

**CONSUMER PROTECTION
&
GOVERNMENT OPERATIONS COMMITTEE
of the
Suffolk County Legislature**

Minutes

A regular meeting of the Consumer Protection & Government Operations Committee was held in the Rose Y. Caracappa Auditorium at the William Rogers Legislative Building, Veterans Memorial Highway, Smithtown, New York on **October 16, 2001** at 10:00 a.m.

MEMBERS PRESENT:

Legislator Cameron Alden, Chairman
Legislator Andrew Crecca
Legislator Michael D'Andre
Legislator William Lindsay

EXCUSED ABSENCE:

Legislator Fred Towle, Vice Chair

ALSO IN ATTENDANCE:

Paul Sabatino, Legislative Counsel
Charles Gardner, Director, S.C. Department of Consumer Affairs
Bruce Dragonette, S.C. Department of Consumer Affairs
Meghan O'Reilly, Liaison to Presiding Officer Paul Tonna
Todd Johnson, County Executive's Office, I.R.
Terry Pearsall, Aide to Legislator William Lindsay
Robert Ciappa, Consumer Affairs
Joe Muncey, Budget Review Office
Bernard McCartan, Presiding Officer Paul Tonna's Office
Cathy Kenny, New York State Petroleum Council
Marion Cohn, Long Island Association
Lauretta Forgione
All Interested Parties

Minutes taken and transcribed by Irene Kulesa, Legislative Secretary

(The meeting came to order at 10:00 a.m.)

CHAIRMAN ALDEN:

We will start with the Pledge of Allegiance to be led by Legislator D'Andre.

SALUTATION

CHAIRMAN ALDEN:

Thank you, Mike.

LEGISLATOR D'ANDRE:

Mr. Chairman?

CHAIRMAN ALDEN:

Yes.

LEGISLATOR D'ANDRE:

Can we have a moment of silence?

CHAIRMAN ALDEN:

As suggested by Legislator D'Andre, if we could all rise again? And we're going to take a moment for the people in New York City, the World Trade Center, the people in Pennsylvania, the folks down there in the Pentagon and also for our Armed Forces that are engaged in combat right at this moment.

MOMENT OF SILENCE

CHAIRMAN ALDEN:

Thank you. Thank you, Mike. Okay, note that present are Legislators D'Andre, Legislator Crecca, myself. Legislator Lindsay is on his way and Legislator Towle is being given an excused absence for today.

We're going to start with the public portion. The first card, Cathy Kenny. You can either use that one if you feel more comfortable or this one sitting down, either one. Put Paul down as being in attendance too, right? Good. I didn't mention him because he's not a Legislator but he's here. Although yesterday, he kind of got into a little bit of legislative stuff.

MS. KENNY:

Do I know if this is on? Or do I need it? Is that it? Okay. Good morning. For the record, I'm Cathy Kenny. I'm the Associate Director of the New York State Petroleum Council and the Petroleum Council's Division of the Washington D.C. based American Petroleum Institute. The API is a trade association that represents a number of major brand petroleum companies that market in the State. Locally, our members include Amerada Hess, BP Amoco, Citgo, Exxon Mobile and Chevron/Texaco. On behalf of our member companies, thank you for providing me the opportunity to appear today and testify on I.R. 1358, a bill to ban discriminatory zone pricing of gasoline in Suffolk County.

As you might expect, since I've testified before this committee on a number of occasions, our industry maintains its strong opposition to this bill. When I last appeared before this committee on May 1st, in the interest of time, I offered to summarize my previous testimony. This morning I would like to refresh the committee's recollection and provide the summary again. Furthermore, I would like also to provide the committee with a copy of an executive summary; the study just completed by the State of Maryland published a month ago that considered this very issue. In brief, the Maryland Study concluded, among other things, that zone pricing alone is not able to account for the variety of factors affecting gasoline prices and price zones do not appear to be arbitrary. The established zone is designed to account for the demand for the product in the geographic region and the relevant competitive pressures facing a dealer and does not take into account any specific characteristics of a station owner.

In summarizing my prior testimony, I think, the following points bear emphasis:

Wholesale prices are set by individual companies that the market permits, much the same way other commodities are. And retail prices of gasoline, above all else, are the most well known prices in the American economy and they are set by the retail dealer.

Dealer Tank Wagon prices, which are the prices charged franchise dealers, may vary from zone to zone and among other things serve to assist a dealer who may be in a position of facing tough competition in a given area. A good example of this would be a situation in which a new competitor enters the market of a franchisee and the franchisee needs help from his or her supplier in terms of the DTW to meet the challenge of the new competition.

Zone pricing is intended to account for differences under particular competitive conditions. Competition is global and local at the same time.

CHAIRMAN ALDEN:

Ms. Kenny, can I just stop you for one second?

MS. KENNY:

Sure.

CHAIRMAN ALDEN:

Did you read the final version of this bill?

MS. KENNY:

Yes, did you want me to get to that?

CHAIRMAN ALDEN:

Well, actually yes, because everything you're saying is my zone pricing bill has nothing to do with that. You're not allowed to use and if there's a set criteria, when you use your secret formulas, you're not allowed to use certain criteria that's banned, even by the Constitution of the United States in establishing the zone pricing. So that's really the heart of it and the geographic component of it has been taken out.

MS. KENNY:

I understand that.

