



MAUREEN G. NARDACCI  
*City Clerk*

# CITY OF RENSSELAER

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OFFICE OF  
**THE CITY CLERK**  
CITY HALL, 505 BROADWAY  
RENSSELAER, NEW YORK 12144

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## **AGENDA FOR THE COMMON COUNCIL DECEMBER 17, 2003**

1. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RENSSELAER, NEW YORK TO OVERRIDE THE VETO OF THE MAYOR ON NOVEMBER 21, 2003.
2. A RESOLUTION AUTHORIZING THE RE-CONVEYANCE OF ONE (1) PARCEL OF LAND OWNED BY THE CITY OF RENSSELAER TO THE FORMER OWNER.
3. A RESOLUTION AUTHORIZING MR. KIRK MYERS TO PLACE A FOUR-FOOT TALL WOOD STOCKADE FENCE IN THE CITY OF RENSSELAER RIGHT-OF-WAY AT 1 RIVERSIDE AVENUE, RENSSELAER, NEW YORK.

CITY OF RENSSELAER  
IN  
COMMON COUNCIL MEETING  
WEDNESDAY EVENING  
REGULAR MEETING  
December 17 2003  
8:00 p.m.

THE COUNCIL CONVENED AT 8:05 P.M. AND WAS CALLED TO ORDER BY  
PRESIDENT BRIDGEFORD.

THE ROLL BEING CALLED THE FOLLOWING ANSWERED TO THEIR NAMES:

PRESIDENT BRIDGEFORD

ALDERPERSON:	HAHN	ALDERPERSON:	STALL
	FELTS		ROGERS
	JIGUERE		GIRGENTI
			JACKSON
	TAGLIENTO		

ABSENT: ALDERPERSONS BRIDENBECK AND STALL

ALDERPERSON GIRGENTI MOVED THAT THE MINUTES BE ADOPTED AS  
PRINTED, SUBJECT TO CORRECTIONS.

CLAIM: JEANNE S. WALSH VS; THE CITY OF RENSSELAER.

A MOTION WAS MADE BY ALDERPERSON GIRGENTI, TO ADJOURN AT 8:45 P.M.  
SECONDED BY JACKSON.

AYES:HAHN,FELTS, JIGUERE,TAGLIENTO, ROGERS, GIRGENTI, JACKSON AND  
BRIDGEFORD.

NONES:NONE. THE PRESIDENT DECLARED THIS MOTION DULY ADOPTED.

NEXT MEETING: JANUARY 7, 2004

CITY OF RENSSELAER, COMMON COUNCIL MEETING

December 17, 2003

Aldersperson moved that all bills and payrolls be referred to the Auditing Committee. The City Clerk reports that the bills and payrolls amounted to: *Rogers* *Girgenti*

