Jr. and Legislator Bob Scudder:

WHEREAS, Level 3 Communications, LLC has filed applications for corrected tax rolls and refund/credit of real property taxes pursuant to Real Property Tax Law Section 556 for the 2017-2018 school tax year, and

WHEREAS, the applications seek retroactive tax refunds from multiple school districts throughout Chautauqua County, and

WHEREAS, the County guarantees the tax levies of all municipalities and school districts in the County, and

WHEREAS, the Acting Chautauqua County Real Property Tax Director has investigated the circumstances of all of the claims of Level 3 in the applications, and

WHEREAS, the Acting Chautauqua County Real Property Tax Director has transmitted written reports of such investigation and his recommendations for action thereon, and

WHEREAS, the Acting Chautauqua County Real Property Tax Director has determined that all of the applications are without merit and recommends that the applications be denied for multiple reasons, and

WHEREAS, the Acting Chautauqua County Real Property Tax Director has recommended that the applications be denied for the following specific reasons:

1. All of the applications are untimely, as none of them were filed within three years of the annexation of the warrant for the collection of such school taxes.
2. The fiber optic cables constitute taxable real property under multiple sections of Section 102 of the Real Property Tax Law as follows:
 - A. Fiber optic cable has been interpreted and taxed as real property for more than thirty years, and should continue to be taxed as real property;
 - B. The New York Court of Appeals has ruled that the fiber optic cables meet the definition of real property and constitute lines and wires pursuant to Real Property Tax Law Section 102(12)(i) and are taxable under that section. *T-Mobile v. DeBellis and City of Mount Vernon*, 32 N.Y.3d 594 (2018);
 - C. The fiber optic cables constitute fixtures and are taxable real property pursuant to Section 102 (12)(b) of the Real Property Tax Law;
 - D. The Appellate Division, Fourth Department has specifically upheld the taxability of Level 3's fiber optic installations located in Chautauqua County. *Level 3 Communications v. Chautauqua County*, 174 A.D.3d

APPROVED

VETOES (VETO MESSAGE ATTACHED)

County Executive

Date

1502 (4th Dep't 2019); *see also Level 3 Communications v. Erie County*, 174 A.D.3d 1497 (4th Dep't 2019).

3. The applications are procedurally improper, because the applications fail to establish a clerical error, unlawful entry, or an error in essential fact as those terms are defined by Section 550 of the Real Property Tax Law. Numerous City and Town tax assessors have also analyzed Level 3's claims and concluded that its allegations do not constitute an "unlawful entry" as that term is defined in Real Property Tax Law Section 550(7);
4. The applicant's proper remedy is to bring a tax certiorari proceeding under Article 7 of the Real Property Tax Law challenging the assessments prospectively. No tax grievances or Article 7 proceedings have been filed by *Level 3*. The applications improperly seek retroactive tax refunds under inapplicable sections of the Real Property Tax Law; and

WHEREAS, the Chautauqua County Legislature has carefully considered and fully agrees with the investigation and recommendations of the Acting Chautauqua County Tax Real Property Tax Director, it is hereby

RESOLVED, That all of the Applications for Refunds/Credits of Real Property Taxes Form 556 filed by Level 3 Communications, LLC with Chautauqua County, the Brocton Central School District, Fredonia Central School District, Ripley Central School District, and Westfield Central School District for the 2017-2018 school tax year are hereby denied in their entirety for the reasons set forth above.

APPROVED

VETOES (VETO MESSAGE ATTACHED)

County Executive

Date

CHAUTAUQUA COUNTY
RESOLUTION NO. _____

TITLE: Confirm Appointment - Luz Torres (D) Commissioner of Elections

BY: Administrative Services Committee:

AT THE REQUEST OF: Legislator Starks:

WHEREAS, the present term of the Democratic Commissioner of Elections will expire December 31, 2020; and

WHEREAS, a Certificate of Appointment signed by the County Democratic Chairman, Norman Green, duly filed with the Clerk of the County Legislature pursuant to the New York State Election Law, states that a majority of such party Committee recommends the appointment of Luz Torres for the ensuing four (4) year term beginning January 1, 2021; therefore be it

RESOLVED, That Luz Torres be and hereby is appointed Democratic Commissioner of Elections for the County of Chautauqua for a term of four (4) years commencing January 1, 2021, at the salary provided in Local Law 3-98 increased in conformity with the increases provided for County Managers under the Management Salary Plan.

APPROVED

VETOES (VETO MESSAGE ATTACHED)

County Executive

Date