

CITY OF RENSSELAER
IN
COMMON COUNCIL

WEDNESDAY EVENING
JULY 17, 1991

The Council convened at 8:06 P.M., and was called to order by President Finlan.

The Roll being called, the following answered to their names:

President Finlan

Alderman: Mooney Falkouski
 Conklin Fahrenkopf
 Reynolds Whitford

Alderman Falkouski moved that the minutes be adopted as printed subject to correction.

The Clerk reports that the Mayor has approved of all resolutions passed at the last meeting.

Alderman Falkouski moved that all bills and payrolls be referred to the Auditing Committee. The City Clerk reports that the City Bills, Water Department Bills, Water Maintenance, Highway Payroll and Planning and Development Agency amounted to:

| | |
|-----------------------------------|-------------|
| CITY BILLS: | \$34,619.89 |
| WATER DEPARTMENT BILLS: | 1,401.40 |
| WATER MAINTENANCE PAYROLL: | 3,795.88 |
| HIGHWAY PAYROLL | 17,809.45 |
| PLANNING & DEVELOP. AGENCY | 18,644.00 |
| MEMORIAL DAY PARADE/ SERVICES: | 6,361.03 |

Alderman Falkouski move, seconded by Alderman Mooney, that all bills and payrolls be allowed and ordered paid.

Alderman Falkouski moved to adjourn at 8:20 p.m. seconded by Alderman Mooney.

Next Meeting August 7, 1991.

By Alderman Fahrenkopf

Seconded by Mooney

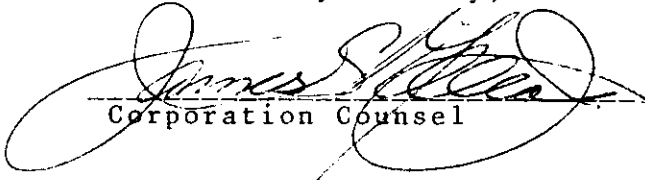
RESOLUTION AUTHORIZING
CURB LOWERING.

117

RESOLVED, that Camilla C. Thorn be and she is hereby authorized under the direction and supervision of the Department of Public Works to lower so much of the Curb at 1815 Fourth Street as may be necessary for driveway purposes.

This is a permit only and revocable at the will of the Common Council.

Approved as to form and sufficiency
this *17th* day of July, 1991.


Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None.

The President declared this resolution duly adopted.

By Alderman Falkouski

Seconded By Alderman Conklin

118

A RESOLUTION AUTHORIZING
THE LETTING OF BIDS
FOR THE 350 TONS OF ROCK
SALT FOR THE YEAR 1991-1992.

WHEREAS the City of Rensselaer Department of Public Works utilizes rock salt in furtherance of its street clearing duties during the winter months, and

WHEREAS it is necessary to bid for the purchase of rock salt; and

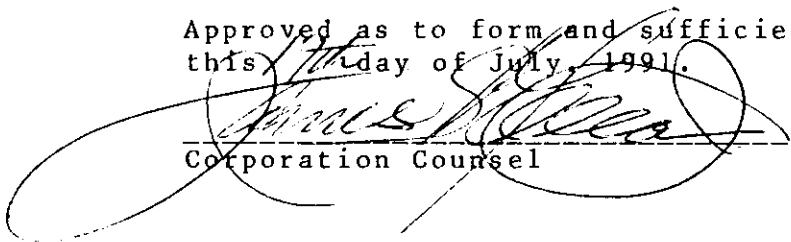
NOW THEREFORE BE IT RESOLVED that the City Clerk be and she hereby is authorized and directed to advertise for bids for the furnishing of 350 tons of rock salt suitable for use by the Department of Public Works for the year of 1991-1992,

BE IT FURTHER RESOLVED that bids shall be submitted in accordance with the general specifications attached thereto,

BE IT FURTHER RESOLVED that bids will be received at the office of the City Clerk, Rensselaer City Hall, 505 Broadway, Rensselaer, New York, until 3:00 P.M. on August 7, 1991, by the City Clerk who is hereby designated the City's agent for such purposes, and all bids shall further be accompanied by a bid bond in either certified check or sufficient surety in an amount equal to (5%) five percent of the total bid; and

BE IT FURTHER RESOLVED, that the Common Council of the City of Rensselaer reserves the right to accept or reject any and all bids so submitted, to waive any informalities discovered therein, to readvertise for new bids at its discretion, and in case two or more responsible bidders submit identical bids as to price, to award the contract to either of such bidders.

Approved as to form and sufficiency
this 7th day of July, 1991.



James M. [unclear]

Corporation Counsel

Ayes: Finlan, Mocney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None

The President declared this resolution duly adopted.