BILLS ENCUMBERED THROUGH:	12/5/2003	12/19/2003
Bills Pd. Prior to Board Audit	342,838.40	
General City Bills 02/03	39,181.14	29,134.27
General City Bills 01/02		
Water-Paid Prior to Board Audit	28,900.83	
Water Department Bills 02/03	2,465.46	1,380.27
Water Department Bills 01/02		
Solid Waste Bills 02/03	15,569.97	23,599.88
Solid Waste Bills 01/02		
S.W. Bills paid prior to Board Audit	6,647.00	
Library-Bills paid Prior to Board Audit		
Library-02/03		
Library-01/02		
Community Development Block Grant- Rental Rehab Program	-	-
Home Program	-	-
Capital Projects (3rd Street 3rd Ave.)	-	-
<b>TOTAL</b>	<b>435,602.80</b>	<b>54,114.42</b>
<b>PAYROLL DATES</b>	<b>12/5/2003</b>	<b>12/19/2003</b>
Library Payroll	\$1,527.90	\$1,527.90
Common Council Payroll	\$2,565.24	\$2,565.24
General City Payroll	\$19,989.69	\$17,518.61
Snow removal overtime	\$0.00	\$10,335.99
Planning & Development Payroll	\$5,809.61	\$5,289.61
Fire Department Payroll *****	\$18,694.98	\$24,618.32
Fire Department Overtime(inc. Kelly days)	\$798.09	\$4,102.89
Fire Department Holiday Pay	\$0.00	\$0.00
Police Department Payroll	\$29,232.96	\$27,211.62
Police Department Overtime	\$9,034.22	\$11,207.03
Sting Reimbursement	\$0.00	\$0.00
DWI Reimbursement	\$208.90	\$464.84
Seatbelt Reimbursement	\$0.00	\$0.00
Court Reimbursement	\$230.93	\$269.00
Traffic	\$789.89	\$0.00
Buckle Up NY Re-Imbursement	\$0.00	\$0.00
Police Dispatcher & Clerk Payroll	\$6,644.39	\$6,627.39
Health Officer	\$187.71	\$187.71
Animal Control Officer	\$383.43	\$383.43
Crossing Guard Payroll	\$517.31	\$492.68
Sick Leave Incentive Pay	\$0.00	\$0.00
Retirement Buyout	\$0.00	\$0.00
Police Department Holiday Pay	\$1,431.44	\$0.00
Public Works Administration Payroll	\$3,401.31	\$2,851.31
Public Works Maintenance Payroll	\$26,741.28	\$26,659.49
Public Works Overtime	\$1,351.50	\$3,160.06
Clothing Allowance	\$0.00	\$0.00
Water Department Administration Payroll	\$1,885.05	\$1,335.05
Water Department Maintenance Payroll	\$5,850.22	\$5,874.70
Water Department Overtime	\$1,391.43	\$817.39
Clothing Allowance	\$0.00	\$0.00
Solid Waste Administration Payroll	\$320.04	\$320.04
Solid Waste Maintenance Payroll	\$6,353.14	\$6,124.89
Solid Waste Overtime	\$656.89	\$443.20
Clothing Allowance	\$14,100.00	\$0.00
Vacation Buyout	\$21,300.26	\$0.00
<b>TOTAL</b>	<b>\$181,397.81</b>	<b>160,388.39</b>

I hereby certify that the above claims were duly audited and ordered paid at a meeting of the Common Council held on this date: DECEMBER 17, 2003

*Maureen Nardacci*  
City Clerk, Maureen Nardacci

TO THE TREASURER OF THE CITY OF RENSSELAER, NY:

Pay to the claimants named herein the amounts of the claims set opposite their respective names, and charge to the funds specified, and this shall be your warrant.

*Maureen Nardacci*  
Mayor, Mark Pratt  
City Clerk, Maureen Nardacci

\*\*\*\*\* THE FIRE CLOTHING ALLOWANCE

Ayes: Hahn, Felts, Jiguere, Tagliento, Rogers, Girgenti, Jackson, Bridgeford.  
Noes: NOne. The President declared this resolution duly adopted.

By Alderperson :

Felts

Seconded by Alderperson :

Jiguere

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RENSSELAER, NEW YORK TO OVERRIDE THE VETO OF THE MAYOR ON NOVEMBER 21, 2003** *Delete*

**December 17, 2003**

**WHEREAS**, in December 2001, Besicorp-Empire Development Company ("BEDCO") fled with the New York Department of Public Service ("DPS") and the New York Department of Environmental Conservation ("DEC") and application to construct in the City of Rensselaer ("the City") an integrated project consisting of 505 megawatt combined cycle electric cogeneration facility and a recycled newsprint manufacturing facility ("the Project"), and

**WHEREAS**, the City has since actively participated in State agency proceedings on the application and incurred considerable expenses for the services of professional consulting firms in assisting the City and its elected and appointed officials in their review and evaluation of the application materials for the Project and in negotiations with BEDCO and other parties to the proceedings regarding the environmental, technical, socio-economic and community impacts of the BEDCO project, and

**WHEREAS**, BEDCO has refused to abide by a January 29, 2003, Memorandum of Understanding with the City in which it promised to pay the sum of Sixty Three Thousand Three Hundred One Dollars and Eighty Nine Cents (\$63,301.89) for additional expenses incurred by the City for the services of professional consultants in connection with the State agency proceedings, and

**WHEREAS**, BEDCO has refused to negotiate with the City regarding reimbursement for the expenses of the City's professional consultants and has stated that it will not pay to the City any additional expenses of the City's professional consultants incurred in the review and evaluation of the BEDCO project, and

