

Members present: Gordon, Lanotte, Laurilliard, Oriola, Mauro, Winchester  
Members absent Buhrmaster

Administrators Present: Salvaggio, Bourgeois, Shea, Grastorf  
Administrators Absent: \_\_\_\_\_  
Also Attending M. Leon, Faculty and Community Members

**I. Welcome -**

President Oriola called the Regular Meeting of the Niskayuna Board of Education to order at 7:08 p.m.

**II. Reports**

A. President Oriola introduced Dr. Shelley Baldwin-Nye, principal of Glencliff Elementary School, and the Students First presentation. Kindergarten through 5<sup>th</sup> grade students presented newly learned skills with the I-Pad.

B. The Superintendent participated in/reported on:

- Attending the New York State School Boards (NYSSBA) convention in Rochester, NY with the Board of Education where there were a number of outstanding presentations including topics such as long-range financial planning, BYOD (Bring your own Device), and communications
- Interviews for a First Student Location Manager,
- 6<sup>th</sup> and 7<sup>th</sup> Facilities Utilization Advisory Committee meetings
- Two Rotary meetings as program chair for the club
- Two principal observations
- Met with Bob Andrea from Albany University on opportunities for a collaborative STEAM program

Upcoming: NCAP will sponsor Suicide Prevention webinar as professional development for our school counseling team

**C. Board of Education and Committee Reports**

The Board of Education was represented at

- NYSSBA Convention, including the pre-convention Law Conference
- High School Faculty Meeting
- Glencliff and Birchwood PTO meetings
- Halloween parade at Glencliff Elementary School
- High Schol Faculty Recital
- High School Family and Consumer Sciences Pasta Taste-Off
- Health Advisory Committee meeting where N-CAP Grant was discussed
- NCAP meeting
- Friends of Music meeting
- Varsity Field Hockey game
- Completed mandatory Board member Fiscal Training trough BOCES
- In Mr. Mattice's classroom where comparative religious review was the lesson
- Yale where a professor in the Physics lab asked how to get more students from Niskayuna into their Physics program
- As a Chair for the Review Panel for Education Department. The developing AIDS program has, at its core, dominant contribution from Niskayuna faculty.

Upcoming: Wednesday, November 13 at Town Tall at 4:00 p.m., NCAP will be formally presented with the Grant for Safe and Drug-Free Communities

**Welcome**

**Reports –**

Students First Presentation – Glencliff Elementary

Superintendent's Report

Board of Education and Committee Reports

III. There were no comments from the community.

**Comments from the Community**

**IV. Consent Agenda**

**Consent Agenda**

Mr. Winchester moved that the Board of Education, upon the recommendation of the Superintendent of Schools, approve the actions recommended in the consent agenda of the items listed in items A- C of ASM IV. Mrs. Gordon seconded. Motion carried 6-0.

A. . . approve the minutes of Regular Board Meeting of October 22, 2013

Minutes

B. . . approve the following personnel actions per ASM IV-B:

Routine Personnel

**a. Instructional – Appointment – Permanent Status**

<u>Name</u>	<u>Academic Tenure Area</u>	<u>Probation Period</u>	<u>Cert. Status</u>	<u>Salary</u>	
Petralia, Julie	TA/ROS-29hrs/week	9/16/13-9/16/16	Pending	NESPA Step 2	Petralia

**b. Instructional – Appointment- Replacement**

<u>Name</u>	<u>Assignment</u>	<u>Effective Date</u>	<u>FTE</u>	<u>Salary</u>	
Courtemanche, Nicholas	Health/CRA,IRO	11/12/13-1/31/14	1.0	MA-1	Courtemanche

**c. Instructional – Leave of Absence**

<u>Name</u>	<u>Assignment</u>	<u>Effective Date</u>	
Hebert, Catherine	Sped/GLE	extend from 2/7/14 to 3/7/14	Hebert
Coonrad, Laura	Sped/HIL	1/31/14-5/2/14	Coonrad
Kinzel, Melissa	Elem/CRA	1/2/14-4/11/14	Kinzel

**d. Instructional –Adjustment**

<u>Name</u>	<u>Assignment</u>	<u>Effective Date</u>	<u>FTE</u>	
Hakulin, Brandon	Science/NHS	9/23/13-11/15/13	1.0 FTE	Hakulin
Burke, Caitlin	Sped/GLE	extend from 2/7/14 to 3/7/14		Burke

**e. Coaches- 2013-2014**

<u>Name</u>	<u>Assignment</u>	<u>Salary</u>	
Mattice, Bryan	Boys Varsity Basketball	\$5,318	Mattice
Feraro, Daniel	Boys JV Basketball Coach	\$3,615	Feraro
Gadsen, Allan	Boys JV Basketball Volunteer		Gadsen
Olbrych, Alex	Boys JV Basketball Volunteer		Olbrych