CHAIRMAN ALDEN:

Because I realize that it could cause differences in transportation costs and that's why it was taken out. So why are you opposed to us looking at constitutional issues, as far as you establishing these zone pricing? That raises a little bit of a you know, a question on my part as to your motives.

MS. KENNY:

Okay. The factors that go into pricing are variable. Sometimes it's what the market demands. So let's take your bill. We don't feel that the amendment cures our objections to the bill. To be fair, a statute must be clear, so that those who are charged understand what's there.

CHAIRMAN ALDEN:

It's actually crystal clear. You cannot use in your secret formula; you cannot use race, gender, religion, you can go right through it and those are barred by the both the Constitution of the United States and also the New York State Constitution. So I don't understand your opposition to it.

MS. KENNY:

Let me give you an example. Suppose we have a station in a minority area? Okay, someone could very easily accuse a supplier. He has a zone there. He varies his price from several stations to another. The various factors that we've outlined. It would be too easy evidentiary to say you've charged a discriminatory price based on race. Or I don't think sex would be an issue because there's a mixture of all that in every jurisdiction. But that's our problem with it. It's too vague. You can accuse the supplier.

CHAIRMAN ALDEN:

You can accuse the supplier right now. Under the Constitution of the United States, you can accuse a supplier or a retailer of discrimination based on race, right now, without this.

MS. KENNY:

Race is never an issue as to price.

CHAIRMAN ALDEN:

Well, seeing this --

MS. KENNY:

The Constitution permits a supplier to charge what the market will bear.

CHAIRMAN ALDEN:

Right and the problem I had with, you know, like this whole thing, when it came to my attention and some of the dealers came in and made it an issue is that there was a possibility

that using your secret formula, you had discriminated against certain dealers and that's what we're getting at and that's the heart of it. We're not going to -- basically, this bill would prohibit you from using those discriminatory factors in your secret formula and those are prohibited right now by the Constitution. So when you're fighting against this bill and using this, you know, like the argument that you're using, I'm not sure where you're going on that but it's actually --

MS. KENNY:

It leaves the supplier too tenuously at the edge of being accused of using discrimination.

CHAIRMAN ALDEN:

We can be accused right now. A discrimination suit can go right now under the Constitution.

MS. KENNY:

Well, it leaves the law very fuzzy as to what evidence is supplied. If I -- it was in a minority area and charged -- the supplier charges the dealer a different price, higher or lower, there you are, just on the basis of that, opening yourself to an accusation and discriminatory pricing.

CHAIRMAN ALDEN:

You're not opening to --

MS. KENNY:

Prices are set --

CHAIRMAN ALDEN:

If that was in your pricing policy. You had a meeting and you decided because this -- the different race in this area and we're going to charge and we're going to set the price because of that, then you've got a problem and you've got a problem anyway under the Constitution.

MS. KENNY:

A problem with this bill was there was no evidence of this whatsoever. And I have to say I even checked with the Long Island and Gasoline Retailers last week and their position on this bill and they are neutral. They have dealers that deal one way or the other. So that we have --

CHAIRMAN ALDEN:

No, actually we have letters in the file and we had testimony here at four different hearings.

MS. KENNY:

I have to be honest and I'll swear to it, that I called them week just to make sure of their position.

CHAIRMAN ALDEN:

Well, I talked to them probably two or three days ago and their position, they told me has not changed but they asked if they were necessary -- if it was necessary for them to be here today to reiterate all the testimony on behalf of this bill and I said no. And actually, we had a gentlemen here that came in and there was some evidence that he presented, as far as discrimination against him because of his race. So don't -- you can't say that there was no --

MS. KENNY:

I was at that hearing and I don't think he raised the issue of race.

CHAIRMAN ALDEN:

He absolutely did.

MS. KENNY:

I remember him being asked why he lost his station and what his problem was and he said I wasn't -- I'm not sure why. That's what his response was.

CHAIRMAN ALDEN:

And he actually raised it here. But I still don't understand you are in opposition to a bill that actually is contained in the New York Constitution and the Federal Constitution. You can't use those factors when you're setting your price.

LEGISLATOR D'ANDRE:

Where were all these laws when the fuel prices were going sky high? Where were all these safeguards when the prices were going up to the sky? Who says that they didn't refine enough? And who said this? And who said the other? The only thing we knew is we suffered the highest prices in history and there was no protection anywhere and I take umbrage at that and now the gas is down. I don't understand this stuff and the fuel oil gets worse. I asked what's his name out there, the head of the Consumer Affairs?

CHAIRMAN ALDEN:

Charlie Gardner.

LEGISLATOR D'ANDRE:

Charlie Gardner and he gives me a price. I go to my fuel dealer and it's way different. It's much more. I mean somebody is lying. Somebody is -- I don't say cheating but they're using the law to help themselves and that's wrong and if you want to punish the gas-guzzler that's not even right. But the guys with the big SUV's that use a lot of mileage or don't get a lot of mileage, they're willing to pay. They may not have a right to complain. But the rest of us mortals, we're tied up. We have no recourse except to complain to this committee and hope that you do something and that's our problem. And I have no sympathy for the oil interests and I'm not a -- well, I've always been a businessman but I think it's unfair competition, because they got an ingredient we need and we can't do without it. And they seem to stick together on their prices Mr. Chairman and I think it's time we stopped them. I think it's time we let them know that we're unhappy with their pricing.

