

WHEREAS, this County Legislature has previously supported the installation of an enhanced 9-1-1 emergency system throughout Broome County, and

WHEREAS, in order to implement the said system, it was necessary to prepare a countywide numbering system, and

WHEREAS, said countywide numbering system has been completed and it is desired at this time to authorize the implementation of same, now, therefore, be it

RESOLVED, that Local Law Intro. No. 2, 1992, entitled "A Local Law Adopting a Countywide Numbering System for the Enhanced 911 Emergency Telephone System", be and the same hereby is adopted and approved in accordance with the Broome County Charter and Administrative Code and all the applicable statutes and laws pertaining thereto, and be it

FURTHER RESOLVED, that Continental Telephone Company of New York, Inc., Deposit Telephone Company and New York Telephone be and hereby are authorized to incorporate the countywide numbering system for the Enhanced 9-1-1 system into its database and directory, and be it

FURTHER RESOLVED, that the Clerk of this legislature is ordered to send certified copies of this Resolution to the Broome County Finance Commissioner, County Attorney, Sheriff's Department, Continental Telephone Company, New York Telephone Company Emergency Services Department, and to each and every other person, institution or agency which will further the purpose of this Resolution.

At the request of Mr. Moppert, Resolution No. 36 was **held over** under the rule.

Mrs. Hudak moved, seconded by Mr. Pasquale to recall **Resolution No. 476** from 1991, for reconsideration. Carried. Mrs. Hudak moved, seconded by Mr. Pasquale to amend the first FURTHER RESOLVED paragraph to read \$9.71 per hour rather than \$9.97 per hour. Amendment carried. Resolution as amended **carried**.

Mr. Pazzaglini moved, seconded by Mr. Schofield to recall **Resolution No. 577** from 1991, for reconsideration. Carried by the following: Ayes-18; Absent-1 (Hudak). At the request of Mr. Pazzaglini, Resolution No. 577 was **held over** under the rule, with instructions to the Clerk to immediately notify the Department of Law, the County Executive and the Commissioner of General Services not to execute the contracts mentioned in the resolution.

Mrs. Wagstaff moved, seconded by Mr. Warner to recall **Resolution No. 603** from 1991, for reconsideration and discussion of PCR 91-402 and PCR 91-417. Carried. Resolution as recalled **carried**.

Mr. Pasquale moved, seconded by Mr. Moppert to adjourn to the call of the Clerk. Carried by the following: Ayes-18; Absent-1 (Hudak).

**BROOME COUNTY LEGISLATURE
SPECIAL SESSION
THURSDAY, FEBRUARY 6, 1992
4:00 P.M.**

The Legislature convened at 4:00 p.m. Called to order by the Chairman, Arthur J. Shafer.

The Deputy Clerk, Laurie L. Tracy, read the fire exit announcement, read the notice calling the Special Session and then called the attendance roll: Present-18; Absent-1 (Coffey). Mrs. Coffey, who was absent during the roll call, arrived during the deliberations of Permanent No. 92-29. Legislative Clerk Richard Blythe replaced Mrs. Tracy at approximately 4:25 p.m.

The Chairman, Mr. Shafer, led the members of the Legislature in the Pledge of Allegiance to the Flag, followed by a moment of silent meditation.

Mrs. Hudak moved, seconded by Mr. Pazzaglini that the minutes of the January 16, 1992 Regular Session be approved as prepared and as presented by the Clerk.
Carried.

The following written or oral presentations from the County Executive were presented to the County Legislature:

Nominating Molly Ingraham to membership on Environmental Management Council Board of Directors.

Nominating J. Kuzma and J.M. Humphrey, Jr. to membership on the Arena Board of Directors.

Nominating Gail Armading to membership on Central Library Board of Trustees.

Nominating Theodore Goosley to membership on Ethics Board.

Nominating three persons to membership on Fish and Wildlife Management Board.

Nominating three persons to membership on Forest Practice Board.

Nominating Carol Danoski to membership on Broome-Tioga-Tompkins Private Industry Council.

Nominating eighteen persons to membership on the Fire Advisory Board.

The following communications were presented to the County Legislature:

Minutes from: Mental Health Advisory Board; Broome County Association of Towns and Villages; Emerging Business Assistance Advisory Board; Public Library Board of Trustees; Resource Recovery Agency; Ambulance Advisory Board; Cornell Cooperative Extension; Fire Advisory Board.