BY ALDERMAN Reynolds

SECONDED BY ALDERMAN Fahrenkopf

120

WHEREAS the Water Bills for the following periods on property in the name of Owen Morrison, 53 Elm Street were paid as follows:

| | | |
|---|-----------|-----------------|
| Period April 9, 1990 to October 1, 1990 | Bill | \$120.86 |
| | Surcharge | 3.34 |
| | Penalty | 18.63 |
| | Total | <u>\$142.83</u> |
| Period October 1, 1990 to April 1, 1991 | Bill | \$175.80 |
| | Surcharge | 3.34 |
| | Penalty | 8.96 |
| | Total | <u>\$188.10</u> |

WHEREAS the total bills amounted totaled \$330.93, and

Whereas the City received a check from Pattison, Sampson Attorneys for \$348.84 for said bills and said check was deposited on June 28, 1991,

NOW THEREFORE, BE IT RESOLVED that the City Treasurer is hereby authorized to refund \$17.91 to Murdock Abstract Corporation, 620 State Street, Schenectady New York 12037 for overpayment for said Water Bills.

Approved as to form and sufficiency
this 17th day of July 1991.

James S. Millea, Jr.
Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None. The President declared this resolution duly adopted.

BY ALDERMAN : Reynolds

SECONDED BY ALDERMAN Fahrenkopf

121

WHEREAS the Solid Waste Bill on the following property was paid twice for the billing in December 1990: 1015 First Street, Rensselaer, New York.

WHEREAS, said Bill was paid December 31, 1990 and again July 10, 1991,

NOW THEREFORE BE IT RESOLVED, that the City Treasurer refund Frank Cardomone, 1015 First Street the sum of \$60.00 for Solid Waste Bill and \$1.20 penalty for said overpayment.

Approved as to form and sufficiency
this 17th day of July, 1991

James S. Millea, Jr.
Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None. The President declared this resolution duly adopted.

By Alderman Reynolds

Seconded By Alderman Fahrenkopf

122

RENSSELAER VOLUNTEER
AMBULANCE HOLDING
THEIR ANNUAL
BAZAAR.

LET IT BE RESOLVED, that the Rensselaer Volunteer Ambulance be allowed to hold their Annual Bazaar on Harrison Avenue between Second and Third Street, maintaining a fire lane for safety and emergency purposes, on August 1, 2, and 3, 1991, between the hours of (6) Six P.M. and (11) Eleven P.M.

LET IT FURTHER BE RESOLVED, that the street will also be available during these hours for Association Activities, and

BE IT FURTHER RESOLVED that such permission is conditioned upon the delivery to the Corporation Counsel of the City of Rensselaer a certificate of insurance evidencing liability coverage in an amount not less than \$500,000.00 and specifically indemnifying the City on account of the activities planned.

Approved as to form and sufficiency
this *14th* day of July, 1991.


Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None.

The President declared this resolution duly adopted.

BY ALDERMAN Reynolds

Seconded by Alderman Falkouski

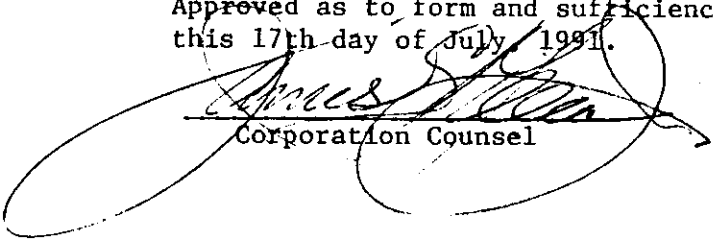
123

WHEREAS, The Water Bill from Troy for the period November 1990 to May 1991 has become due and payable in the amount of \$233,851.64, and

WHEREAS, a previous amount of \$198,000.00 has been paid to the City of Troy for said bill, and

WHEREAS, a balance of \$35,851.64 remains and there is an insufficient amount in the Water Fund to pay said balance and the Treasurer transferred \$35,000.00 from the General Fund to the Water Fund to pay said balance, NOW THEREFORE BE IT RESOLVED; that the action of the Treasurer in transferring said \$35,000.00 from the General Fund to the Water Fund is hereby confirmed and approved.

Approved as to form and sufficiency
this 17th day of July, 1991.



Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None.

The President declared this resolution duly adopted.

By Alderman Falkouski

Seconded By Adlerman Reynolds

124

A RESOLUTION SCHEDULING
PUBLIC HEARING TO
CONSIDER AN ORDINANCE
ESTABLISHING NEW WATER RATES.

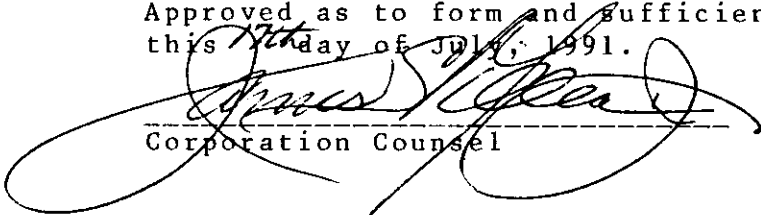
WHEREAS there appears to a need to increase the amount charged for consumption of water in the City of Rensselaer, and

WHEREAS the Water Department has recommended an increase from \$2.93 to \$3.08 per one thousand gallons of water consumed.

NOW THEREFORE BE IT RESOLVED that a public hearing to consider adoption of an ordinance establishing the aforesaid increase in water rates be conducted on August 7, 1991, at 7:45 P.M. in the Common Council Chambers, City Hall, City and County of Rensselaer, New York, and

BE IT FURTHER RESOLVED that notice of such public hearing be posted in accordance with the statutory requirments in such cases made and provided.