CHAIRMAN ALDEN:

Thanks, Mike. So yes, if you could just --

MS. KENNY:

Our problem with this legislation, even in the amended version is going to open up to a lot of litigation. Secondly, it's very unclear to us how this would help the consumer. And we have; at least, one dealer organization that I spoke to may have a difference of opinion on that. But we also have dealers that oppose this legislation. It opens up litigation as to what's discriminatory. Secondly, I think you have a problem with enforcement.

CHAIRMAN ALDEN:

I can answer -- like two of those questions very quickly, as far as what litigation can come out of this. The same litigation that can come out right now. You can bring a suit in Federal Court or you can bring a suit in New York State Court based on discrimination by your secret zone pricing formulas. Second thing is, it makes you people answerable to us. We're the ones, who the constituents in Suffolk County call first. They don't call their State Senator. They don't call United States Senator or Congressman. They call us first when they're getting gouged. And if they think that it's because of certain factors that are illegal, then it allows us to look at those factors and we'll do it on a -- we don't have to go out and actually drum up any cases. We'll just do this on a complaint basis. So we're not trying to create a lot of work for Charlie over in Consumer Affairs. Or we're not trying to make a lot of work for the D.A.'s Office. But this allows people a local hearing on a discrimination. So if they think they are being discriminated against because of those factors, then that allows them to come to us, their local representatives and those are the answers to two of those questions so --

MS. KENNY:

There are statutes existing. Do you know about that? That permits a dealer to bring such an action under the Petroleum Marketing Practices Act. There is a law that exists for that and there's certain criteria that the -- and what's good about the Act is the parties when they enter into their franchise agreement know each what's expected of the other. The trouble with your statute is prices change from day to day, several times maybe during the day and

for different reasons. It's going to be an open ball court as to what's discriminatory based on your criteria.

CHAIRMAN ALDEN:

It's clear. The law is very, very clear on discrimination. You have to have used one of those factors in determining and setting your price in a certain zone. So if you haven't used those factors, if you never had a discussion, if there's no piece of paper, it went back and forth, a memo, something like that that said that we're going to set this price based on the people's race, religion, all those factors that are listed in there, then you have no problem. So if you're acting in a straightforward legal manner, you have no problems on this at all.

MS. KENNY:

All I can recommend to you is and the last hearing, I gave you a summary of the studies, this Maryland Study is very interesting. Because they found that there was and I think I just read it to you.

CHAIRMAN ALDEN:

You just read that they could not find in what they studied.

MS. KENNY:

Um-um.

CHAIRMAN ALDEN:

Just their specific instances.

MS. KENNY:

My point here too is what Maryland did -- is that a Task Force and that's really what a fact-finding is. When the law is passed, usually there's a fact finding and a harm to be addressed.

CHAIRMAN ALDEN:

To the --

MS. KENNY:

Well, my problem is I don't think there is any fact finding here as to the claim that you're making.

CHAIRMAN ALDEN:

The Petroleum Industry uses a secret formula. And right there and along -- we're telling you that the secret formula that you based that on cannot include any of these discriminatory factors that are barred by the Constitution of the United States and the Constitution of the State of New York. So you can't use those in there and if you have, you're going to have problems with Suffolk County and that's to protect the people in Suffolk County. Any questions? Any other questions from any members of the panel? Okay, thank you. We have Marion Cohn. Whichever one you want.

MS. COHN:

I'm Marion Cohn, Assistant Director of Government Affairs for the Long Island Association. I'm here this morning for Mitch Pally who could not make it. He had another appointment this morning. This is a letter that was sent to each of the Legislators. I'm simply reading it and at this point, putting it into the record, if I may?

Dear Legislator Cooper, it was addressed to Legislator Jonathan Cooper.

Thank you for giving the Long Island Association the opportunity to comment upon your Legislative Resolution Number 1921, which would require all retailers to post signs at their cash registers regarding the items in which the State and Local Sales Tax is collected on clothing. All retailers, who collect sales tax under New York State Law do so, based on the provisions of the tax law, as it relates to the items upon which the sales tax is collected. The differences between taxable and non-tax items are ambiguous and confusing, resulting in an

item such as baby blankets being taxable in one situation and non-taxable in another.

Our retailer's only act as tax collectors for the State and County and do not keep any tax collected even if, in some circumstances, a tax was collected on an item, which should have been non-taxable. In that case, the sales tax is collected, sent to the State, which then sends a portion of the taxes to Suffolk County. No part of any tax collected, even if done so in error is kept by the retailer or is refunded to the retailer by the State. The retailer only acts as a tax collector under the rules given them by the State.

In addition, any sign which would be posted should be designed and constructed by either Suffolk County or New York State, since no retailer is going to be able to decipher the intricate and confusing nature of the State Sales Tax Laws, as it relates to which items are taxable. In addition, in many of our smaller retailers, it would be very difficult to post the signs listing the items at or near the cash register, since the signs would have to be a sufficient size to be read by the customer. Many of our stores do not have the area or space near the cash register to be able to fit the new sign into their limited space.