**WHEREAS**, BEDCO has refused to renegotiate the terms of the Draft Payment In Lieu of Taxes (PILOT) Agreements with the Rensselaer County Industrial Development Agency (IDA), which would grant BEDCO a reduction in City real property taxes of approximately 80% over the life of the PILOT Agreements, thus ignoring a request by the City Council in a resolution dated June 4, 2003, and

**WHEREAS**, this substantial reduction in the real property tax revenue that would otherwise be due to the City for the project is unacceptable to the City Council, and

**WHEREAS**, on March 27, 2003, the City transmitted to BEDCO a proposal for a "Host Community" benefits package, providing for additional payments to the City to offset the impacts of the tax revenues that would be lost under the draft PILOT Agreements, and

**WHEREAS**, BEDCO has rejected the City's "Host Community" benefits proposal, has made not counterproposal, and has refused to negotiate with the City over a "Host Community" benefits package, and

**WHEREAS**, reduced real property tax revenues to be derived from the Project during the 20-year life of the PILOT Agreements would in turn be substantially diminished by project-related costs incurred by the City fro professional environmental, engineering and legal consultants during State and City project review proceedings and in monitoring during construction and operations of the Project, by costs of repair and maintenance of roads and infrastructure adversely impacted by uses related to the Project and by costs of additional police, fire and emergency services and equipment needed to respond to accidents related to the Project, and

**WHEREAS**, the City Council has determined that the Fire Department is not currently equipped to quickly and effectively respond to a large fire at a facility such as BEDCO's, and that it cannot assume that it will be by the time construction and/or operation begin, considering the City's present and foreseen budgetary constrain, and

**WHEREAS**, by letter date April 11, 2003, the City advised BEDCO that, given the project's "potential environmental and community impacts", there was a certain level of "project-derived revenue, over the life of the PILOT Agreements, below which this project...may not be acceptable to City officials and City residents", and

**WHEREAS**, it is the judgment of the City Council that the City of Rensselaer should not have to suffer the above present and future financial losses for a controversial project such as BEDCO's, and

**WHEREAS**, the City has been advised by its professional consultants that there will be certain environmental and community impacts to the City and City residents associated with the construction and operations of the project, and

**WHEREAS**, in late April, 2003, Bedco presented to the City and other parties to the State agency proceedings, a document entitled "joint Settlement Agreement ("JSA"), containing the terms of BEDCO's proposal to attempt to resolve the parties' concerns over the impacts of the project, and

**WHEREAS**, however, BEDCO has failed to minimize or mitigate traffic impacts to be maximum practicable and reasonable extent, and

**WHEREAS**, the Project would generate as many as 80 truck trips at peak hours (mid-day on Wednesdays), or 508 truck trips per day, and

**WHEREAS**, BEDCO's project will degrade traffic conditions at the intersection of concern to a "level of Service F" during both the construction and operations phases of the Project, and cause possible safety problems from traffic "queuing" on Routes 9 & 20 and 9J, and

**WHEREAS**, BEDCO's proposed traffic mitigation measures, including the reduction of traffic signal timing at three intersections along Rtes. 9 & 20 (Broadway, Washington Avenue, Aiken Avenue) have not been approved by the Department of Transportation and are unacceptable, AND

**WHEREAS**, in 2002, the U.S. Environmental Protection Agency ("EPA") determined that diesel exhausts from trucks (and other sources) probably causes lung cancer, and

**WHEREAS**, the Project would generate over a million pounds of criteria air pollutants per year, including 258,000 pounds of Particulate Matter smaller than 2.5 microns, and

**WHEREAS**, fine particulate matter air pollution has been linked to aggravated cardiac and respiratory diseases such as asthma, bronchitis and emphysema and to various forms of heart diseases, even sudden death in people with cardiovascular disease, and

**WHEREAS**, a minimum of 35 of the students who attend the Rensselaer Jr./Sr. High School suffer from asthma and carry or use inhalers, and

**WHEREAS**, on May 7, 200, while speaking at a DEC hearing, a nurse employed at the Giffen Memorial School in Albany, which is located in proximity of the Project site, said air quality in the school is poor, and 13% of the children (78 students) who attend the school suffer from asthma, and

**WHEREAS**, the Project, all adverse impacts cumulatively considered, would severely degrade the quality of life of residents of the City and particularly of residents of the Fort Crailo neighborhood, and