Approved as to form and sufficiency
this 7th day of July, 1991.


Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None.

The President declared this resolution duly adopted.

By Alderman Falkouski

Seconded By Alderman Mooney

125

HEROIC ACTION
BY FIREMEN.

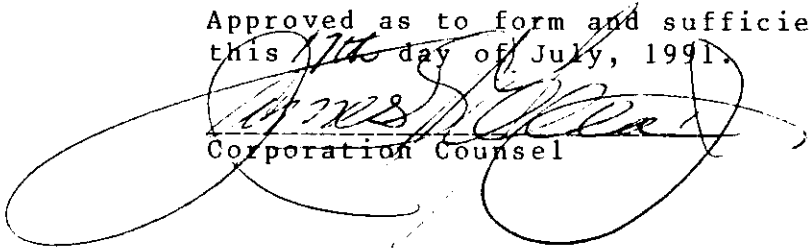
WHEREAS on July 5, 1991 a structure fire did occur at the Rensselaer Housing Authority at 85 Aiken Avenue in the City of Rensselaer and,

WHEREAS Rensselaer Volunteer Firemen, John Schumaker, Jr., Keith Bradt, David Sleasman and William Thomson, Jr., upon arrival at the scene entered the building to effect the rescue of an occupant, and

WHEREAS by their action, have saved the life of a child and exposed themselves to grave physical harm.

NOW THEREFORE the Mayor, the City Treasurer, the City Clerk, the President of Common Council, the Aldermen, and all City Officials commend their heroic action, their devotion to duty and exemplary performance on behalf of another human being.

Approved as to form and sufficiency
this 7th day of July, 1991.

A large, stylized handwritten signature in black ink, written over the printed name of the Corporation Counsel.

Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None.

The President declared this resolution duly adopted.

By Alderman Falkouski

Seconded By Alderman Fahrenkopf

#126

LOCAL LAW NO. 5
OF 1991 FOR PARTICIPATING
EMPLOYERS WISHING TO
ADOPT THE 1991 LOCAL
GOVERNMENT RETIREMENT INCENTIVE
PROGRAM.

A LOCAL LAW electing a retirement incentive program as authorized by Chapter 178, Laws of 1991 for the eligible employees of the City of Rensselaer.

BE IT ENACTED by the Common Council of the City of Rensselaer, as follows:

§1. The City of Rensselaer hereby elects to provide all its eligible employees with a retirement incentive program authorized by Chapter 178, Laws of 1991.

§2. The commencement date of the retirement incentive program shall be October 3, 1991.

§3. The open period during which eligible employees may retire and receive the additional retirement benefit, shall be ninety (90) days in length.

§4. The actuarial present value of the additional retirement benefits payable pursuant to the provisions of this local law shall be funded over a five year period. The amount of the annual payment in each of the five years shall be determined by the Actuary of the New York State and Local Employees' Retirement System, and it shall be paid by the City of Rensselaer for each employee who receives the retirement benefits payable under this local law.

§5. This act shall take effect July 31, 1991.

Approved as to form and sufficiency
this ~~11th~~ day of July, 1991.


Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: None.

The President declared this resolution duly adopted.

By Alderman Mooney

Seconded By Alderman Conklin

A RESOLUTION
APPROVING IN FINAL
FORM THE STIPULATION
SETTLING ARTICLE 78 PROCEEDING
BROUGHT BY ANNE
L. DUNN.

127

WHEREAS Anne L. Dunn has proposed to settle an Article 78 proceeding commenced by her in August of 1989, and

WHEREAS the said Anne L. Dunn has submitted a Stipulation of Settlement in final form for execution by the Corporation Counsel, and

WHEREAS this Council did approve such settlement by resolution dated May 22, 1991, but wishes to ratify and confirm its action after considering the Stipulation of Settlement in its final form as annexed hereto and incorporated herein, and

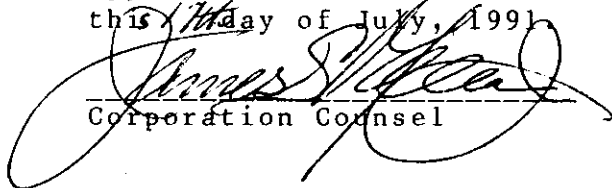
WHEREAS a condition precedent to the aforesaid Stipulation of Settlement is an Agreement with R. J. Valente Gravel, Inc. to make certain improvements to select streets in the City of Rensselaer and to abide by rules and regulations to be mutually agreed upon, and

WHEREAS the Agreement proposed by R. J. Valente Gravel, Inc. is annexed hereto and incorporated herein

NOW THEREFORE BE IT RESOLVED that the Stipulation of Settlement submitted by Anne L. Dunn incorporated herein is hereby approved and ratified by this Council, and

BE IT FURTHER RESOLVED that the Mayor be and he hereby is authorized to enter into the Agreement annexed hereto and made a part hereof with R. J. Valente Gravel, Inc. prior to the Corporation Counsel executing the aforesaid Stipulation of Settlement.

Approved as to form and sufficiency
this ~~17th~~ day of July, 1991


Corporation Counsel

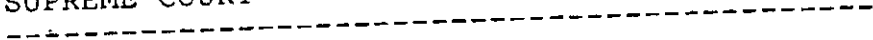
Ayes: Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf, Whitford.