**f. Non-Instructional – Appointment – Probationary**

<u>Name</u>	<u>Assignment</u>	<u>Effective Date</u>	<u>Salary</u>	
Capra, Joseph	Maintenance Mechanic/Carpenter	11/7/13	\$44,570.00	Capra
Furey, Patricia	FSH/VAN 17.5 hrs/week	11/4/13	NSDEA Level 1	Furey
Scholz, Shirley	FSH/VAN 17.5 hrs/week	11/4/13	NSDEA Level 1	Scholz
Mohsinger, Thomas	FSH/NHS 17.5 hrs/week	11/6/13	NSDEA Level 1	Mohsinger

**g. Non-Instructional – Appointment -S/CA Transportation**

<u>Name</u>	<u>Hours</u>	<u>Effective Date</u>	<u>Salary</u>	
Dietrich, Gail	5 hrs/week	10/21/13	NESPA Step 4	Dietrich
Frank, Susan	10 hrs/week	10/22/13	NESPA Step 4	Frank
Gates, Lawrence	17.5 hrs/week	10/21/13	NESPA Step 6	Gates
Paull, Terri	10 hrs/week	10/24/13	NESPA Step 1	Paull

**h. Non-Instructional – Adjustment – Out of Title Work (additional pay)**

<u>Name</u>	<u>Assignment</u>	<u>Adjustment</u>	<u>Effective Date</u>	<u>Salary</u>	
Wier, Wendy	FSH/NHS	Cook Mgr/GLE	10/28/13-11/19/13	\$10.67/hour	Wier
Lasher, Jeremy	Custodian	Sr. Custodian	11/4/13-11/22/13	\$17.32/day	Lasher

**i. Appointment of Approved Staff – These staff have received fingerprint clearance from SED**

<u>Name</u>	<u>Assignment</u>	
Abrahamsen, Dana	Substitute Teacher	Abrahamsen
Barnett, Alissa	Substitute Teacher	Barnett
Bonitatibus, Gregory	Substitute Teacher	Bonitatibus
Carter, Daniel	Substitute Teacher	Carter
Crandell, Jane	Substitute Teacher	Crandell
Cross, Joseph	Substitute Teacher	Cross
Currie, Melissa	Substitute Teacher	Currie
Dzekeiorius, Joyce	Substitute Teacher	Dzekeiorius
Emma, Joseph	Substitute Teacher	Emma
Follert, Howard	Substitute Teacher	Follert
Foster, Amanda	Substitute Bus Aide	Foster
Freeman, Brittany	Substitute Teacher	Freeman
Gorgen, Zachary	Substitute Teacher	Gorgen
LaFleche, Marc	Substitute Teacher	LaFleche
McCaffrey, Kathleen	Substitute Teacher	McCaffrey
McNeil, Erinn	Substitute Teacher	McNeil
McWilliams, Ashley	Substitute Teacher	McWilliams
Mihok, Stacie	Substitute Teacher	Mihok
Morris, Anthea	Substitute Teacher	Morris
Panneton, Kirk	Substitute Teacher	Panneton
Ragone, Lindsay	Substitute Teacher	Ragone
Sarrafizadeh, Sheila	Substitute Teacher	Sarrafizadeh
Teal, Taylor	Substitute Teacher	Teal
Thurn, Kim	Substitute Teacher	Thurn

**j. Retirement – Non-Instructional**

<u>Name</u>	<u>Assignment</u>	<u>Effective Date</u>	<u>Years of Service</u>	
O'Donnell, Thomas	Transportation Supervisor	6/30/2014	13	O'Donnell

C. . . approve the (attached) Extra Classroom Activities Funds from July 1, 2013 – September 30, 2013

**V. Instruction**

**Instruction-**

- A. Mrs. Gordon moved that the Board of Education, upon the recommendation of the Superintendent of Schools, approve the Model UN Club trip to the Ivy League Model United Nations Conference in Philadelphia, Pennsylvania from Thursday, January 30 through Sunday, February 2, 2014 per ASM V
- A. Mr. Winchester seconded. Motion carried 6-0.

School Sponsored Student Trip – Model UN Club to Ivy League Model UN Conference

B. Mrs. Gordon moved that the Board of Education, upon the recommendation of the Superintendent of Schools, approve the changes to the High School Program of Studies for the 2014-2015 school year per ASM V B to add the following new courses: Tiles, Tessellations and Technology: Sculpting with Technology, Environmental Science, and Renewable & Sustainable Energy Research. Mr. Winchester seconded. Dr. Deborah Shea and Science Director Jackie Carrese described the district vision to develop the STEAM initiative. Motion carried 6-0.

Approve Changes to High School Program of Studies

**VI. Business**

**Business –**

A. Mr. Winchester moved that the Board of Education, upon the recommendation of the audit committee, accept and file the audited financial statements for the 2012-2013 school year as per ASM VI A. Mrs. Gordon seconded. Motion carried 6-0. The district will make the financial statements available **on the website**.

