

CONSUMER PROTECTION & GOVERNMENT OPERATIONS
of the
Suffolk County Legislature

MINUTES

A regular meeting of the Consumer Protection & Government Operations Committee Meeting was held in the Rose Y. Caracappa Auditorium on March 27, 2001, at the William Rogers Building, Veterans Memorial Highway, Hauppauge, New York at 9:30 a.m.

MEMBERS PRESENT:

Legislator Cameron Alden, Chairman
Legislator Fred Towle, Vice Chair
Legislator Michael D'Andre
Legislator Andrew Crecca

ALSO PRESENT:

Paul Sabatino, Legislative Counsel
Warren Greene, Aide to Legislator Cameron Alden
Bruce Dragonette, Consumer Affairs
Charles Gardner, Commissioner of Consumer Affairs
Meghan O'Reilly, Liaison to Presiding Officer Paul Tonna
Bonnie Godsman, County Executive's Office/Intergovernmental Relations
Bob Ellis, Suffolk County Correction Officer's Association
John G. Johnson, Suffolk County Correction Officer's Association
Vito Dagnello, Suffolk County Correction Officer's Association
Meghan O'Reilly, Liaison to Presiding Officer Paul Tonna
All Interested Parties
Irene Kulesa, Legislative Secretary

(The meeting came to order at 9:55 P.M.)

CHAIRMAN ALDEN:

Good morning. We're going to start the Consumer Protection Committee with the Pledge led by Legislator Andrew Crecca.

SALUTATION

CHAIRMAN ALDEN:

Okay, we don't have any cards but Charlie, if you want to come up and just give us a little bit of an update on a couple things? Oil prices, gasoline prices, natural gas and also I understand that you're making some headway with the reciprocity?

MR. GARDNER:

Yes, Mr. Chairman why don't we take that first? As you know, there had been some proposed legislation, which would have required the County of Suffolk to recognize other jurisdiction's plumbing licenses. We had an objection to it because of the, as we said, the two reciprocities is a two way street and there was nothing in that legislation that would have required the same of those other jurisdictions. In any case, we -- Suffolk County Consumer Affairs sponsored a meeting on March the 20th. We invited the other jurisdictions. That was being Islip, Huntington, Babylon and the Village of Lindenhurst. The purpose of the meeting was to

discuss enactment of reciprocal agreements, among the various jurisdictions that issue occupational licenses to the plumbers who work in Suffolk County. The goal being to, you know, remove as many barriers as we can and make it as easy as possible for legitimate people to work in these licensed fields.

That day, we had representatives show up from the Town of Huntington. There were two people from the Town of Huntington. There were four people from the Village of Lindenhurst. No one showed from Babylon and no one showed from Islip and we had representatives of our own County Licensing Board there also. It says that -- by the way, Huntington and the Village of Lindenhurst, just based on that one meeting, they're ready and willing to reciprocate, as of now, when we already have that machinery going right now. So there will be and I can say is reciprocity between Huntington and the Village of Lindenhurst. There were no problems. They examined our written plumber's test. We examined theirs. They gave their approval. Huntington Reps are going to bring it back to their board. They do not anticipate a problem.

Babylon requires seven years of experience. This is the only small problem, because they're the only ones that require more prior trade experience than the others. I would not let that stand in the way of coming to an agreement, only because it really effects very, very few people. But in any case, they didn't show up, so we didn't have a chance to talk to them and Islip again, didn't show, so we don't know what their standing is. But Huntington and Lindenhurst, no problem. Babylon and Islip, we're going to work on it but I mean it's really up to them. We reached out to them. We extended the invitation to them and we haven't heard from them yet. So two out of four is better than what we have now, which is none but two out of four should not be a problem and we'll work with Babylon and Islip, if they want to. If they want to go in that direction. If they don't, obviously we can't make them have any type of reciprocal agreement.