Noes: Finlan

The President declared this resolution duly adopted.

STATE OF NEW YORK
SUPREME COURT

COUNTY OF RENSSELAER



In the Matter
of
the Application of ANNE L. DUNN,
Petitioner,
for a judgment under Article 78 of the
Civil Practice Law and Rules

STIPULATION OF
SETTLEMENT

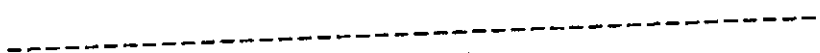
Index #170532
RJI #41-6305-89

-against-

Assigned Judge:
Keniry

EDWARD FINLAN, EDWARD SILL, JOHN MOONEY,
RICHARD CONKLIN, JOHN YONKERS, FRED
NARDACCI, MICHAEL FALKOUSKI, ROBERT
FAHRENKOPF, NICHOLAS STOCKLAS, and
DENNIS PULS, as and constituting the
common counsel of the City of Rensselaer,

Respondents.



WHEREAS, petitioner is the owner of certain property
located in the Towns of North and East Greenbush, the County of
Rensselaer and the State of New York; and

WHEREAS, the petitioner and her family have been
operating a commercial gravel excavation and sale business,
S.A. Dunn Sand & Gravel, on said property for over 100 years;
and

WHEREAS, the only street or road access to said
property by way of Partition Street Extension which runs from
petitioner's property, through the Towns of North and East
Greenbush, and into the City of Rensselaer where it becomes
Partition Street and continues until terminating on Broadway in
the City of Rensselaer; and

WHEREAS, the City of Rensselaer, by its common counsel, adopted an ordinance which would limit vehicular traffic on its streets to vehicles under the weight of Five (5) tons; and

WHEREAS, petitioner Anne L. Dunn instituted the present proceeding pursuant to Article 78 of the Civil Practice Law and Rules seeking to prevent the application of said weight limitation ordinance to vehicle traffic running to and from petitioners' property; and

WHEREAS, respondents appeared in the present Article 78 proceeding by service of a verified Article 78 answer; and

WHEREAS, petitioner, subsequent to the initiation of the present proceeding, deeded a portion of the property which is the subject of this proceeding to her son and daughter, John J. Dunn and Susan M. Kelly, by deed dated August 8, 1990 recorded in the office of the Rensselaer County Clerk on October 17, 1990 in Book 1593 of Deeds at page 268; and

WHEREAS, petitioner and respondents are desirous of amending the title of the present proceeding, and all pleadings heretofore had herein, to include John J. Dunn and Susan M. Kelly as petitioners, so as to include them as signatories to the present stipulation and bind them to the terms hereof; and

WHEREAS, petitioner and respondent are desirous of settling the present proceeding,

IT IS HEREBY STIPULATED AND AGREED that:

1. Petitioners and respondents hereby stipulate and agree that the present proceeding pursuant to Article 78 of the Civil Practice Law and Rules is settled and discontinued pursuant to the terms hereof, without costs to either party as against the other.

2. Petitioners and respondents hereby stipulate and agree that the title of the present proceeding shall be amended to read:

"In the Matter of the Application of
ANN L. DUNN, JOHN J. DUNN and SUSAN
M. KELLY,

Petitioners,

For a Judgment Under Article 78 of
the Civil Practice Law and Rules

-against-

EDWARD FINLAN, EDWARD SILL, JOHN MOONEY,
RICHARD CONKLIN, JOHN YONKERS, FRED
NARDACCI, MICHAEL FALKOUSKI, ROBERT
FAHRENKOPF, NICHOLAS STOCKLAS, and
DENNIS PULS, as and constituting the
common counsel of the City of Rensselaer,

Respondents."

Petitioners and respondents further stipulate and agree that all pleadings heretofore had herein shall be deemed amended to include John J. Dunn and Susan M. Kelly as petitioners, and that, as petitioners in the present proceeding, said John J. Dunn and Susan M. Kelly shall be signatories to the present stipulation and shall be bound by the terms hereof.

3. Petitioners and respondents hereby stipulate and agree that the term "Petitioners" shall, for the purposes of this agreement, mean petitioners, Anne L. Dunn, John J. Dunn and Susan M. Kelly, and/or their successors, lessees or assigns.

4. Respondents hereby stipulate and agree that vehicle traffic to and from Petitioners' property shall be deemed to fall within the "local pickup and delivery" exception contained in the ordinance entitled "An ordinance prohibiting trucks in excess of 5 tons on all city streets"; adopted by the common council of the City of Rensselaer by resolution dated May 3, 1989, and respondents further stipulate and agree that said weight limitation ordinance shall be not be enforced with regard to vehicle traffic running to and from petitioners' property.