Accept and File Audited Financial Statements for the 2012-13 School Year

B. Mr. Winchester moved that the Board of Education upon the recommendation of the Superintendent of Schools, approve the Application for Corrected Tax Roll to correct school taxes assessed to T.W. Telecom, tax map parcel 624.-9-701./1882-2-58 in the Town of Niskayuna and: to Glendon Penske Trust, tax map parcel 23.13-3-16 in the Town of Glenville as requested by the Schenectady County Real Property Tax Service Agency as per ASM VI B and **attachments**. Mrs. Gordon seconded. Motion carried 6-0.

Accept Application for Corrected Tax Roll

**VII. Personnel**

**VIII. General**

**General –**

A. Update on Facilities Utilization Advisory Committee

Update on FUAC

1. Tuition Paying Non-Resident Students was discussed through the Revenue - Generating sub committee of the Facilities Utilization Advisory Committee. The superintendent checked with other districts, and has heard back from two. The two respondent districts have one and two students, respectively, who are tuition paying non-residents. Mrs. Lanotte suggested a feasibility study. Mr. Winchester noted that for high needs students, we would not want to deny a student, but must also be careful of taxing the resources of the district. All students would be charged a standard tuition rate. A Board policy may be written, restricting any student for whom additional staffing would be required.

Tuition Paying Non-Resident Students

2. Grant Writing Position in District – spoke to burnt hills re grant writer BOCES position. Per NYS law, a district may not use tax payer money to fundraise. A grant writer position would include developing and taking advantage of existing private corporate grants. This individual would work out in the community to develop program. BOCES provides a service for this purpose. However, we would need to commit to the service prior to asking for help, even situationally. The board recommended placing this topic on an upcoming meeting for additional discussion.

Grant Writing Position

3. Census Information – received 58 % of mailings back and gleaned more information. Will do another mailing in order to gain more.

Census Information

B. The Board of Education discussed using the Erie I BOCES Policy Services to review our current Board of Education policies, and be certain that they are complete, current and in compliance. We will check with Erie I BOCES to see when this service may be started, and whether it is available to begin mid-year. The Board will make a formal motion when this information is available.

Erie I BOCES Policy Services

C. The Board discussed the nomination of a new NYSSBA Area 7 Director due to the recent appointment of Lynne Lenhardt as NYSSBA President. Nominations must be in by December 4, 2013. So far, Gary DiLallo and Matthew Wade have asked for our nomination. The superintendent will check into whether the Board may nominate more than one candidate.

Nomination of new NYSSBA Area 7 Director

Mr. Winchester moved that the Board of Education nominate Gary DiLallo as Area 7 Director of the New York State Boards Association for a two-year term beginning January 1, 2014. Mr. Laurilliard seconded. Motion carried 6-0.

Nominate Gary DiLallo for NYSSBA Area 7 Director

**IX. Other**

**Other –**

A. Note the date: Strategic Planning November 25 5:30 – 8:30 p.m. Ron Frank asked the Board to do some “homework” prior to the Strategic Planning session: First, refresh yourself on the items discussed in the first meeting. Second, as was discussed in this Board meeting, where do you want the school district to be in five years? Consider programs like STEAM and other goals that you would like to realize. At the end of the three hour meeting, we will see what a Strategic Plan will look like. Part of that, after deciding the goals, will be how the district will execute the plan operationally. It is not just developing the plan; the question is how we operate effectively to deliver on that plan.

Ron Frank and Strategic Planning

B. The Audit Committee will provide the Board some information on why we have this committee. Mrs. Mauro will bring the charter and enabling legislation and get it on the next board agenda.

**X. Executive Session**

**Executive Session**

Mr. Winchester moved to convene to Executive Session to discuss matters involving specific students under IDEA and 504, a matter regarding the potential discipline of a particular person, and collective negotiations with the Niskayuna Teachers’ Association pursuant to Article 14 of Civil Service Law. Mrs. Mauro seconded. Motion carried 6- 0.

(Return to Public Session)

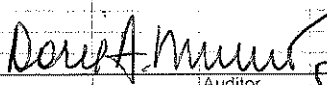
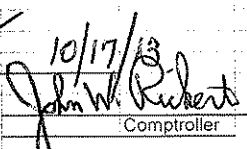
**XI. Authorization of the Recommendations from Executive Session**

**Authorization of Recommendations from Executive Session**

Mr. Winchester moved that the Board of Education approve the recommendations from Executive session from the CSE, CPSE and 504 committees and agreed upon amendments. Mrs. Mauro seconded. Motion carried 6-0.