The Long Island Association would not object to a requirement that all stores have a copy of the State Rules relating to sales tax items in their store or in the mall where they were located. However, the legislation as currently written, would cause substantial hardship to many of our small retailers and would not accomplish its intent. We look forward to working with you to fashion a program that would allow our retailers to be in a position to ensure that their customers are adequately informed.

Thank you very much,
Mitchell Pally, Vice President
Government Affairs.

CHAIRMAN ALDEN:

Thank you. Legislator D'Andre, did you have a question?

LEGISLATOR D'ANDRE:

Yes, Mr. Chairman, we went through this many years ago while this Legislature was in its infancy. And what it boiled down to, you couldn't put enough signs around the cash register to answer all the questions. So it makes it totally impractical. And Charlie Gardner from Consumer Affairs, you know what a headache that is. So I suggest we table this subject to call, bury it, send it on its way to never, never, land and let the poor merchant, under these hard conditions, try to make his living and let him hand out a list of -- a price list.

CHAIRMAN ALDEN:

Is that a motion?

LEGISLATOR D'ANDRE:

That's a motion.

CHAIRMAN ALDEN:

Motion to take it out of order by Legislator D'Andre, seconded by Legislator Crecca. All those in favor? Opposed? Okay, it's before us. Okay, Legislator Lindsay is opposed to taking it out of order.

LEGISLATOR LINDSAY:

No, I'm not opposed to taking it out of order. It's when you're voting on it.

CHAIRMAN ALDEN:

No, we're just to get it before us. Okay, so it's unanimous. It's before us.

LEGISLATOR D'ANDRE:

Subject to call, Mr. Chairman.

CHAIRMAN ALDEN:

Motion by Legislator D'Andre, tabled subject to call, second by --

LEGISLATOR CRECCA:

Second.

CHAIRMAN ALDEN:

Legislator Crecca. All those in favor? Note Legislator Lindsay opposed. It's tabled subject to call, three to one.

I.R. NO. 1921-01 A Local Law to require posting of tax exempt clothing items in Suffolk County. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Jon Cooper)

VOTE: 3-1-0-0 TABLED SUBJECT TO CALL

LEGISLATOR CRECCA:

Are you opposed to tabling subject to call?

LEGISLATOR LINDSAY:

Yes.

LEGISLATOR CRECCA:

Okay. I just wanted -- I just wasn't sure if you were opposed to all or opposed to table it.

CHAIRMAN ALDEN:

Tabled subject to call.

LEGISLATOR CRECCA:

Okay.

CHAIRMAN ALDEN:

It's tabled subject to call. Okay, thank you very much.

MS. COHN:

Thank you, Mr. Chairman.

CHAIRMAN ALDEN:

Okay, next card is Laretta Forgione. Is that correct? Did I get it half right? Forgione, right.

MS. FORGIONE:

I'm up here to speak about Joe Caracappa's bill, one, two, three strikes you're out. I am from Farmingville and it's my neighborhood. I've been a neighbor there for thirty years. In the last six years, I've seen tremendous changes on my Main Street. I've seen a lot of things happen that shouldn't be in a normal street of Long Island, New York or the USA. Before I start, the Yankees won last night. I think you might all know.

CHAIRMAN ALDEN:

Oh, yes.

MS. FORGIONE:

I'd like to bring up a little subject; it's a little history. I do genealogy and my second cousin --

CHAIRMAN ALDEN:

If it's bad, we don't want to hear it.

MS. FORGIONE:

It's good.

CHAIRMAN ALDEN:

All right.

MS. FORGIONE:

My second cousin happened to have been a player for the Yankees back in 1926. In 1927, they did win the series again and he was a manager for them. His name is Arty Fletcher. Arty is from Collinsville, Illinois. He was born in 1884. He died in 1950. His dad happened to have a bank and in 1933, FDR had frozen all the assets on the banks. Collinsville had twenty one thousand dollars in that bank at that time and what he did was foreclose on the bank and the money was returned back to the Town. The land that this bank was on was agreed upon that people would get jobs at that time and they dug that whole area and made it into a baseball field.

In 1952, they set up the field; Arty died in 1950, by the way. In 1952, they opened a field under his name and it became a great baseball field for this community. By his dad doing something that was tremendously wonderful for that community, this field was built and I think what is the -- Jim Harren happened to be the Head of the Saint Louis Cardinals at the time. And he donated the lights that were from the original field and they were put on the field and today this field is for all the kids in that neighborhood in that whole community to play baseball. The reason I'm bringing this to you is this was a small town in Illinois where something very wonderful was done for this community.

I'm here to talk about this bill that we do something for my community. I've talked to the Town of Brookhaven; they are now taking five, six houses to Court, Supreme Court for violation of housing laws. I've talked to Mr. Grucci and he is now talking to Mr. Ziegler about the problem in Farmingville. I've been here almost six years asking you, after one bill after another, to help our Town and you've refused to help us and this time I'm going to say this is the right bill. Let's start doing something to clean up my Town.

I'll also tell you something else, three days ago; there was a drive by shooting in one of the Mexican houses. It was done by another pair of Mexicans. My Town is now terrorized. Our community is very upset about this. We've never had any gang activity in this Town. It's a small little Town. It's time we start doing something to straighten out this Town and I'm asking your help. Please support Joe's bill.

LEGISLATOR D'ANDRE:

May I say something?

CHAIRMAN ALDEN:

Yes.