5. Respondents hereby stipulate and agree that the City of Rensselaer shall convey to petitioners John J. Dunn and Susan M. Kelly an easement to cross the "pipeline right-of-way", being a portion of certain premises of the City of Rensselaer known as the "Water Works Lot", and respondents hereby further stipulate and agree to execute and deliver all documents necessary for the granting of said easement, including a deed describing same. Petitioners hereby stipulate and agree that petitioners shall bear the full cost of preparing a description of said easement, the deed conveying same, and all recording and filing costs with regard to the

conveyance of said easement. Petitioner, Anne L. Dunn, stipulates and agrees that, as petitioners John J. Dunn and Susan M. Kelly are presently the titled owners to the portion of the property which shall be benefited by said easement, petitioner, Anne L. Dunn, need not be a grantee with regard to said easement.

6. Petitioners hereby stipulate and agree to make all best efforts to annex their property to the City of Rensselaer, and petitioners hereby further stipulate and agree to commence such an annexation proceeding on or before December 31, 1991.

7. Respondents hereby stipulate and agree that the City of Rensselaer shall not oppose said annexation and shall, in fact, actively join in and support said annexation proceeding.

8. Petitioners and respondents hereby stipulate and agree that successful annexation of petitioners' property to the City of Rensselaer is not a term of this agreement and that denial of petitioners' application for annexation by the Courts of the State of New York shall not void or in any way affect any other terms of this agreement.

9. Petitioners and respondents hereby stipulate and agree that the terms and provisions hereof may not be modified or altered other than by an instrument in writing adopted and subscribed by the parties hereto.

10. Petitioners and respondents stipulate and agree that this instrument shall benefit and bind the successors, heirs, executors, administrators and assigns of the parties hereto.

11. Petitioners and respondents stipulate and agree to the entry of an order by the Court, incorporating the terms of this stipulation of settlement, in the form of the order to which this stipulation is annexed.

IN WITNESS WHEREOF, the petitioners have subscribed this instrument on the date set opposite their names, and respondents have adopted this instrument by the signature of the Corporation Counsel of the City of Rensselaer and by affixing hereto an original resolution of the Common Council of the City of Rensselaer authorizing the adoption of this instrument and the execution of same by the Corporation Council of the City of Rensselaer.

Date: _____

Anne L. Dunn

By: _____
John J. Dunn, Attorney-
in-fact

John J. Dunn

Susan M. Kelly

James S. Millea,
Corporation Counsel
City of Rensselaer

0733r

STATE OF NEW YORK
SUPREME COURT

COUNTY OF RENSSELAER

In the Matter of the Application of
ANNE L. DUNN, JOHN J. DUNN and SUSAN
M. KELLY,

ORDER

Petitioners,

Index #170532
RJI #41-6305-89

For a Judgment Under Article 78 of
the Civil Practice Law and Rules

Assigned Judge:
Keniry

-against-

EDWARD FINLAN, EDWARD SILL, JOHN MOONEY,
RICHARD CONKLIN, JOHN YONKERS, FRED
NARDACCI, MICHAEL FALKOUSKI, ROBERT
FAHRENKOPF, NICHOLAS STOCKLAS, and
DENNIS PULS, as and constituting the
common counsel of the City of Rensselaer,

Respondents.

Petitioners have instituted the present proceeding pursuant to Article 78 of the Civil Practice Law and Rules seeking to prevent the application of a certain weight limitation ordinance adopted by the City of Rensselaer to vehicle traffic running to and from petitioners' property.

This proceeding was brought on by service of a verified Article 78 petition dated August 25, 1989, and an order to show cause dated August 28, 1988 seeking a temporary restraining order and preliminary injunction, supported by the affidavit of Anne L. Dunn, dated August 25, 1989, the affidavit of John J. Dunn, Jr., dated August 25, 1989, and the affidavit of John J. Dunn, dated August 25, 1989 with attached exhibits.

In opposition, respondents served a verified Article 78 answer dated December 14, 1989, and respondents further opposed petitioners' motion for a temporary restraining order and preliminary injunction by the affidavit of John Yonkers, dated March 16, 1990 with attached exhibits.

By order of the Court dated March 20, 1990 and filed in the office of the Rensselaer County Clerk on March 27, 1990, petitioners' motion for a preliminary injunction was granted.

Counsel for petitioners and respondents having appeared before this Court and the parties hereto having agreed to settle this proceeding and having entered into a written stipulation of settlement; now

Upon reading and filing the foregoing papers, and upon all the pleadings and proceedings heretofore had herein, and upon the stipulation of settlement dated June 28, 1991, it is hereby

ORDERED, that the present proceeding pursuant to Article 78 of the Civil Practice Law and Rules is hereby settled and discontinued, pursuant to the terms hereof, without costs to either party as against the other; and it is further

ORDERED, that the stipulation of settlement entered into between petitioners and respondents herein shall be annexed hereto and made a part hereof; and it is further

ORDERED, that the title of the present proceeding shall be amended to read:

"In the Matter of the Application of
ANNE L. DUNN, JOHN J. DUNN and SUSAN
M. KELLY,

Petitioners,

For a Judgment Under Article 78 of
the Civil Practice Law and Rules

-against-

EDWARD FINLAN, EDWARD SILL, JOHN MOONEY,
RICHARD CONKLIN, JOHN YONKERS, FRED
NARDACCI, MICHAEL FALKOUSKI, ROBERT
FAHRENKOPF, NICHOLAS STOCKLAS, and
DENNIS PULS, as and constituting the
common counsel of the City of Rensselaer,

Respondents."