XII. There being no further business, Mr. Winchester moved to adjourn the meeting at 11:08 p.m. Motion carried 6-0.

**Adjourn**

NISKAYUNA HIGH SCHOOL EXTRA CLASSROOM ACTIVITY FUNDS July 1, 2013 to September 30, 2013						
Accounts	Balances 7/1/2013	Stale Check Add-Backs	Receipts (credits)	Receipts & Balances	Payments (debits)	Balances 9/30/2013
American Field Service	\$3,563.48	\$0.00	\$0.00	\$3,563.48	\$0.00	\$3,563.48
Amnesty International	\$1,170.44	\$0.00	\$0.00	\$1,170.44	\$0.00	\$1,170.44
Anime Club	\$185.25	\$0.00	\$0.00	\$185.25	\$30.00	\$155.25
Best Buddies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Caring Hands	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Class of 2007	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Class of 2008	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Class of 2009	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Class of 2011	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Class of 2011	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Class of 2012	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Class of 2013	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Class of 2014	\$6,596.25	\$0.00	\$0.00	\$6,596.25	\$0.00	\$6,596.25
Class of 2015	\$4,298.04	\$0.00	\$0.00	\$4,298.04	\$420.00	\$3,878.04
Class of 2016	\$716.00	\$0.00	\$0.00	\$716.00	\$0.00	\$716.00
Class of 2017	\$837.28	\$0.00	\$0.00	\$837.28	\$0.00	\$837.28
Chemistry Demonstration	\$275.01	\$0.00	\$0.00	\$275.01	\$0.00	\$275.01
Climate Committee Club	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Climbing Club	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Creative Writing Club	\$140.64	\$0.00	\$0.00	\$140.64	\$0.00	\$140.64
Culinary Club	\$367.84	\$0.00	\$0.00	\$367.84	\$16.19	\$351.65
FBLA (DECA)	\$2,067.06	\$0.00	\$0.00	\$2,067.06	\$0.00	\$2,067.06
Drama Club	\$4,834.45	\$0.00	\$0.00	\$4,834.45	\$11.37	\$4,823.08
e-Commerce Club	\$5.67	\$0.00	\$0.00	\$5.67	\$0.00	\$5.67
Elias Club	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Environmental Study Team	\$1,929.12	\$0.00	\$0.00	\$1,929.12	\$0.00	\$1,929.12
Forensics Club	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
French Club	\$5,269.11	\$0.00	\$0.00	\$5,269.11	\$0.00	\$5,269.11
Frisbee Club	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Gallery Club	\$131.67	\$0.00	\$40.00	\$171.67	\$0.00	\$171.67
Game Club	\$18.45	\$0.00	\$0.00	\$18.45	\$0.00	\$18.45
German Club	\$5,743.39	\$0.00	\$0.00	\$5,743.39	\$0.00	\$5,743.39
Horticulture Club	\$745.52	\$0.00	\$0.00	\$745.52	\$0.00	\$745.52
JSA	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Key Club	\$2,170.77	\$0.00	\$0.00	\$2,170.77	\$0.00	\$2,170.77
Latin Club	\$98.62	\$0.00	\$0.00	\$98.62	\$0.00	\$98.62
Live Expression	\$100.08	\$0.00	\$0.00	\$100.08	\$0.00	\$100.08
Mass Media/TV Studio	\$1,600.00	\$0.00	\$0.00	\$1,600.00	\$0.00	\$1,600.00
Math Club	\$408.44	\$0.00	\$0.00	\$408.44	\$0.00	\$408.44
Model United Nations	\$1,337.94	\$0.00	\$0.00	\$1,337.94	\$0.00	\$1,337.94
Multiculture Club	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Musical	\$1,358.68	\$0.00	\$0.00	\$1,358.68	\$0.00	\$1,358.68
National Honor Society	\$2,791.23	\$0.00	\$0.00	\$2,791.23	\$0.00	\$2,791.23
Natural Helpers	\$2,995.54	\$0.00	\$0.00	\$2,995.54	\$0.00	\$2,995.54
NICS	\$3,086.45	\$0.00	\$0.00	\$3,086.45	\$0.00	\$3,086.45
Nisk-Art	\$724.59	\$0.00	\$0.00	\$724.59	\$0.00	\$724.59
Niskayuna Women's Grp.	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Outing club	\$50.13	\$0.00	\$0.00	\$50.13	\$0.00	\$50.13
Pep Club	\$735.64	\$0.00	\$4,501.10	\$5,236.74	\$842.54	\$4,394.20
RAG Club	\$50.71	\$0.00	\$0.00	\$50.71	\$0.00	\$50.71
SADD	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
SAPE	\$2,627.31	\$0.00	\$0.00	\$2,627.31	\$0.00	\$2,627.31
Science Olympiad	\$3,382.53	\$0.00	\$0.00	\$3,382.53	\$450.00	\$2,932.53
Ski Club	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Spanish Club	\$2,899.58	\$0.00	\$2,350.00	\$5,249.58	\$1,071.85	\$4,177.73
START	\$1,462.28	\$0.00	\$0.00	\$1,462.28	\$0.00	\$1,462.28
Student Congress	\$4,894.83	\$0.00	\$0.00	\$4,894.83	\$0.00	\$4,894.83
TEC Club	\$770.57	\$0.00	\$2,300.00	\$3,070.57	\$1,429.56	\$1,641.01
Warrior	\$2,084.61	\$0.00	\$0.00	\$2,084.61	\$0.00	\$2,084.61
Yearbook	\$4,990.48	\$0.00	\$0.00	\$4,990.48	\$0.00	\$4,990.48
YMCA Youth & Gov't	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Youth to Youth	\$616.46	\$0.00	\$0.00	\$616.46	\$0.00	\$616.46
<b>Total</b>	<b>\$80,132.14</b>	<b>\$0.00</b>	<b>\$9,191.10</b>	<b>\$89,323.24</b>	<b>\$4,271.51</b>	<b>\$85,051.73</b>
Bank Balance	\$18,055.41			Activity Balance		\$85,051.73
(+) DITs & Other Credits				(-) DITs & Other Credits		\$0.00
(-) Outstanding Checks	\$2,174.97			(+) Outstanding Checks		\$2,174.97
Cash Book Balance	\$15,880.44			Subtotal		\$87,226.70
(+) CD	\$34,462.87			(-) CD		\$34,462.87
(+) Savings	\$34,708.42			(-) SAVINGS		\$34,708.42
<b>ACTIVITY BALANCE</b>	<b>\$85,051.73</b>			<b>BANK BALANCE</b>		<b>\$18,055.41</b>
 10/17/13 Auditor						
 Comptroller						
Treasurer-Theresa Poieto 10/8/2013						