LEGISLATOR D'ANDRE:

You refer them, as illegal aliens, not Mexicans.

MS. FORGIONE:

They are Mexican descent but they are illegal aliens.

LEGISLATOR D'ANDRE:

That's the way you refer to them, if you want any law activities to be on your side or at least uphold what you're claiming. You call them Mexicans; you're doing the wrong thing. You call them illegal aliens, which Newsday refuses to do.

MS. FORGIONE:

Right, you're right.

LEGISLATOR D'ANDRE:

But you play the game right and square. If we win or lose, that's the way we're going to go. So I'm going to support this bill, Mr. Chairman.

LEGISLATOR CRECCA:

Mr. Chairman, if I may?

CHAIRMAN ALDEN:

Legislator Crecca.

LEGISLATOR CRECCA:

In speaking to the sponsor, Joe Caracappa, he -- I believe he has requested that it remain tabled at this time. He's still working on what he believes to be some enforcement problems with the bill, Laretta.

MS. FORGIONE:

Do you know what they are?

LEGISLATOR CRECCA:

The specific problems?

MS. FORGIONE:

Yes.

LEGISLATOR CRECCA:

I don't. But I know I've spoken to Joe. I was one of the people who initially said to Joe that I like the concept of the bill and then I wanted to move forward on it. But I know that Legislator Caracappa has requested that we not move forward on it at this time.

MS. FORGIONE:

Can I just mention one thing?

CHAIRMAN ALDEN:

Yes.

MS. FORGIONE:

My son is a contractor and when he applied for his license, your County sends an article out to every new contractor, which comes out. It's a letter from Mr. Gaffney. It's an explanation -- is if you hire anyone who is out of this country or has any foreign papers, this is the way you sign these people up. This is what's given to every contractor. Explanation of I.D., everything you need to hire these people. Now Mr. Gaffney is upset because now we don't have enough money to pay for the, I think, the budget. I think it's 200 percent and I know there's something to do with your having problems with money. Six years, these men, a hundred dollars a day, a hundred and twenty dollars a day. They don't pay any taxes. How much money do you think you've lost and now you're asking me to pay it again? I don't want to pay Suffolk County until you straighten this problem out. Thank you.

CHAIRMAN ALDEN:

Thank you for coming down. We don't have anymore cards. Is there anybody else that wanted to address this? We'll just -- we'll go right through the agenda. First on the agenda we have 1358 that's the Local Law to ban discriminatory zone pricing of gasoline in Suffolk County. I'm going to make a motion to approve, second by Legislator Lindsay.

LEGISLATOR CRECCA:

On the motion?

CHAIRMAN ALDEN:

On the motion, Legislator Crecca?

LEGISLATOR CRECCA:

I'm not going to speak long on it. I just want to say that I met with a number of dealers in

my district who had come to me, you know gasoline retailers who are opposed to the bill. I explained to them about the bill. We really had a very lengthy discussion on it and you know, I just -- for my own reasons will not be voting in favor of it.

CHAIRMAN ALDEN:

As a point, all it does and if you didn't get the final version of it, I would like you to look at the final version of it. Or if you feel comfortable voting like this but the things that are banned are what's banned in the Constitutions that I mentioned before. The United States Constitution and the New York State Constitution. So with that being said, all those in favor? Opposed? Legislator Crecca, note that Legislator Crecca is opposed. So it passes.

I.R. NO. 1358-01 (P) Adopting Local Law No. 2001, A Local Law to ban discriminatory zone pricing of gasoline in Suffolk County. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Cameron Alden)

VOTE: 3-1-0-1 APPROVED

CHAIRMAN ALDEN:

1490 a Local Law to establish healthy bottled water labeling law. I got two changes that I have to make for the bill. So I'm going to make a motion to table until the next committee, second by Legislator Crecca. All those in favor? Opposed? That's tabled.

I.R. NO. 1490-01 (P) A Local Law to establish health bottled water labeling law. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS AND HEALTH (Legislator Cameron Alden)

VOTE: 4-0-0-1 TABLED

CHAIRMAN ALDEN:

1792, the sponsor has requested that we table this. He's still working on it. So motion by Legislator Crecca, second by myself. All those in favor? Opposed? 1792 is tabled per the request of the sponsor.

I.R. NO. 1792-01 (P) A Local Law to establish "Three Strikes, You Are Out" cancellation of County Occupational Licenses for violators of Employment Laws. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Joseph Caracappa)

VOTE: 4-0-0-1 TABLED

CHAIRMAN ALDEN:

Introductory Resolutions 1921, A Local Law to require posting of tax-exempt -- we already did that. That's tabled subject to call. 1929 approving the appointment of Patrick M., I'm going to have trouble with this last name, Pichichero. That's you?

MR. PICCHICHERO:

Yes.

CHAIRMAN ALDEN:

Great, come on up for just a minute. Thanks. As a member of the -- as you're going for a member of the Suffolk County Home Improvement Licensing Board?

MR. PICCHICHERO:

Correct.

CHAIRMAN ALDEN:

Okay.

MR. PICCHICHERO:

Patrick Michael Pichichero.

CHAIRMAN ALDEN:

I didn't pronounce it too bad. Okay, so why do you want to do this?

MR. PICHICHERO:

I'm interested in finding out what's going on in Suffolk County, as far as who is licensed, not licensed, who needs a license and I was, you know, called upon and I'd like to move forward with this.