and it is further;

ORDERED, that all pleadings heretofore had herein
shall be deemed amended to include John J. Dunn and Susan M.
Kelly as petitioners; and it is further

ORDERED, that vehicle traffic to and from petitioners'
property shall be deemed to fall within the "local pickup and
delivery" exception contained in the ordinance entitled "an
ordinance prohibiting trucks in excess of 5 tons on all city
streets"; adopted by common counsel of the City of Rensselaer
by resolution dated May 3, 1989, and it is further

ORDERED, that said weight limitation ordinance shall
not be enforced with regard to vehicle traffic running to and
from petitioners property; and it is further

ORDERED, that the City of Rensselaer shall convey to petitioners John J. Dunn and Susan M. Kelly an easement to cross the "pipeline right-of-way", being a portion of certain premises of the City of Rensselaer known as the "Waterworks Lot", and respondents are hereby ordered to execute and deliver all documents necessary for the granting of said easement, including a deed describing same. It is further ordered that petitioners shall bear the full cost of preparing a description of said easement, the deed conveying same, and all recording and filing costs with regard to the conveyance of said easement; and it is further

ORDERED, that petitioners shall make all best efforts to annex their property to the City of Rensselaer, and it is further

ORDERED, that petitioners commence such an annexation proceeding on or before December 31, 1991. The City of Rensselaer shall not oppose said annexation and shall, in fact, actively join in and support said annexation proceeding; and it is further

ORDERED, that denial of petitioners' application for annexation by the courts of the State of New York shall not void or in any way affect any other terms of the stipulation of settlement between the parties to this proceeding or the present order.

DATED: Clifton Park, New York
July , 1991

AGREEMENT

Made this _____ day of May, 1991, by and between R. J. VALENTE GRAVEL, INC., (hereinafter referred to as R. J. Valente), a domestic corporation, with its principal place of business in Rensselaer County, State of New York and THE CITY OF RENSSELAER, (hereinafter referred to as The City), a municipal corporation with offices at Broadway in the City of Rensselaer, State of New York.

WHEREAS, R. J. Valente is in the business of mining gravel from certain property located in the Town of North and East Greenbush, (hereinafter referred to as the Dunn property), and

WHEREAS, the only street or local access to said property is by way of Partition Street Extension, which runs into the City of Rensselaer where it becomes Partition Street until terminating on Broadway in The City, and

WHEREAS, the location where R. J. Valente operates its business constitutes a local pickup and delivery within the exception to The City's ordinance adopted May 3, 1989 establishing a weight ordinance prohibiting motor vehicle traffic in excess of five (5) tons, and

WHEREAS, R. J. Valente is desirous of continuing to use Partition Street Extension and Partition Street for the operation of its business which includes the operation of trucks in excess of five (5) tons, and

RECEIVED

JUN 13 1991

CORPORATION COUNSEL

WHEREAS, Partition Street, as located in The City, is in need of repair in order to make heavy truck traffic viable, and

WHEREAS, R. J. Valente is committed to undertaking certain improvements to Partition Street and the Broadway viaduct as recommended by the City Engineers, J. Kenneth Fraser & Associates, P.C. in order to make such heavy truck traffic viable for the operation of its business,

IT IS AGREED as follows:

ROUTES AND USAGE

1. (a) R. J. Valente Gravel, Inc. stipulates and agrees that, subject to their availability, it shall make all best efforts to restrict truck traffic to and from the Dunn property to the following designated route:

(1) Primary Route: Partition Street Extension to Partition Street to Broadway to Third Avenue and Routes 9 and 20;

(2) Secondary Routes: Partition Street Extension to Partition Street to East Street, and then to either Adams Street to Third Avenue and Routes 9 and 20 or South Street to Routes 9 and 20.

(b) R. J. Valente hereby stipulates and agrees to limit truck traffic to the following hours: Monday through Friday, from 6:30 a.m. to 5:30 p.m. and Saturdays from 8:00 a.m. to 4:00 p.m. R. J. Valente further stipulates and agrees that trucks shall not be operated on Sundays and holidays.

SCOPE OF WORK

2. (a) R. J. Valente hereby stipulates and agrees to carry out the improvements as set forth in the report of J. Kenneth Fraser & Associates, P.C., a copy of which is attached hereto and specifically incorporated herein as Exhibit A.

(b) R. J. Valente hereby stipulates and agrees to repair the Broadway viaduct with one continuous coat of blacktop over the portion of the road across said viaduct which is in need of repair.

(c) R. J. Valente further stipulates and agrees to carry out said improvements to Partition Street pursuant to engineering plans and specifications to be prepared by J. Kenneth Fraser & Associates, P.C., a licensed engineer retained by The City, and R. J. Valente stipulates and agrees that said engineer shall be entitled to inspect said improvements as they are being carried out. R. J. Valente further stipulates and agrees that it shall reimburse The City for the actual cost of said engineer's design and inspection of said improvements, with said reimbursement to be no greater than the sum of \$_____. Said sum of \$_____ shall be deposited with the Office of the Corporation Council of The City of Rensselaer upon the execution of this Agreement by the Corporation Council, said funds to be held in escrow pending construction and inspection of the improvement to Partition Street, and to be disbursed by The City to their engineer upon completion and acceptance of the project as and for the engineer's design and inspection services.