List of significant correspondence (January 7 through 24, 1992) from Resource Recovery Agency.

Letter from Broome County American Legion Posts supporting the placement of additional flagpole at site of Korean War Memorial.

Letter inviting Legislators to take part in St. Patrick's Day Parade.

Letter from Floyd H. Lawson, Chairman of Resource Recovery Agency, notifying Arthur Shafer that office will close February 7 (lack of financial resources) and that Three Year Notes are due to be repriced.

The following reports were presented to the County Legislature:

Monthly Reports: Broome Community College, Above the Minimum Hire and Budget Transfers (December 1991); Department of Social Services, November 1991.

1991 Fourth Quarterly Report for sales tax collections.

1991 Annual Report for Cornell Cooperative Extension.

Community Health Assessment Broome County, NY from County Health Department.

1991 Early Retirement list of employees.

Broome Community College (Reports as required under Local Law Intro. No. 8, 1990).

Department of Audit and Control: audit of Southern Tier East Regional Planning Development Board.

NYS Legislative Task Force on Demographic Research and Reapportionment.

Mr. Moppert moved, seconded by Mr. Pasquale that the reports be received and filed and any pertinent portions thereof be placed in the Journal of Proceedings. **Carried.**

Written or oral presentations of the County Legislature:

Letters from the Chairman, Arthur J. Shafer:

Appointing Andrew Kavulich as voting representative for Vincent Pasquale, County Administration, Economic Development and Planning Committee, January 16, 1992.

RESOLUTION NO. 25 by the Hon. Arthur Shafer adopting a Local Law Intro. No. 3, 1992 entitled "A Local Law authorizing the payment of moving expenses for new County Employees", which was held over at the January 16, 1992 session at the request of Mr. Shafer was again presented for consideration. This resolution was **removed** from the Special Session by the Chairman and will be represented as a hold over resolution at the Regular Session of February 20, 1992. The Chairman did indicate he was doing this to allow appropriate sponsoring committees time to review

this resolution.

RESOLUTION NO. 26 by the Hon. Arthur Shafer in opposition to further legalization of racetrack operated off-track betting, which was held over at the January 16, 1992 session at the request of Mr. Shafer was again presented for consideration. This resolution was **removed** from the Special Session by the Chairman and will be represented as a hold over resolution at the Regular Session of February 20, 1992. The Chairman did indicate he was doing this to allow appropriate sponsoring committees time to review this resolution.

Several resolutions were taken out of order upon direction of the Chairman, however, for the sake of clarity they are presented in numerical order.

RESOLUTION NO. 27 by Community and Social Services Committee authorizing placement of flagpole in support of armed forces during the Korean conflict, which was held over at the January 16, 1992 session at the request of Mrs. Wagstaff was again presented for consideration. **Carried** by the following roll call: Ayes-18; Nays-1 (Wagstaff); Absent-0.

RESOLUTION NO. 28 by County Administration, Economic Development and Planning committee regarding establishment of Broome County Council of Governments and its bylaws, which was held over at the January 16, 1992 session at the request of Mrs. Coffey was again presented for consideration. **Carried.**

RESOLUTION NO. 29 by Environment Committee regarding amendments with Broome County Resource Recovery Agency and Foster Wheeler for importation of garbage, which was held over at the January 16, 1992 session at the request of Mr. Shafer was again presented for consideration. A series of amendments were made to this resolution and for the sake of clarity the entire resolution as amended in final format is published.

Legislative Notes:

Highlighted and Underlined is Amendment 1

Amendments 2 and 3 are indicated by [A2] and [A3]

RESOLUTION AUTHORIZING AMENDMENTS WITH THE BROOME COUNTY RESOURCE RECOVERY AGENCY AND FOSTER WHEELER BROOME COUNTY, INCORPORATED, TO PROVIDE FOR THE IMPORTATION OF GARBAGE GENERATED OUTSIDE OF BROOME COUNTY.