You also have both the gasoline and fuel oil latest surveys. You know the good news; the home heating oil is that it's basically the same price right now, as it was a year ago. The bad news is that it's fifty percent higher than it was two years ago, so -- but it has declined. The price has stayed, since peaking in December, eight consecutive surveys, the price of home heating oil has gone down. The average in the County now being about a dollar thirty-three. The range being from ninety -- basically, ninety-nine cents a gallon to a buck eighty a gallon. That's the range in prices. Gasoline is at the lowest average price in the County. The lowest it's been since, again, a year ago at this time. That has seen its also steady decline. We peaked at an average of almost a dollar eighty a gallon and we're down now to about a dollar fifty-three on the average. The lowest that we found is a dollar thirty. This is self-serve regular. The lowest price we found is a dollar thirty-nine, nine. The highest price was self serve regular, by the way is a dollar eighty. That's a couple stations out on the East End, South Fork and that's the --

I don't know if anybody saw the -- it bears mentioning only because this business is, in our opinion, the worst that has ever operated in Suffolk County and there was some press on it in Newsday about a -- it's actually the second arrest that we've made. It's Active Appliance. I have no problem saying that in public. Active Appliance Store on Jericho Turnpike in Centereach. We have over six hundred complaints against that business. Put that in context. That's one store. If you take, for instance, P.C. Richards, not just one store, all of the P.C. Richard Stores in Suffolk County, over a ten-year period, we have a hundred and twenty complaints. Against this one store in Centereach, we have over six hundred complaints, more than two hundred still active. They've been arrested. He's been arrested. She's been arrested. They have from an Article 78 proceeding to as of March the 5th, 2001; they went to the United States Supreme Court. Their writ of certiorari was denied by the U.S. Supreme Court at that time. They have used -- they have fought us for over ten years from Article 78, District Court and County Court, State Supreme Court, State Appellate to the United States Supreme Court but they are -- if you want to talk about allegations of physical abuse, verbal abuse, intimidation, threats, out and out fraudulent credit card slips, taking people's appliances and not only not repairing them but not giving them back. They have the

appliances in the store and won't give them back. Coming to the homes, partially dismantling the appliance, taking the part, telling the people that they need that part to go back to verify that they can order the right part, never coming back again. And in the meantime, they're taking credit card information and bill the customer two hundred, three hundred, four hundred dollars and not taking it off the credit card. So she was arrested last week. He has been arrested prior. They just continue to thumb their nose at the system.

They're using the same system to defend themselves, as we are using to prosecute them. I mean, between the Suffolk County Attorney's Office, the Suffolk County District Attorney's Office, the New York State Attorney General's Office, we've all been in this together against them. Right now, the County Attorney's Office -- what we would really like to see and what we're hoping -- what the County Attorney's Office is working on now is to get an injunction to put these people out of business. So that if they continue to do business, they would then be defying a court order. I've revoked their license several times and it's been upheld. By the way, every appeal that they have made from the Article 78 right to the United States Supreme Court has been overturned. We have won ultimately every decision but meanwhile, they keep getting stays, you know and they keep doing business.

As I told the press and I wasn't being flip, you can't shoot them and we're doing everything we can but the biggest thing is publicity. Active Appliance, Checkmate Appliance, if you check the Yellow pages, you'll find they have more ads than any other business. They are all over in the Pennysavers. They have coupons all over the place. If you drive down Jericho Turnpike, you'll see like little wooden soldiers, you'll see refrigerators and washing machines, arrayed outside the store. They do a tremendous amount of advertising and you just figure out the amount of business they must be doing, to be able to retain attorneys and fight us for over ten years. So I just would like to shout it to the rooftops. I'm telling you, Active Appliance is some -- you should tell everybody that you know and all your constituents stay away from that place. They are the worst. It doesn't faze them in the least. It doesn't faze them in the least. So we have done as much as we -- it's far beyond a civil matter and a licensing matter, so that's where we are.

LEGISLATOR TOWLE:

Mr. Chairman, just a question? Charlie, you said you revoked their license? Are they operating without a license at this point?

MR. GARDNER:

Yes, they have been.