CHAIRMAN ALDEN:

Do you have the time to devote to it?

MR. PICHICHERO:

Yes.

CHAIRMAN ALDEN:

You have the expertise?

MR. PICHICHERO:

Yes.

CHAIRMAN ALDEN:

What's your background basically?

MR. PICHICHERO:

I'm a general contractor. You know I deal with subs all day long. We do high end home improvements, mainly renovations. I do Nassau, Suffolk County. You know I deal with a lot of different people. I deal with a lot of different customers. To date, no problems.

CHAIRMAN ALDEN:

I know you're all on the up and up, right?

MR. PICHICHERO:

Yes.

CHAIRMAN ALDEN:

Okay. I mean it's not a cash business.

MR. PICHICHERO:

I actually get my approved license this afternoon.

CHAIRMAN ALDEN:

Okay. Good. Any other questions from members of the board? Legislator Crecca.

LEGISLATOR CRECCA:

I have some work that needs to be done on my house and I thought maybe -- but I'm not high end. There your are -- I'm sort of like the middle of the road.

CHAIRMAN ALDEN:

Well, that leaves you out. Legislator Lindsay.

LEGISLATOR LINDSAY:

Patrick, what is the name of your company?

MR. PICHICHERO:

Historic Details Inc.

LEGISLATOR LINDSAY:

Thank you.

CHAIRMAN ALDEN:

Okay, so I have a motion by Legislator Lindsay to approve.

MR. SABATINO:

Mr. Chairman, before you vote. This and the next bill don't identify who is being replaced, so you might just want to ascertain that.

CHAIRMAN ALDEN:

Okay, Charlie do you have that information for us? Thank you Paul.

MR. GARDNER:

They are both vacant positions. They're not replacing anyone. They're vacant.

CHAIRMAN ALDEN:

And they became vacant by resignation or --

MR. GARDNER:

It did take us a long time to -- the Home Improvement Board and the next gentlemen.

CHAIRMAN ALDEN:

Okay, so you have the letter of resignation on the -- is that something you would keep?

MR. GARDNER:

For the Home Improvement Board, it's been empty for -- that position has been vacant for years, I mean literally years.

MR. SABATINO:

But a vacancy can only occur by three things. When a person dies. A person resigns or you create a new position, so I mean there's got to be somebody being replaced or he died or she died or she resigned. Or you create a new position. But I mean we haven't created new positions so --

MR. GARDNER:

They are not due to the -- they are to replace home improvement. You know, it's so long ago, I really don't know specifically, which person but the positions are vacant and had been vacant for quite a few years.

CHAIRMAN ALDEN:

What's the term of this?

MR. GARDNER:

Three years.

CHAIRMAN ALDEN:

So it's been vacant for more than three years?

MR. GARDNER:

Has been, yes.

CHAIRMAN ALDEN:

Okay, Paul put this on --

MR. GARDNER:

More than five years.

CHAIRMAN ALDEN:

Yes, it puts us on a little better legal footing. Okay.

MR. GARDNER:

And this will be a three-year term.

CHAIRMAN ALDEN:

Okay, thank you.

LEGISLATOR D'ANDRE:

Mr. Chairman, I'd just like to ask this young man, how long he's been in Town?

MR. PICCHICHERO:

Living in Suffolk County?

LEGISLATOR D'ANDRE:

Yes.

MR. PICCHICHERO:

Forty years.

LEGISLATOR D'ANDRE:

How long have you been in business?

MR. PICCHICHERO:

Eighteen.

MR. GARDNER:

I might add that there are no complaints. There have never been any violations.

CHAIRMAN ALDEN:

By this gentlemen or his corporation?

MR. GARDNER:

That's correct.

CHAIRMAN ALDEN:

Great. All right, so we had a motion by Legislator Lindsay, second by -- who seconded it?

LEGISLATOR CRECCA:

I'll be happy to second it.

CHAIRMAN ALDEN:

Legislator Crecca. All those in favor? Opposed? So carried unanimously.

I.R. NO. 1929-01 (P) Approving the appointment of Patrick M. Pichichero, Jr. as a member of the Suffolk County Home Improvement Licensing Board. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (County Executive)

VOTE: 4-0-0-1 APPROVED

CHAIRMAN ALDEN:

Thank you very much for coming down. Congratulations and wish you a lot of fun, I guess, is that what you're looking to do?

MR. PICCHICHERO:

Thank you.

CHAIRMAN ALDEN:

Okay, good, thanks a lot. Okay, so let me get to 1930, approving the appointment of Robert Ciappa. All right, come on up Bob. As a member of the Suffolk County Home Appliance Repair Licensing Board. Okay, Charlie, this is as you mentioned before? There's a vacancy that's been there for --

MR. GARDNER:

Well, actually on the Home Appliance Repair Board, we have had a couple of vacancies. We're never been full.

CHAIRMAN ALDEN:

Okay.

MR. GARDNER:

And we also had a resignation approximately two years ago. So again, this could be for a three-year term.

CHAIRMAN ALDEN:

Okay.

MR. GARDNER:

And I might add this is in the area of computers. There is no one on the board. The Home Appliance Repair Board has been actively seeking someone to become a member of that board, specifically with a background in computer technology. So I'm very excited about the fact that Bob has volunteered, because we do not now have that expertise on the Home Appliance Repair Board and we do license those people.