MAINTENANCE

3. (a) R. J. Valente hereby further stipulates and agrees to perform any maintenance and repairs to that portion of Partition Street being repaired or replaced by R. J. Valente under the terms of this Agreement. Said maintenance shall be limited to those repairs necessitated by extraordinary damage or deterioration caused by truck traffic to and from The Dunn property. The City hereby stipulates and agrees that R. J. Valente shall not be responsible for maintenance or repair costs necessitated by ordinary wear and tear to said road, including passenger car traffic. R. J. Valente and The City hereby stipulate and agree that R. J. Valente's responsibility for any maintenance and repair costs shall terminate upon the successful annexation of the Dunn property to The City.

(b) R. J. Valente hereby stipulates and agrees to maintain an active dust control policy, including period sweeping of Partition Street from the Dunn Gravel Pit to Third Street.

(c) R. J. Valente hereby stipulates and agrees to sponsor a spring and fall cleanup program for the residents of the "Hollow" on Partition Street, and to provide a truck and loader to assist the residents in their cleanup efforts.

CONTINUED OPERATION

4. The City of Rensselaer acknowledges that R. J. Valente is presently carrying out a commercial gravel mining operation on said property, and The City and R. J. Valente further stipulate and agree that it is the specific and stated intent of the parties to this Agreement that said commercial gravel

mining operation shall be entitled to be continued by R. J. Valente subsequent to any annexation to The City without further application for any special use permit, license or other permission by The City. The parties agree that in the event R. J. Valente ceases operating its trucks on Partition Street and/or otherwise permanently ceases its operation at the Dunn property, that this Agreement shall immediately terminate.

SEORA COMPLIANCE

5. R. J. Valente and The City hereby stipulate and agree that, upon the execution of this Agreement by the City, R. J. Valente shall submit an environmental assessment form (hereinafter "EAF"), with regard to the improvements to be carried out on Partition Street. A draft copy of said EAF is annexed hereto as Exhibit B. The City hereby stipulates and agrees that they have had said EAF reviewed on behalf of The City by all necessary city boards and/or employees, and that, upon the submission of the original EAF, a "negative declaration" shall be issued by The City with regard to State Environmental Quality Review Act review of said project. R. J. Valente hereby stipulates that it has no objection to The City being named "Lead Agency" with regard to any State Environmental Quality Review Act review of the Partition Street improvement project. The City further stipulates and agrees that The City will cooperate with R. J. Valente in making its application for a mining permit to the New York State Department of Environmental Conservation, and the City further stipulates and agrees that it does not object to the New York State Department of Environmental Conservation being named the "Lead Agency" with regard to any such mining permit application.

INDEMNIFICATION

6. R. J. Valente agrees to indemnify and hold harmless The City from any and all causes of action, claims, suits or judgments against The City claiming damages for bodily injury or property damage in connection with the construction, reconstruction and/or repair work described in paragraph 2 above prior to commencing any work. R. J. Valente will provide to The City evidence of a general liability policy of insurance, having a policy limit of \$1,000,000 per occurrence and which names The City as an additional insured.

In addition, R. J. Valente agrees to indemnify The City and hold it harmless from any and all claims, suits or judgments for damages caused by operation of its trucks during the term of a certain Mining Lease and Agreement dated November 1, 1990 between R. J. Valente Gravel, Inc. and John J. Dunn and Susan M. Kelly or until such time as the Dunn property subject to said agreement is annexed to The City, whichever occurs first. In the event of annexation, R. J. Valente agrees to name the City as a certificate holder on its general liability insurance policy for and during the effective term of the aforementioned Mining Lease and Agreement.

MAINTENANCE OF INSURANCE AND ABILITY TO PERFORM

7. In the event R. J. Valente fails to maintain the insurance required above in paragraph 6 or files for protection under the bankruptcy laws, R. J. Valente stipulates that it will not operate its vehicles in excess of five (5) tons on Partition Street until such time as it files an undertaking sufficient to discharge all of its obligations hereunder.

NON-ASSIGNABILITY

8. None of the obligations nor rights and privileges conferred by this Agreement shall be assignable by R. J. Valente without the express written consent of The City of Rensselaer.

WAIVER OF BREACH

9. The waiver by either The City or R. J. Valente of a breach or violation of any of the provisions of this Agreement shall not operate or be construed as a waiver of any subsequent breach or violation thereof.

ENTIRE AGREEMENT

10. This writing represents the entire Agreement and understanding of the parties with respect to the matters addressed herein and it may not be altered or amended except by a written instrument duly authorized and signed by the parties. Any and all promises, agreements, representations, warranties and other statements, written or oral, made among the parties in respect to such matters prior to, or contemporaneously with, the execution hereof are hereby cancelled and superseded and shall be of no further force and effect.

SEVERABILITY

11. If any provision of this Agreement shall be or become illegal or unenforceable in whole or in part for any reason whatsoever, the remaining provision shall be deemed severable and independent and shall nevertheless be deemed valid, binding and enforceable.