Niskayuna Central Schools

ASM VI B  
November 6, 2013

To: Board of Education

From: Matt Bourgeois, Assistant Superintendent for Business

Via: Susan Kay Salvaggio, Superintendent of Schools

Re: Application for Corrected Tax Roll

Recommended Motion: Move that the Board of Education, upon the recommendation of the Superintendent of Schools, approve the Application for Corrected Tax Roll to correct school taxes assessed to T.W. Telecom, tax map parcel 624.-9-701./1882-2-58 in the Town of Niskayuna and; to Glendon Penske Trust, tax map parcel 23.13-3-16 in the Town of Glenville as requested by the Schenectady County Real Property Tax Service Agency as per ASM VI B. (see attachments)

Information:

The Schenectady County Real Property Tax Agency has submitted paperwork to the district requesting the board approve tax adjustments necessitated due to exemptions of real property and STAR exemptions for properties located in the Town of Niskayuna and the Town of Glenville within the Niskayuna School District attendance zone that were identified and corrected by the respective assessors' offices.



NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

APPLICATION FOR CORRECTED TAX ROLL  
FOR THE YEAR 20 13

RECEIVED  
SEP 20 2013

**Part I:** To be completed in duplicate by Applicant. APPLICANT MUST SUBMIT BOTH COPIES TO COUNTY DIRECTOR OF REAL PROPERTY TAX SERVICES. (In Nassau and Tompkins Counties, submit to Chief Assessing Officer). **NOTE:** To be used only prior to expiration of warrant for collection. For wholly exempt parcel, attach statement signed by assessor or majority of board of assessors substantiating that assessor(s) have obtained proof that parcel should have been granted tax exempt status on tax roll.

TW Telecom of New York L.P. \_\_\_\_\_ Day( ) Evening ( )  
 1a. Name of Owner \_\_\_\_\_ 2. Telephone Number \_\_\_\_\_  
 10475 Park Meadows Dr \_\_\_\_\_ Poles Wires Cables \_\_\_\_\_  
 Littleton, CO 70100 \_\_\_\_\_ Niskayuna NY \_\_\_\_\_  
 1b. Mailing Address \_\_\_\_\_ 3. Parcel Location (if different than 1b.) \_\_\_\_\_  
 422400 624.-9-701./1882 \_\_\_\_\_

4. Description of real property as shown on tax roll or tax bill (Include tax map designation) \_\_\_\_\_  
 5. Account No. \_\_\_\_\_ 6. Amount of taxes currently billed 220.97

7. I hereby request a correction of tax levied by Niskayuna Central School District  
 (county/city/school district; town in Westchester County; non-assessing unit village)

for the following reasons (use additional sheets if necessary): NYS Office of Real Property has determined that parcels that support fiber optics are no longer taxable and should be removed from the 2013 assessment roll.

Cancel pursuant to ORPTS directive attached  
9/12/13  
 Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_

**PART II:** For use by COUNTY DIRECTOR: Attach written report (including documentation of error in essential fact) and recommendation. Indicate type of error and paragraph of subdivision 2, 3 or 7 of Section 550 under which error falls.