CHAIRMAN ALDEN:

Bob, why do you want to do it? And just grab the microphone. There you go.

MR. CIAPPA:

Well, back at my last job, I worked for Tandy Corporation, a local repair center and I was the license holder for the consumer affairs license and so I had some dealings with the Consumer Affairs Department. And I thought it was a pretty good operation. We work with them a lot. I believe we never had any unresolved complaints. But I was made aware of the fact that they were looking for someone with some computer expertise. And even though they require people that fix microwave ovens and VCR's have licenses, they don't require people that work on PC's which can certainly have a much bigger impact on someone's life than a microwave not working. That could affect someone's business or a lot of personal finances. So I think it's an area that, you know, needs some attention to and I look forward to doing it.

CHAIRMAN ALDEN:

Do you have the time to devote to it?

MR. CIAPPA:

Um-um.

CHAIRMAN ALDEN:

Okay, the other thing is any violations or investigations or anything like that?

MR. CIAPPA:

No, sir.

CHAIRMAN ALDEN:

Great. Any other questions from members of the board? Legislator Lindsay.

LEGISLATOR LINDSAY:

Yes, Bob. Are you in your own business now?

MR. CIAPPA:

No, I'm not. I work for Symbol Technologies.

LEGISLATOR LINDSAY:

Okay and you still hold the appliance license in Suffolk County?

MR. CIAPPA:

No, I don't.

LEGISLATOR LINDSAY:

Okay.

MR. GARDNER:

Legislator Lindsay, Bob was the license holder for Tandy Corporation.

MR. CIAPPA:

And the facility moved out of Town.

CHAIRMAN ALDEN:

Okay, any other questions?

LEGISLATOR LINDSAY:

No.

CHAIRMAN ALDEN:

Okay, we've got a motion by Legislator Lindsay, seconded by myself. All those in favor?
Opposed? Unanimously carried.

I.R. NO. 1930-01 (P) Approving the appointment of Robert Ciappa as a member of the Suffolk County Home Appliance Repair Licensing Board. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (County Executive)

VOTE: 4-0-0-1 APPROVED

CHAIRMAN ALDEN:

Thank you very much.

MR. CIAPPA:

Thank you.

CHAIRMAN ALDEN:

Good luck on your service and thank you very much for actually volunteering.

LEGISLATOR D'ANDRE:

You should tell him to have fun.

CHAIRMAN ALDEN:

What?

LEGISLATOR D'ANDRE:

You should tell him to have fun.

CHAIRMAN ALDEN:

Have fun too. Sorry, I want to keep it consistent, thanks. All right, we get to table Sense Resolutions 67-2001 memorializing resolution requesting State of New York to prohibit discriminatory zone pricing by retail chain stores.

LEGISLATOR CRECCA:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator Crecca, seconded by Legislator D'Andre. All those in favor?
Opposed? That's tabled.

Sense Resolution 67-2001 (P) Memorializing resolution requesting State of New York to prohibit discriminatory zone pricing by retail chain stores. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Ginny Fields)

VOTE: 4-0-0-1 TABLED

CHAIRMAN ALDEN:

69-2001 memorializing resolution requesting State of New York to repeal State taxes on price of gasoline.

LEGISLATOR CRECCA:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator Crecca, second by Legislator D'Andre. All those in favor? Opposed? It's tabled.

Sense Resolution 69-2001 (P) Memorializing resolution requesting State of New York to repeal State taxes on price of gasoline. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Ginny Fields)

VOTE: 4-0-0-1 TABLED

CHAIRMAN ALDEN:

78-2001 memorializing resolution requesting State of New York to authorize Suffolk County to regulate registration and licensing of taxicabs within Suffolk County. We need some testimony on this. I don't even know. I didn't ask it the last time but the time before, I did tell that -- I would need somebody to come down and give some testimony on this. I can -- I'll contact. I'm going to make a suggestion. We'll table it and I'll contact the sponsor and you know, we really do have to look at this and actually, give Charlie an opportunity to talk to the sponsor and see where she wants to go with this so --

LEGISLATOR CRECCA:

Can I just ask Charlie a quick question? He can just nod yes or no. Do Towns -- don't Towns regulate taxicabs?

LEGISLATOR LINDSAY:

You'd better come up Charlie.

MR. GARDNER:

Some Towns in the County of Suffolk regulate the industry, not all.

MR. SABATINO:

If you'd like the history? I could do it in 30 seconds. We've passed this resolution when Legislator Romaine was a Legislator. When Legislator Davis was a Legislator and we've done it twice with Legislator Towle. What happened was the last time we did it, the Town of Brookhaven passed Resolution Number 32 of July 10th, 2001, saying to the Legislature and the County, why don't you ask the State to do it again? So that's what generated this.

MR. GARDNER:

I believe it's Brookhaven, Islip, Smithtown and Huntington. I'm not sure about Babylon.

LEGISLATOR LINDSAY:

I think Babylon just started licensing.