**WHEREAS**, BEDCO has failed to honor the promises it made to the parties in its original application to submit to City permit authority over the power plant and has not consulted with the City and its zoning authorities over issues pertinent to the development of the power plant, and

**WHEREAS**, BEDCO has refused to commit sufficient funds to ensure for the adequate decommissioning of the power plant and for the restoration of the site, and

**WHEREAS**, BEDCO's Project will not "facilitate" the remediation of the BASF site as promised since 1.) the 8-acre parcel shown as the Parking Area in the original project layout and known as the Capped Landfill is no longer considered part of the Project due to high levels of contaminants and the inability of DEC and BASF to negotiate an adequate and timely remedial action plan and 2.) only soils excavated by BEDCO during construction will be treated and properly disposed of, while the rest will remain to be permanently covered with an asphalt cap, and 3.) construction will greatly disturb contaminated soils and create new vertical pathways for contaminants to migrate to the lower water table, and

**WHEREAS**, BEDCO has broken many promises and for the last two years has increasingly refused to cooperate with the City and its residents, failed to implement a fair and timely Public Involvement Program, and made misleading statements to the public and to the media regarding project review proceedings, and

**WHEREAS**, on October 30, 2003, at meetings held to inform the public about the Project, BEDCO, Vice President and Project Manager Dick Clark misled the public and the press by implying that the City and DPS has reached an agreement with BEDCO on all issues, including traffic issues, and

**WHEREAS**, at the above-mentioned meeting Mr. Clark said BEDCO would not release its financial reports nor provide current cost estimates for the construction of the Project for the financial reports nor provide current cost estimates for the construction of the Project for the reason that it is a privately owned company and is not required to do so, and

**WHEREAS**, BEDCO's owner, Michael F. Zinn, and Besicorp, pleaded guilty in 1992 to filing a false tax return and filing false statements with the Federal Election Commission for which he served time in prison, and both he and Besicorp were fined for these felonies, and

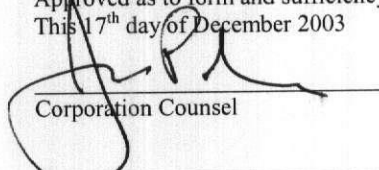
**WHEREAS**, when Mr. Zinn was sentenced, the sentencing court stated: "This is a case where in order to commit the election law violation, (Mr. Zinn) engaged in a fraud on his own shareholders and his own company and a breach of his duty of undivided loyalty and also in a tax fraud," and

**WHEREAS**, in view of the above losses on revenue and the above environmental and community impacts, it is further the judgment of the City Council that the project, as presently proposed, is not in the public interest.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rensselaer as follows:

1. The BEDCO proposal to construct and operate an integrated project consisting of a 505 megawatt combined cycle electric cogeneration facility and a recycled newsprint manufacturing facility within the City is unacceptable to the City Council of the City of Rensselaer.
2. The City Council requests that BEDCO immediately and permanently abandon all efforts to construct the proposed facilities in the City of Rensselaer.
3. The City Council requests that applicable federal, state, and local government agencies deny BEDCO any permits necessary to advance the Project.

Approved as to form and sufficiency  
This 17<sup>th</sup> day of December 2003

  
\_\_\_\_\_  
Corporation Counsel  
  
\_\_\_\_\_  
Mayor

*Amendment*

Resolution BEDCO121703

	AYES	NOES
BONNIE HAHN	✓	
ALBERTINE FELTS	✓	
BRENDA JIGUERE	✓	
LEE BRIDENBECK		
DOMINCK TAGLIENTO	✓	
BRIAN STALL		
SCOTT ROGERS	✓	
DEBORAH GIRGENTI	✓	
PATRICIA JACKSON		✓
MICHAEL BRIDGEFORD	✓	
Total	7	1

*Main Issue*

	AYES	NOES
BONNIE HAHN	✓	
ALBERTINE FELTS	✓	
BRENDA JIGUERE	✓	
LEE BRIDENBECK		
DOMINCK TAGLIENTO		✓
BRIAN STALL		
SCOTT ROGERS	✓	
DEBORAH GIRGENTI		✓
PATRICIA JACKSON		✓
MICHAEL BRIDGEFORD	✓	
Total	5	3