GOVERNING LAW

12. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

HEADINGS

13. The headings in this Agreement are for convenience only; they form no part of this Agreement and shall not affect its interpretation.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF RENSSELAER

By: _____
JAMES S. MILLEA, JR.
Corporation Council

R. J. VALENTE GRAVEL, INC.

By: _____
RODDY VALENTE

ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the _____ day of June, 1991, before me personally came JAMES S. MILLEA, JR., to me known, who, being by me duly sworn, did depose and say that he is the Corporation Council of the City of Rensselaer, the corporation described in and which executed the within Instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that he signed his name thereto by like order.

Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the _____ day of June, 1991, before me personally came RODDY J. VALENTE, to me known, who, being by me duly sworn, did depose and say that he is the President of R. J. Valente Gravel, Inc., the corporation described in and which executed the within Instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that he signed his name thereto by like order.

Notary Public

Motion by Alderman Falkouski

Seconded by Alderman Conklin

128
RESOLUTION AUTHORIZING THE MAYOR
TO ENTER INTO AN AGREEMENT WITH
MICHELI CONTRACTING CORP. TO UNDERTAKE
WATER, STREET AND SIDEWALK IMPROVEMENTS
ON FIRST STREET AND SECOND STREET
BETWEEN PINE AND CATHERINE STREETS

WHEREAS, \$85,000. of the FFY 1990 Community Development Block Grant awarded to the City of Rensselaer is allocated toward a public facilities project (including engineering services) which will replace water mains and laterals, resurface the roadway, reset curbs and replace sidewalks on First Street and Second Street between Pine and Catherine Streets; and

WHEREAS, in connection with this project the engineering firm of Hershberg & Hershberg of Albany, New York, was retained to prepare plans and specifications and bids were solicited and opened on 12 June 1991; and

WHEREAS, Memphis Construction, Inc., of Memphis, New York, submitted the apparent lowest overall bid, including base bid and alternate A, of \$165,012.10; and

WHEREAS, the project engineer has reviewed the bid of Memphis Construction, Inc., and has indicated that said bid is unbalanced (in that certain line items were priced multiples higher, and other line items were priced multiples lower, than the engineer's pre-bid estimate) and irregular and, consequently, violates certain conditions of the bid specifications and, for these reasons, recommends that the City consider rejecting the bid; and

WHEREAS, Micheli Contracting Corp. of Rensselaer, New York, submitted the second lowest overall bid of \$168,606. (which is \$20,147.50 lower than the engineer's pre-bid estimate but which is balanced with regard to line item pricing) and said bid has been reviewed by the project engineer and determined to be in order

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Rensselaer hereby rejects the bid submitted by Memphis Construction, Inc., as unbalanced, irregular, and in violation of certain conditions of the bid specifications, and instead authorizes the Mayor to enter into a contract with Micheli Contracting Corp., which submitted the second lowest overall bid, for the purpose of making the indicated water line, street, curb and sidewalk improvements on First Street and Second Street between Pine and Catherine Streets - which project is to be funded as follows: \$85,000. from FFY 1990 Community Development Grant and the remainder from the City's annual CHIPS allotment.

Approved As To Form and Sufficiency
this 17th Day of July 1991

James S. Millea, Jr.
Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, Fahrenkopf,
Whitford. Noes: None. The President declared this resolution
Maureen G. Nardacci duly adopted.
City Clerk

Joseph E. Harrigan 7/18/91
Mayor

Motion by Alderman Falkouski

Seconded by Alderman Fahrenkopf

129

RESOLUTION AUTHORIZING THE MAYOR
TO APPROVE INDIVIDUAL APPLICATIONS
OF PARTICIPANTS IN THE FFY 1990
RENTAL REHABILITATION PROGRAM

WHEREAS, the City of Rensselaer has received notice that its application for Federal Fiscal Year 1990 Rental Rehabilitation Program funds (which are provided to New York State by the U.S. Department of Housing and Urban Development) has been approved by the New York State Division of Housing and Community Renewal, and

WHEREAS, the Rensselaer Planning and Development Agency will utilize said grant of \$50,000. awarded to the City to continue a program of rehabilitation of rental properties in a designated target area which encompasses the entire City south and west of Interstate 90, and

WHEREAS, for previous rehabilitation programs the Mayor has been assigned the task of reviewing and approving each individual application for funding and, thereby, approves overall project costs

NOW THEREFORE BE IT RESOLVED THAT the Common Council of the City of Rensselaer hereby directs the Rensselaer Planning and Development Agency to utilize said FFY 1990 Rental Rehabilitation Program funds for the purposes described herein and, further, authorizes the Mayor to review and approve individual applications prior to the expenditure of funds.

Approved as to Form and Sufficiency
this 17th Day of July 1991

James S. Millea, Jr.
Corporation Counsel

Ayes: Finlan, Mooney, Conklin, Reynolds, Falkouski, FAhrenkopf, Whitford.

Noes: None. The President declared this resolution duly adopted.

Joseph E. Harrigan 7/18/91
Mayor Date

Maureen G. Nardacci 7/18/91
City Clerk Date

I hereby certify that the foregoing is a true and correct copy of the meeting of the Board of Aldermen held July 17, 1991.

Maureen G. Nardacci
City Clerk
City of Rensselaer