LEGISLATOR TOWLE:

So why haven't we gone and closed them down, since they don't have a license? Until the, obviously, the court --

MR. GARDNER:

We had them arrested for that.

LEGISLATOR TOWLE:

Okay.

MR. GARDNER:

In other words, that's like, you know somebody who has their driver's license revoked?

LEGISLATOR TOWLE:

Exactly.

MR. GARDNER:

People say how do they drive? Because they get in the car and they drive. These people go to work and continue to drive.

LEGISLATOR TOWLE:

So why are we not there every day arresting them then?

MR. GARDNER:

Well, we --

LEGISLATOR TOWLE:

I mean, you know, to me to come to this committee and tell me for ten years we've been chasing this company and I'm saying to myself, what are we doing here? This is ridiculous.

MR. GARDNER:

It is.

LEGISLATOR TOWLE:

We should arrest them every day that they operate. Obviously, we should push it. I can't imagine that the County Attorney, it's taken the County Attorney ten years to go through court to close these people down?

MR. GARDNER:

Because every legal maneuver that we have instituted, they have come back at us with another one.

LEGISLATOR TOWLE:

So why haven't we come to the committee to say, look, we obviously need to revamp our laws regarding consumer affairs, if a company like this has been able to thwart the County for the last ten years. What recommendations --

MR. GARDNER:

This is where the injunction goes. That's what I would look to get now.

LEGISLATOR TOWLE:

Who is representing the County from the County Attorney's Office?

MR. GARDNER:

There have been several -- right now, it's Lee Wiedl.

LEGISLATOR ALDEN:

I think where Freddie is going too is a -- Charlie, we'll work on a suggestion after the guys been maybe arrested once or twice. Maybe it should be a ten thousand dollar fine per day or -

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MR. GARDNER:

He's been fined, more than ten thousand dollars.

LEGISLATOR ALDEN:

No, what's the fine per day for being open without the proper license?

MR. GARDNER:

A thousand dollars. It's an unclassified misdemeanor.

LEGISLATOR TOWLE:

So you can make a classified --

LEGISLATOR ALDEN:

You might have to elevate that.

LEGISLATOR CRECCA:

Or maybe after so many violations, you raise the fees. Yes, or just --

MR. GARDNER:

He is the single --

LEGISLATOR TOWLE:

Let the Sheriff go after him

MR. GARDNER:

In other words, usually when we have someone like this, one of a couple things happens. They either go underground. Leave the State. Go to Florida. You never hear from them again. They leave everything hanging but at least, we stop the bleeding and they're gone. Or they come in. They get religion. They do what they have to do. They make resolution with the consumers. They pay any outstanding fines. They pay any outstanding judgments. They get a temporary conditional license and they are fined and we don't have any more complaints on them. Nobody has ever gone to this -- it's only one. Remember now, we have - - we have licensed almost forty five thousand businesses in the County. We have over thirteen thousand active. This is the one operation.

LEGISLATOR ALDEN:

If this committee put together a resolution that after you were arrested for operating without a license after the third time, then it becomes a ten thousand dollar a day fine and a classified misdemeanor? Maybe Class A, Class B, misdemeanor, something like that?

MR. GARDNER:

Yes, I mean, it would probably only affect, you know, his business but I mean, whatever we could do for this business that would be fine. Because again, most people, you know, like when we did the sting house? These guys show up and they get arrested. You don't ever hear a peep out of these people again. Because some of them kind of think it's a joke, you know, what do you mean; I'm doing business without a license. They get arrested. That's it. We never hear from them again. We never have a problem. Usually they say, well gee, you weren't kidding. Well, we were trying to tell you that. So this business is different.

LEGISLATOR CRECCA:

Charlie what happens when they have this -- because you said that we have a number of fines against them. Are they unpaid or -- so how much -- if you had a guesstimate, what are we talking about total, for this one location?

MR. GARDNER:

Honestly, I don't know what the total is.