MR. GARDNER:

Yes and around the country, taxicabs are very heavily regulated by weights and measures in many jurisdictions but only where they have the prices set by the mileage. That does not occur in Suffolk County. It's all zones. That's right, thank God. I mean New York City registers twelve thousand taxicabs in New York City, for instance. Every single one of them

are tested and sealed by weights and measures inspectors. There's five thousand cabs in Chicago, for instance, the same thing, weights and measures. But in the County, I mean you know obviously, our first response would be registration, the licensing of -- Can we do it? Sure, we can do anything. We just can't do everything. Give us the people and we'll do it. Without the people, we can't do it.

CHAIRMAN ALDEN:

How many people would you need to do by mileage?

MR. GARDNER:

Mileage, oh forget about it. Well, first of all, they don't do it by mileage.

CHAIRMAN ALDEN:

No, I know. New York City does, as you just mentioned and Chicago does.

MR. GARDNER:

Yes.

CHAIRMAN ALDEN:

So those are the two options, either by zone or by mileage, right?

MR. GARDNER:

That's right, right.

CHAIRMAN ALDEN:

Okay.

LEGISLATOR LINDSAY:

Could I, Mr. Chairman ask a question?

CHAIRMAN ALDEN:

Legislator Lindsay.

LEGISLATOR LINDSAY:

Charlie, do you think it's necessary? First of all, if the County did get permission from the State and it was Countywide, would there be a jurisdictional problem with the Towns?

MR. GARDNER:

I guess that would depend on how the legislation is written. If they can preempt existing legislation or not. You know, or it would say if it's substantially similar and in effect then the Towns would continue. For instance, like we have with the plumbing.

MR. SABATINO:

Right now, State Law allows the Towns to do the licensing. So right now, under Section 181 of the General Business Law, it can be done. If there were to be an amendment, the amendment would have to take into account how to reconcile between the County and the Town. It would have to say one or the other. It would either be superceding or concurrent.

CHAIRMAN ALDEN:

It would be part of the State Legislation?

MR. SABATINO:

It would have to be part of the State Legislation. They would have to address it.

LEGISLATOR LINDSAY:

Charlie, do you think there's a need for it?

MR. GARDNER:

Well, I can't speak for the volume of complaints that the Towns get or the types of

complaints. I don't know. I mean we don't get very many but -- and the ones that we do are referred out as much as possible. We do not receive very many complaints. In other words, if you were looking for a justification for this type of legislation solely from our office, I don't think we would be able to provide the numbers. It wouldn't be there.

CHAIRMAN ALDEN:

Okay, fair enough.

LEGISLATOR D'ANDRE:

Any complaints Mr. Chairman, from people?

CHAIRMAN ALDEN:

Individual. I know in my office, once in a while we get that type of complaint.

LEGISLATOR D'ANDRE:

What are they based on? Charges or --

CHAIRMAN ALDEN:

Basically, on charges that they felt that there were you know like -- right, they were charged too much for the service that they were provided. That's what we get as far as complaints. But what I'd like to do if there's a consensus here, we'll make a motion to table it. We'll give it to -- I'll contact the sponsor of it and see if she wants to come down. If she's got some kind of presentation or something like that and then we can make an informed decision on it so --

LEGISLATOR D'ANDRE:

Well, in light of the fact that we're running into budget problems, take on more responsibility without any more income is pretty rough at this time, I believe.

CHAIRMAN ALDEN:

That's going to be one of the things we have to consider.

LEGISLATOR D'ANDRE:

There's gross mismanagement out there or people are unhappy with the service.

CHAIRMAN ALDEN:

Right. Those are the things and considerations that we have to make. Legislator Lindsay.

LEGISLATOR LINDSAY:

I think -- I don't think we know that. I think a study would have to be done along that level, because a lot of the industries that Charlie regulates, actually the County makes money. Am I wrong Charlie?

CHAIRMAN ALDEN:

He's thinking. He's thinking.

MR. GARDNER:

Hold on, I mean I don't know about --

CHAIRMAN ALDEN:

He's deep in thought.

MR. GARDNER:

But you know the point is to take on anything extra regardless of how minimal it is, let's put it like this. There's nobody over there sitting around looking for things to do on a daily basis. So to take on anything would require a staff.

LEGISLATOR LINDSAY:

Nobody is saying that.

MR. GARDNER:

Right.

LEGISLATOR LINDSAY:

But if you were to license every taxicab in Suffolk County and there was a thousand taxicabs and the licensing fee was four hundred dollars a year, you know --

MR. GARDNER:

Sure. I mean fees could be set at, you know, a level to justify additional staffing in some people's minds so --

LEGISLATOR LINDSAY:

And if we were to license anymore industries, I think that's the route we have to look at. So that it's, at least, even if not positive towards the County in terms of cash flow.

CHAIRMAN ALDEN:

Okay.

LEGISLATOR CRECCA:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator Crecca, second by myself. All those in favor? Opposed?

Sense Resolution 78-2001 (P) Memorializing resolution requesting State of New York to authorize Suffolk County to regulate registration and licensing of taxicabs within Suffolk County. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Vivian Fisher)

VOTE: 4-0-0-1 TABLED

CHAIRMAN ALDEN:

We'll get in touch with Legislator Fisher and Charlie; I'm going to recommend that she contact you also and that way we can have a coordinator type of presentation. All right. That's the end of our agenda. Anybody else want to address the committee? Motion to adjourn by Legislator Crecca, second by myself. All those in favor? Opposed? We stand adjourned. Thank you.

(The meeting was adjourned at 10:40 a.m.)