Date application received: 9/20/13 Period of warrant for collection of taxes: 8/31/13  
 Last day for collection of taxes without interest: \_\_\_\_\_

Recommendation:  Approve application\*  Deny Application  
10/13/13 Date \_\_\_\_\_ Signature of County Director \_\_\_\_\_

If box is checked, this copy is for assessor and board of assessment review of city/town/village of Niskayuna which are to consider attached report and recommendation as equivalent to petition filed pursuant to section 553.  
Unilateral Entry Sec. 550(7)(c), RPTL

**PART III:** For use by TAX LEVYING BODY or OFFICIAL DESIGNATED BY RESOLUTION \_\_\_\_\_ :  
 (Insert Number or Date)

APPLICATION APPROVED Amount of taxes currently billed: \$ 220.97  
 Notice of approval mailed to applicant on (enter date): \_\_\_\_\_ Corrected tax: \$ 0.00  
 Order transmitted to collecting officer on (enter date): \_\_\_\_\_

APPLICATION DENIED Reason: \_\_\_\_\_

Seal of Office \_\_\_\_\_ Date \_\_\_\_\_ Signature of Chief Executive Officer or Official Designated by Resolution \_\_\_\_\_



**Part IV. For use by COLLECTING OFFICER:**

Payment may be made without interest and penalties ONLY if (1) the application has been filed with the County Director during the period when taxes may be paid without interest (see "Date application received" in Part II of this form) AND (2) the corrected tax is paid within eight days of the date on which the notice of approval is mailed to the applicant (see Part III of this form). If either of these conditions is not satisfied, interest and/or penalties must be paid on the corrected tax.

---

Order from tax levying body received:

Corrected tax due: \$ \_\_\_\_\_  
Interest and penalties (if applicable): \$ \_\_\_\_\_  
Total corrected tax due: \$ \_\_\_\_\_

\_\_\_\_\_ Date

Tax roll corrected:

\_\_\_\_\_ Date

Tax bill corrected:

\_\_\_\_\_ Date

Application and Order annexed to tax roll:

\_\_\_\_\_ Date

Payment of corrected tax received:

\_\_\_\_\_ Date

\_\_\_\_\_ Date

\_\_\_\_\_ Signature of Collecting Officer

**Matter of RCN N.Y. Communications, LLC v Tax Commn. of the City of  
N.Y.**

2012 NY Slip Op 03523 [95 AD3d 456]

May 3, 2012

Appellate Division, First Department

Published by New York State Law Reporting Bureau pursuant to Judiciary Law  
§ 431.

As corrected through Wednesday, June 27, 2012

**In the Matter of RCN New York Communications, LLC, Respondent,  
v  
Tax Commission of the City of New York et al., Appellants. In the Matter of  
Level 3 Communications, LLC, Respondent, v Tax Commission of the City  
of New York et al., Appellants.**

—[\*1]

Michael A. Cardozo, Corporation Counsel, New York (Robert J. Paparella and Paul T. Rephen of counsel), for appellants.

Law Offices of David M. Wise, P.A., Babylon (David M. Wise of counsel), for RCN New York Communications, LLC, respondent.

Ingram Yuzek Gainen Carroll & Bertolotti, LLP, New York (John G. Nicolich of counsel), for Level 3 Communications, LLC, respondent.

Judgments, Supreme Court, New York County (Martin Shulman, J.), entered January 25, 2011, which, in these consolidated proceedings brought under RPTL article 7, ordered and adjudged the 2008-2009 tax assessments on the property at issue null and void, and which bring up for review, an order, same court and Justice, entered November 22, 2010, which granted petitioners' motions for summary judgment, unanimously affirmed, without costs. Appeals from the aforementioned order unanimously dismissed, without costs, as subsumed in the appeals from the judgments.

Petitioners are companies that provide fiber-optic telecommunications services and

own the property at issue in these proceedings, which consist of fiber-optic lines, poles, wires, supports and enclosures that are located in the buildings of their customers. It is undisputed that petitioners' fiber-optic cables are electrical insulators which transmit light impulses and do not [\*2]conduct electricity. Petitioners were assessed taxes on this property pursuant to RPTL 102 (12) (i) and their challenges of the assessments were denied by the City Tax Commission.

RPTL 102 (12) provides:

" 'Real property,' 'property' or 'land' mean and include: . . .

"(i) When owned by other than a telephone company as such term is defined in paragraph (d) hereof, all lines, wires, poles, supports and inclosures for electrical conductors upon, above and underground used in connection with the transmission or switching of electromagnetic voice, video and data signals between different entities separated by air, street or other public domain, except that such property shall not include: (A) station connections; (B) fire and surveillance alarm system property; (C) such property used in the transmission of news wire services; and (D) such property used in the transmission of news or entertainment radio, television or cable television signals for immediate, delayed or ultimate exhibition to the public, whether or not a fee is charged therefor."