LEGISLATOR CRECCA:

Because my thinking is -- and my thinking actually comes from something that Legislator Towle said. Can't we get the Sheriff to execute against them to enforce the fine? Is there a judgment, I assume with the fines?

MR. GARDNER:

I don't know if it went over to our, you know, the collection agency that we used to use for

the County. But I'm not sure if there is a judgment against them.

LEGISLATOR CRECCA:

Because the bottom line is, I would ask you to just talk to the County Attorney and find out if these fines are out there and there are outstanding judgments, which I'm going to assume there are. That they should execute. They should call us. It's just -- it's an easy document to fill out and have the Sheriff execute against them, because I certainly think one way to hit them would be to start seizing the chattels in their store and any because that's -- I mean hey, you start removing appliances. They have thirty thousand in fines. You've removed thirty thousand dollars in appliances. It's one way to shut them down.

MR. GARDNER:

Any help that we could get would be appreciated.

LEGISLATOR ALDEN:

Is it the will of this committee to ask for the County Attorney to be at the next Consumer Protection Meeting?

LEGISLATOR CRECCA:

Yes but actually direct them to bring their file regarding this case.

CHAIRMAN ALDEN:

Okay, good.

MR. GARDNER:

The reason I bring it up is because we continue to -- as we speak, we continue to get complaints and we get legislative referrals, complaints from your constituents. People want to know you know what are you doing? Blah, blah, blah and how come? How come I can't get my CD player back. How come I can't get my whatever back? Believe me, it's the one business that has -- see remember it's not against the law for even this business to sell the appliance. They can sell a TV. They can't repair them. That's where they're doing business without a license. So they can be open alright and sell the microwaves. They can't repair it. But I would, I mean personally; I would like to see this place go out of business. But anyway, I just wanted to bring that to your attention because there has been so much notice given about this company.

CHAIRMAN ALDEN:

Okay, thanks Charlie.

MR. GARDNER:

The procedural motion number four on the MTBE that was brought up. I just wanted to let you know that there was a -- the gasoline's that sold in Suffolk County averages about nine and a half percent MTBE. The State might be thirteen percent or higher but in Suffolk

County, based on our testing of samples, literally thousands of samples over the past couple of years, we average about nine and a half percent of MTBE. Somebody had a question about that.

CHAIRMAN ALDEN:

Okay. Charlie, I was speaking to the Department of Health. They found MTBE in spills related to home heating oil. Can you shed any light on that?

MR. GARDNER:

There's still MTBE in home heating oil?

CHAIRMAN ALDEN:

Yes.

MR. GARDNER:

I don't know what the percentage in that would be but it should not be anywhere near nine and a half percent. It would be very much lower. But it would still show up, if there was a spill of fuel oil, which contained MTBE.

CHAIRMAN ALDEN:

The State Law doesn't require MTBE to be added to home heating oil, does it?

MR. GARDNER:

Not that I'm aware of, no.

CHAIRMAN ALDEN:

How about diesel fuel? Like for trucks and stuff like that?

MR. GARDNER:

No.

CHAIRMAN ALDEN:

No, okay. Because they were kind of surprised that, you know they were showing not even just traces. Sometimes a little bit more than a trace of MTBE on these spills.

MR. GARDNER:

As far as I know, that's just for the gasoline.

CHAIRMAN ALDEN:

Okay, good. Thanks. Any other questions, by the committee? No? Okay, we don't have any cards and after that update, I think, we'll go to the agenda. So present at the meeting, we have Legislator D'Andre, Legislator Crecca, myself and Legislator Towle.

LEGISLATOR CRECCA:

We should -- I don't mean -- if you suffer an interruption, we should just -- Charlie became President of the Kings Park Chamber, right? Chamber of Commerce. So congratulations, Charlie from the committee.

MR. GARDNER:

Thank you.

CHAIRMAN ALDEN:

So that's like the current events part of our program.

LEGISLATOR CRECCA:

Yes.