By Alderperson : Tagliento  
 Seconded by Alderperson : Mugenti

**A RESOLUTION AUTHORIZING THE RECONVEYANCE OF ONE (1) PARCEL OF LAND OWNED BY THE CITY OF RENSSELAER TO THE FORMER OWNER**

**WHEREAS**, the City of Rensselaer holds title to a parcel of land taken pursuant to a Tax Foreclosure Proceeding, and

**WHEREAS**, the property taxes on that parcel were paid in full after the Final Judgment was entered directing the Tax Enforcing Officer of the City of Rensselaer to execute and record a deed conveying the property to the City of Rensselaer. The location of the parcel, the tax map number and the name of the former property owner follow:

<u>Property Location</u>	<u>Tax Map Number</u>	<u>Name of Former Property Owner</u>
1624 First Street	133.78-1-17	Alvin Pickens

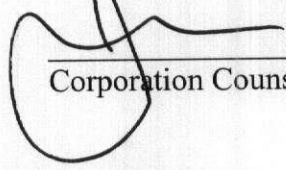
**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council of the City of Rensselaer hereby and does authorize the reconveyance of the aforementioned parcel to the former property owner, and

**BE IT FURTHER RESOLVED**, that the Mayor of the City of Rensselaer is authorized to execute any and all documents in conjunction with this conveyance.

	AYES	NOES
BONNIE MAHN		<i>Abstain</i>
ALBERTINE FELTS	✓	
BRENDA JIGUERE	✓	
LEE BRIDENBECK		
DOMINCK TAGLIENTO	✓	
BRIAN STALL		
SCOTT ROGERS	✓	
DEBORAH GIRGENTI	✓	
PATRICIA JACKSON	✓	
MICHAEL BRIDGEFORD	✓	
Total	7	

Resolutionproptypickens121703

Approved as to form and sufficiency  
 this 17<sup>th</sup> day of December 2003

  
 Corporation Counsel

Approved by:  
 \_\_\_\_\_  
 Mayor

By Alderperson:

Hahn

Seconded by Alderperson:

Council as a whole

**A RESOLUTION AUTHORIZING MR. KIRK MYERS TO PLACE A FOUR FOOT TALL WOOD STOCKADE FENCE IN THE CITY OF RENSSELAER RIGHT-OF-WAY AT 1 RIVERSIDE AVENUE, RENSSELAER, NEW YORK**

**WHEREAS**, Mr. Myers is desirous of installing a four foot (4') tall wood stockade fence at 1 Riverside Avenue in the City of Rensselaer, and

**WHEREAS**, 1 Riverside Avenue is located in one of the City's historic districts, and

**WHEREAS**, the Rensselaer City Planning Commission, determining that the fence will not detract from the historic character of the neighborhood, granted a certificate of appropriateness for the fence at its December 8, 2003 meeting, and

**WHEREAS**, placement of this fence adjacent to the sidewalk is within the City of Rensselaer right-of-way and requires Common Council approval to do so, and

**WHEREAS**, the Rensselaer City Planning Commission also resolved to recommend the Common Council approve placement of the fence in the City's right-of-way.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Common Council as follows:

**Section 1.** Mr. Myers is authorized to construct a four-foot (4') tall wood stockade fence in the back yard of the property along Aiken Avenue between the garage and the hedge that runs along the Aiken Avenue side of the house.

**Section 2.** It is further resolved that the City of Rensselaer's Building Department shall execute any and all documents necessary to effect said improvements.

This resolution shall be dated December 17, 2003 and shall take effect immediately.

	AYES	NOES
BONNIE HAHN	✓	
ALBERTINE FELTS	✓	
BRENDA JIGUERE	✓	
LEE BRIDENBECK		
DOMINCK TAGLIENITO	✓	
BRIAN STALL		
SCOTT ROGERS	✓	
DEBORAH GIRGENTI	✓	
PATRICIA JACKSON	✓	
MICHAEL BRIDGEFORD	✓	
Total	8	0

Resolutionstockade121703

Approved as to form and sufficiency  
This 17th day of December 2003

\_\_\_\_\_  
Corporation Counsel

Approved by:

\_\_\_\_\_  
Mayor