The language of RPTL 102 (12) (i) is clear and its interpretation does not require reference to external sources. In unambiguous language, the statute defines assessable real property in pertinent part as "all lines, wires, poles, supports and inclosures" which are "for electrical conductors." Since the cables at issue are not "for electrical conductors" they cannot be assessed under this statute. "When the language of a statute is clear . . . the court should look no further than unambiguous words and need not delve into legislative history" (*Matter of Lloyd v Grella*, 83 NY2d 537, 545-546 [1994]). Further, where the statute at issue is a tax statute, it must be narrowly construed and "any doubts concerning its scope and application are to be resolved in favor of the taxpayer" (*Debevoise & Plimpton v New York State Dept. of Taxation & Fin.*, 80 NY2d 657, 661 [1993]).

Appellants' argument that fiber-optic cables transmit voice, video and data signals and that light is part of the electromagnetic spectrum ignores the preceding language in subdivision (12) (i) which limits the assessable property to wires and related property which

are "for electrical conductors."

Although petitioners' fiber-optic cables which are located in the public streets and other public spaces are assessed taxes without objection from petitioners, such assessments are made pursuant to RPTL 102 (17), which clearly includes wires for conducting light. That section provides: "'Special franchise' means the franchise, right, authority or permission to construct, maintain or operate in, under, above, upon or through any public street, highway, water or other public place mains, pipes, tanks, conduits, wires or transformers, with their appurtenances, for conducting water, steam, *light*, power, electricity, gas or other substance. For purposes of assessment and taxation a special franchise shall include the value of the tangible property situated in, under, above, upon or through any public street, highway, water or other public place in connection therewith" (emphasis added). [\*3]

Even assuming that examination of the legislative history was necessary for this clear and unambiguous statute, the history does not support appellants' claim that the statute permits the disputed assessments. The legislative history, including the 1985 reports by the Tax Commission and the State Board of Equalization and Assessment, reveals that the Legislature was aware of fiber-optic technology and that fiber-optic cables transmit light and do not conduct electricity. Yet, the Legislature chose to limit assessments under RPTL 102 (12) (i) to wires and other related property "for electrical conductors."

We have considered appellants' remaining contentions and find them unavailing.  
Concur—Saxe, J.P., Sweeny, Moskowitz, Freedman and Manzanet-Daniels, JJ.

# Tax Assessment & Condemnation Report

PUBLISHED BY THE

Tax Assessment, Condemnation & Property Valuation Group

**BOND** SCHOENECK & KING

## Fiber Optic Cables Are Not Taxable Real Property

By Kathleen M. Bennett on January 13th, 2013

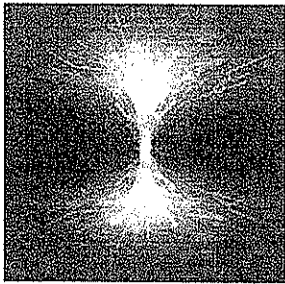


Image courtesy of Mr. Lightman / FreeDigitalPhotos.net

As discussed in our prior post, cows might be considered assessable or taxable real property under Section 102(12) of the Real Property Tax Law. See [RCN v. Frankel](#), (1st Dept. 2012). However, fiber optic cables are not assessable real property under the same statute. At least that is what the First Department concluded in [RCN NY Communications, LLC v. Tax Comm'n of the City of NY](#), 95 A.D.3d 456 (1st Dept. 2012).

In [RCN/NYC](#), the court was asked to consider whether fiber optic lines, poles, wires, supports and enclosures located in the buildings of RCN's customers were assessable or taxable real property. Although fiber optic cables are electrical insulators, these cables transmit light impulses and do not conduct electricity. As a result, the First Department concluded that fiber optic cables do not satisfy the definition of real property under RPTL Section 102(12)(i), which includes "all lines, wires, poles, supports and inclosures for electrical conductors . . . used in connection with the transmission or switching of electromagnetic voice, video and data signals . . .".

The municipality argued that the fiber optic cables transmitted voice, video and data signals and that light is part of the electromagnetic spectrum. However, the unambiguous language of the statute includes only "lines, wires, poles, supports and inclosures" which are "for electrical conductors." Accordingly, the First Department held that since fiber-optic cables are not "for electrical conductors" they are not assessable or taxable real property under RPTL 102(12)(i).

The implications of this decision are far reaching and will impact every municipality or assessing unit that includes fiber-optic cable in its tax base. The decision will also impact the State Office of Real Property Services' advisory values for the 2013 rolls and some of the appraisals used to establish the 2013 equalization rates. On the flip side, telecommunications companies whose physical plants consist mostly or exclusively of fiber optic cable should see a dramatic reduction in their property tax bills.