WHEREAS, in 1988, Broome County entered into an agreement with the Resource Recovery Agency for the construction of a resource recovery facility in Kirkwood, New York, and

WHEREAS, in 1988, Broome County Legislature approved an agreement between Foster Wheeler Broome County, Incorporated, and the Broome County Resource Recovery Agency for the construction of a 571 ton per day resource recovery facility in Kirkwood, New York, and

WHEREAS, the Resource Recovery Agency of Broome County and Foster Wheeler Broome County, Inc., have applied for the necessary permits from the Department of Environmental Conservation, and

WHEREAS, the Commissioner of the New York State Department of Environmental Conservation, Thomas Jorling, has now issued a decision dated December 18, 1991 on said permit application, and

WHEREAS, in his decision, Commissioner Jorling found, "...that it is only logical that Broome County should be legally bound to implement the conditions that are found to be necessary to ensure an acceptable recycling program. These conditions are not drafted specifically to address impacts from the proposed facility or any particular project. They are designed to ensure maximum feasible recycling, a concept that would apply in any context. While the Agency might be able to ensure compliance with the permit conditions, reliance solely on the Agency is less certain and does not place the responsibility where it belongs. Acceptance of these conditions by the County should not be viewed as an endorsement for the proposed project but rather as a necessary step to ensure an integrated solid waste management system.", and

WHEREAS, in his Decision, Commissioner Jorling has required, "... that Broome County authoritatively commit to being bound to the implementation of the CRA (Comprehensive Recycling Analysis) and all other conditions in the facility's permits relating to the implementation of a recycling program.", and

WHEREAS, in his Decision, Commissioner Jorling found that in all respects other than size the project is permissible, and

WHEREAS, it is desired to direct the Resource Recovery Agency to prioritize, in its agreement with Foster Wheeler, the sources of imported solid waste, and

WHEREAS, Commissioner Jorling offered an option to the co-applicants indicating that said permit applications would be approvable if the parties agreed to down-size the facility or, alternatively, provide written commitments **to manage** the importation of 35,000 to **40,000** tons per year of outside Broome County waste for disposal at the proposed resource recovery facility in Kirkwood, New York, and

WHEREAS, the Hearing Report issued by Administrative Law Judge Daniel

Louis recommends against downsizing because, among other reasons, it "would result in further delays in siting a disposal facility in Broome County", and

WHEREAS, this Legislature desires to minimize the cost of municipal solid waste (MSW) disposal for the residents of Broome County, and

WHEREAS, importation of solid waste from waste sheds outside of Broome County assures the lowest cost of MSW disposal, and

WHEREAS, this Legislature is committed to ensuring "maximum feasible recycling", and

WHEREAS, the contracts between the County and the Resource Recovery Agency and the contracts between the Resource Recovery Agency and Foster Wheeler Broome County, Inc., indicate there is a prohibition on receiving and disposing of non-county waste at the proposed resource recovery facility without prior permission and approval of the Broome County Legislature, and

WHEREAS, the importation of solid waste does not significantly change the environmental effects identified earlier in the Final Environmental Impact Statement for the facility, and

WHEREAS, this Legislature deems it advisable to exercise the importation option offered by Commissioner Jorling in his decision of December 18, 1991, and to approve the amendments of the agreements between the Resource Recovery Agency **and Foster Wheeler** Broome County, **Inc.**, and

[A2] WHEREAS, the Broome County Attorney has advised this Legislature that Broome County has a contractual obligation to fund the Resource Recovery Agency pursuant to Section 8.1B of the Intermunicipal Agreement, now, therefore be it

[A2] RESOLVED, that the Comptroller, Budget Officer, and the Commissioner of Finance are hereby authorized and directed to immediately transfer \$30,000 from the 1992 Contingent Fund, budget line 900084.4752.101000 to budget line 910141.5066.101000 in order to accomplish the intent and purpose of this resolution and be it

[A2] FURTHER RESOLVED, that the Commissioner of Finance is hereby authorized and directed to transmit, as soon as possible, \$30,000 to the Broome County Resource Recovery Agency through budget line 910141.5066.101000, and be it

FURTHER RESOLVED, that this County Legislature does hereby **approve the receipt of non-county acceptable waste pursuant to Section 4.5 of the Intermunicipal Agreement according to the following terms and conditions, and approves any amendments to** the agreements between the Resource Recovery

Agency of Broome County and Foster Wheeler Broome County, Inc., as follows:

- a. Foster Wheeler Broome County, Inc. will guarantee to the Resource Recovery Agency that they will provide an additional 40,000 tons per year of outside Broome County waste for disposal at no cost or risk to the agency or the County.
- b. That Foster Wheeler Broome County, Inc. shall be permitted to negotiate the price for disposal of said imported waste and will pay to **the Agency for the benefit of** the County of Broome fifty percent (50%) of any monies charged above the **unsubsidized** tipping fee charged to Broome County residents.
- c. Foster Wheeler Broome County, Inc., agrees to allow either the Agency or the County to go out and secure its own contracts for the importation of solid waste and any such contract will reduce ton-for-ton Foster Wheeler Broome County's, Inc. guarantee to supply 40,000 tons per year of additional waste. In the event Broome County or the Agency does so negotiate agreements with outsider's waste, then Foster Wheeler shall be entitled to twenty-five percent (25%) of the difference between the **unsubsidized tipping** fee paid for by Broome County residents per ton and that amount charged to the outside generator. The remaining 75% shall be paid to **the Agency for the benefit of** Broome County. **Provided, however, that in the event Broome County or the Agency negotiates said agreements within twelve months of the commencement date, Foster Wheeler shall not be entitled to share in any amount above the unsubsidized tipping fee.**
- d. In the event that no outside agreements are made for the importation of garbage generated outside of Broome County, then Foster Wheeler agrees to charge **the Agency (for the benefit of** Broome County) only for its proportionate share of the service fee calculated as if the full 40,000 tons per year had been generated.

***Total Annual**

Through-put (tons) - 40,000 tons

$$\text{-----} \times \frac{\text{the Service} = \text{Broome County's}}{\text{Fee} \quad \text{Service Fee}}$$

Through-put (tons)

- e. This agreement will run for the full term (25 years) of the existing agreements.
- f. Any and all agreements entered into with persons or entities generating waste outside of Broome County shall be subject to all local laws of the County with respect to solid waste, including but not limited to Local Law No. 9 of 1986 as amended by Local Law No. 5 of 1988 banning the incineration of enumerated recyclables.

g. Prior to seeking contracts with other communities, Foster Wheeler Broome County agrees to prioritize and secure contracts for the sources of imported garbage as follows:

1st.Foster Wheeler shall seek to secure contracts with New York State counties contiguous to Broome County.

2nd.Foster Wheeler shall seek to secure contracts with non-contiguous New York State counties.

and be it

FURTHER RESOLVED, that this County Legislature affirms Broome County's commitment to "maximum feasible recycling" and commits "to being bound to the implementation of the CRA", and be it

FURTHER RESOLVED, that the Director of the Broome County Division of Solid Waste Management is hereby authorized and directed to amend the NYSDEC permits for the Nanticoke Landfill to reflect this commitment, and be it

FURTHER RESOLVED, that Resolution 89-219 adopted on 5/9/89 is hereby revised to redefine Broome County's intention to allow importation of solid waste from waste sheds outside of Broome County, and be it

FURTHER RESOLVED, that this Legislature hereby issues a negative declaration of significance (Negative Declaration) regarding this Resolution's permitting the importation of out-of-County waste to the facility in conformity with the Short Environmental Assessment Form which is attached hereto and incorporated herein as Exhibit "A", and be it

FURTHER RESOLVED, that the Resource Recovery Agency **shall** [A3] require any outside waste shed who exports garbage to Broome County for disposal in the Waste-to-Energy facility to be economically responsible for the cost of disposal of their portion of waste burned, and the charge for this cost of disposal be contained in their tipping fee **end A3** and dispose **an equivalent quantity of** ash generated from imported solid waste utilizing all possible resources approved by the DEC **except** for landfilling within Broome County, and be it

FURTHER RESOLVED, that the Clerk of this Legislature is hereby authorized

and directed to forward a certified copy of this resolution to the Commissioner of the New York State Department of Environmental Conservation, and the Resource Recovery Agency as official notification of this Legislature's intent to commit itself to aggressive maximum feasible recycling in full compliance with the County's final and approved SWMP, and in full compliance with any permit provisions issued by NYSDEC for any county-wide solid waste management facility, and to allow the importation of acceptable solid waste from waste sheds outside of Broome County, and be it

FURTHER RESOLVED, that the County Executive or his duly authorized representative is hereby empowered to execute any such agreements, documents, or papers, approved as to form by the Department of Law, as may be necessary to implement the intent and purpose of this Resolution.

Amendment 1 was moved by Mr. Bielecki and seconded by Mr. Pazzaglini Amendment 1 **carried** by the following roll call: Ayes-14; Nays-4 (Kavulich, Lindsey, Malley, Pasquale); Absent-1 (Coffey).