CHAIRMAN ALDEN:

I like that. That's good. All right, good. We're going to go to tabled resolutions. 1579 I think, we're going to try to move that next meeting. I'm going to invite the gasoline retailers and a couple of the other people down here again. What zone pricing, the ban of discriminatory zone pricing in Suffolk County does is at this point, makes it illegal to base your price on anything other than your normal competitive type of factors. So you can't do it on age, religion, color of skin or anything like that. So I'm probably going to try to move that at the next meeting, so we'll have a little -- we can expect to have a couple people here from the gasoline retailers. So I'm going to make a motion to table that, second by Legislator Crecca. All those in favor? Opposed? 1579 is tabled.

I.R. NO. 1579 (P) Adopting Local Law No. 2000, a Local Law to ban discriminatory zone pricing of gasoline in Suffolk County. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Cameron Alden)

VOTE: 4-0-0-0 TABLED

CHAIRMAN ALDEN:

2310 approving the appointment of Robert J. Kohlmeyer as a member of the Suffolk County Electrical Licensing Board and is Mr. Kohlmeyer here? Motion to table by Legislator Crecca, second by Legislator Towle. All those in favor? Opposed? Abstentions? It's tabled.

I.R. NO. (P) 2310-00 Approving the appointment of Robert J. Kohlmeyer as a member of the Suffolk County Electrical Licensing Board. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Vivian Fisher)

VOTE: 4-0-0-0 TABLED

CHAIRMAN ALDEN:

1108 is a Local Law to modify composition of the Electrical Licensing Board.

LEGISLATOR TOWLE:

Can we do that at the meeting by C/N?

MR. GARDNER:

That's what we did the last time.

CHAIRMAN ALDEN:

It was by C/N. Okay so this -- no it was prior passed by approval and it will be removed prior to the next meeting.

I.R. NO. 118-01 Adopting Local Law No. Year 2001, A Local Law to modify composition of the Electrical Licensing Board. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS. (County Executive)

APPROVED BY C/N

CHAIRMAN ALDEN:

Then we have some tabled subject to call. Now, we have a Procedural Motion. This is 4-2001 Procedural Motion authorizing retention of Law Firm in connection with MTBE litigation. This was approved in Environment yesterday and what point we're at right now is upon approval here, we will assemble basically, at least, three Suffolk County Law Firms and possibly some more Law Firms that have been contacting us. We're willing to interview those firms and then we'll go before a Joint Committee of Environment and this Consumer Protection and those Law Firms will be interviewed and then eventually, we will choose one of those. It will go before the full body of the Legislature for approval and then we would start basically bringing to task the people that have either produced this MTBE or are responsible for spills that are contaminating our water. Motion by Legislator Crecca, second by myself. All those in favor? On the motion, Legislator Towle.

LEGISLATOR TOWLE:

What are we including -- what are we including as funding with this?

CHAIRMAN ALDEN:

This is coming out of our legislative -- there's an account that we have just for litigation, so that --

LEGISLATOR TOWLE:

Getting the anticipated expenses at this point?

CHAIRMAN ALDEN:

Not at this point; but once we hire the Law Firm and that would be after, you know, like and that will be presented, I guess, at a full legislative hearing. We have authorized up to eighty five thousand dollars. Okay, we have a motion and a second. All those in favor? Opposed? Abstentions? Unanimous. That's approved.

LEGISLATOR TOWLE:

Add me as a co-sponsor.

CHAIRMAN ALDEN:

Co-sponsor Legislator Towle.

PROCEDURAL MOTION:

4-2001 Procedural Motion authorizing retention of Law Firm in connection with MTBE litigation. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING AND CONSUMER PROTECTION & GOVERNMENT OPERATIONS AND WAYS & MEANS (Legislator Cameron Alden) Co- Sponsor Legislator Fred Towle.

VOTE: 4-0-0-0 APPROVED

CHAIRMAN ALDEN:

Is there anything else to come before the committee? If not, motion to adjourn by Legislator Towle, second by myself. All those in favor? Opposed? We stand adjourned. Thank you.

(The meeting was adjourned at 10:15 a.m.)