Bond Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, NY 13202-1355  
P: 315.218.8000  
F: 315.218.8100

STRATEGY, DESIGN, MARKETING & SUPPORT BY

**LEA BLOG**

From: Sylvia sylvia.poggi@schenecladycounty.com  
Subject: FW: RCN Court Case  
Date: September 29, 2013 at 11:05 PM  
To: Sylvia Spoggi1@nycap.rr.com

SYLVIA J. POGGI, CONSULTANT TO  
REAL PROPERTY TAX SERVICE AGENCY  
COUNTY OF SCHENECTADY  
620 STATE STREET - 3RD FLOOR  
SCHENECTADY, NEW YORK 12305  
(518) 388-4691 - FAX (518) 347-3629

---

From: [john.mccarty@tax.ny.gov](mailto:john.mccarty@tax.ny.gov) [[john.mccarty@tax.ny.gov](mailto:john.mccarty@tax.ny.gov)]  
Sent: Friday, September 27, 2013 10:50 AM  
To: Amy Houlihan  
Cc: Sylvia J. Poggi  
Subject: RCN Court Case

After the appeals court refused to review lower court decision Counsel's office advised us to delete all fiber optics outside plant assets from roll section 6.

See attached.

John McCarty  
NYS Office Real Property Services  
518. 530-4028 New ####!  
518.435.8631 fax

This communication may contain confidential and/or legally privileged information. It is intended only for the individuals named as recipients. If you are not an



NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RECEIVED  
SEP 16 2013  
REAL PROPERTY TAX SERVICE  
RP-554 (9/04)

APPLICATION FOR CORRECTED TAX ROLL  
FOR THE YEAR 20 13

**Part I:** To be completed in duplicate by Applicant. APPLICANT MUST SUBMIT BOTH COPIES TO COUNTY DIRECTOR OF REAL PROPERTY TAX SERVICES. (In Nassau and Tompkins Counties, submit to Chief Assessing Officer). NOTE: To be used only prior to expiration of warrant for collection. For wholly exempt parcel, attach statement signed by assessor or majority of board of assessors substantiating that assessor(s) have obtained proof that parcel should have been granted tax exempt status on tax roll.

Glendon Penske Trust \_\_\_\_\_ Day( ) Evening ( )  
 1a. Name of Owner \_\_\_\_\_ 2. Telephone Number \_\_\_\_\_  
 114 Maplewood Dr \_\_\_\_\_  
 \_\_\_\_\_  
 Glenville, NY 12302 \_\_\_\_\_  
 1b. Mailing Address \_\_\_\_\_ 3. Parcel Location (if different than 1b.) \_\_\_\_\_  
 422289 23.13-3-16 \_\_\_\_\_

4. Description of real property as shown on tax roll or tax bill (Include tax map designation) \_\_\_\_\_  
 5. Account No. \_\_\_\_\_ 6. Amount of taxes currently billed \$4,773.75  
 7. I hereby request a correction of tax levied by Niskayuna School District  
 (county/city/school district; town in Westchester County; non-assessing unit village)  
 for the following reasons (use additional sheets if necessary): Clerical error.. Missing Res Star exemption

8/11/13 \_\_\_\_\_  
 Date Signature of Applicant  
 Glendon B. Penske

**PART II:** For use by COUNTY DIRECTOR: Attach written report (including documentation of error in essential fact) and recommendation. Indicate type of error and paragraph of subdivision 2, 3 or 7 of Section 550 under which error falls.

Date application received: 9/16/13 Period of warrant for collection of taxes: 9/1/13  
 Last day for collection of taxes without interest: \_\_\_\_\_  
 Recommendation:  Approve application\*  Deny Application  
 10/3/13 \_\_\_\_\_  
 Date Signature of County Director  
 Deborah M. Munson

If box is checked, this copy is for assessor and board of assessment review of city/town/village of \_\_\_\_\_ which are to consider attached report and recommendation as equivalent to petition filed pursuant to section 553.  
 Clerical Error Sec 550(6)(c), RPTZ

**PART III:** For use by TAX LEVYING BODY or OFFICIAL DESIGNATED BY RESOLUTION \_\_\_\_\_:  
 (Insert Number or Date)

APPLICATION APPROVED Amount of taxes currently billed: \$4,773.75  
 Notice of approval mailed to applicant on (enter date): \_\_\_\_\_ Corrected tax: \$4,258.75  
 Order transmitted to collecting officer on (enter date): \_\_\_\_\_

APPLICATION DENIED Reason: \_\_\_\_\_

Seal of Office \_\_\_\_\_  
 Date Signature of Chief Executive Officer or Official Designated by Resolution

**Part IV. For use by COLLECTING OFFICER:**

Payment may be made without interest and penalties ONLY if (1) the application has been filed with the County Director during the period when taxes may be paid without interest (see "Date application received" in Part II of this form) AND (2) the corrected tax is paid within eight days of the date on which the notice of approval is mailed to the applicant (see Part III of this form). If either of these conditions is not satisfied, interest and/or penalties must be paid on the corrected tax.



Order from tax levying body received:		_____
		Date
Corrected tax due:	\$ _____	
Interest and penalties (if applicable):	\$ _____	
Total corrected tax due:	\$ _____	
Tax roll corrected:		_____
		Date
Tax bill corrected:		_____
		Date
Application and Order annexed to tax roll:		_____
		Date
Payment of corrected tax received:		_____
		Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Collecting Officer