Amendment 2 was moved by Mr. Yeager and seconded by Mr. Brown. This amendment concerned funding of the Resource Recovery Agency. The amendment included language that funds were to be made available from any source other than the Contingency fund. Mr. Schofield moved, seconded by Mr. Malley to amend Mr. Yeager's amendment to authorize a transfer of \$30,000 from the Contingency fund for the Resource Recovery Agency. Mr. Augostini moved, seconded by Mr. Malley to call the question. Carried. The amendment to the amendment carried by the following: Ayes-11 (Augostini, Bielecki, Malley, Moppert, Pasquale, Pazzaglini, Schofield, Seeley, Warner, Yeager, Shafer); Nays-7 (Brown, Greenmun, Howard, Hudak, Kavulich, Lindsey, Wagstaff); Absent-1 (Coffey).

Mr. Yeager's amendment then **carried** by the following vote: Ayes-11 (Augostini, Bielecki, Malley, Moppert, Pasquale, Pazzaglini, Schofield, Seeley, Warner, Yeager, Shafer); Nays-7 (Brown, Greenmun, Howard, Hudak, Kavulich, Lindsey, Wagstaff); Absent-1 (Coffey), and was incorporated into the base document.

Amendment 3 was moved by Mr. Malley and seconded by Mr. Pasquale. In the third to the last FURTHER RESOLVED paragraph after the word "shall" insert the following: "require any outside wasteshed who exports garbage to Broome County for disposal in the Waste-to-Energy Facility to be economically responsible for the costs of disposal of their portion of waste burned, and the charge for this cost of disposal be contained in their service fee, and". Mr. Yeager moved, seconded by Ms. Hudak to change the phrase "service fee" to "tipping fee". Amendment carried by the

following: Ayes-18; Absent-1 (Coffey). Amendment as amended **carried** by the following: Ayes-18; Absent-1, (Coffey).

The fourth amendment to the resolution was proposed by Mr. Malley, seconded by Mr. Pasquale. In the third to the last FURTHER RESOLVED paragraph after the word "shall" insert the following: "require any county who exports garbage to Broome County for disposal in the Waste-to-Energy Facility to be responsible for the costs of disposal of their portion of waste burned, and any costs incurred by the Agency or the County for this disposal shall be contained in their tipping fee. Amendment **failed** by the following: Ayes-7 (Hudak, Kavulich, Lindsey, Malley, Pasquale, Warner, Shafer); Nays-11 (Augostini, Bielecki, Brown, Greenmun, Howard Moppert, Pazzaglini, Schofield, Seeley, Wagstaff, Yeager); Absent-1 (Coffey).

Following lengthy debate, Mr. Augostini moved, seconded by Mr. Yeager to call the question on the resolution as amended. **Carried.**

Resolution No. 92-29 as amended **carried** by the following: Ayes-12 (Augostini, Bielecki, Brown, Howard, Hudak, Moppert, Pazzaglini, Schofield, Seeley, Warner, Yeager, Shafer); Nays-7 (Coffey, Greenmun, Kavulich, Lindsey, Malley, Pasquale, Wagstaff).

RESOLUTION NO. 30 by Finance Committee regarding issuance of serial bonds for legal and engineering fees with respect to the landfill, which was held over at the January 16, 1992 session at the request of Mr. Pasquale was again presented for consideration. Resolution 92-30 was **withdrawn** by the Finance Committee.

RESOLUTION NO. 31 by Finance Committee regarding 1992 capital improvement program, which was held over at the January 16, 1992 session at the request of Mr. Pasquale was again presented for consideration. Resolution 92-31 was **withdrawn** by the Finance Committee.

RESOLUTION NO. 36 by County Administration, Economic Development and Planning and Public Safety and Emergency Services Committees adopting Local Law Intro. No. 2, 1992 adopting a countywide numbering system for enhanced 911 telephone system, which was held over at the January 16, 1992 session at the request of Mr. Moppert was again presented for consideration. **Carried** by the following: Ayes-18; Absent-1 (Coffey).

A resolution entitled "Resolution authorizing interim funding for the Broome County

Resource Recovery Agency" was not presented even though it was an item on the original agenda. It did not receive support in committee but as a point of interest, interim funding was included in Permanent No. 92-29.

Mr. Pazzaglini moved, seconded by Mr. Pasquale to adjourn to the call of the Clerk.
Carried.