

**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 in the William Rogers Legislature Building on **May 16, 2002** at 11:30 a.m.

**MEMBERS PRESENT:**

Legislator Cameron Alden, Chairman  
Legislator Lynne C. Nowick, Vice Chair  
Legislator Martin W. Haley  
Legislator William J. Lindsay

**EXCUSED ABSENCE:**

Legislator Allan Binder

**ALSO IN ATTENDANCE:**

Paul Sabatino, Legislative Counsel  
Warren Greene, Aide to Legislator Alden  
Charles Gardner, Director of Consumer Affairs  
Bill Faulk, County Executive's Office  
Joe Muncey, Budget Review Office  
Jim Dobkowski, Press Secretary, Presiding Officer Paul Tonna's Office  
Terry Pearsall, Aide to Legislator Lindsay  
Meghan O'Reilly, Liaison to Presiding Officer Paul Tonna  
Ed Hogan, Aide to Legislator Nowick  
Students from Central Islip Boces Technical Center  
All Interested Parties

**Minutes taken and transcribed by Irene Kulesa, Legislative Secretary**

***(The meeting came to order at 11:50 a.m.)***

**CHAIRMAN ALDEN:**

Good morning. Welcome to the Consumer Protection and Government Operations Committee Meeting. We'll start the meeting with the Pledge led by Legislator Nowick.

**SALUTATION**

**CHAIRMAN ALDEN:**

Okay, for the record we have Allan Binder, who has asked for an excused

absence. I want that noted for the record. Also, we have in attendance the Central Islip Boces Technical Center, Computer Networking Class. I want to welcome you today. Hope your tour is going very well. You having fun?

**STUDENTS:**

Yes.

**CHAIRMAN ALDEN:**

Okay, good. All right, we have no cards but I'm going to ask Charlie Gardner, the Director of Consumer Affairs if he can come up for a minute?

**MR. GARDNER:**

Good morning Mr. Chairman.

**CHAIRMAN ALDEN:**

Good morning. Charlie before we go into like the state of affairs as far as gasoline prices and oil prices? I had forwarded a letter concerning Petro Heating Oil Services over to you.

**MR. GARDNER:**

Yes.

**CHAIRMAN ALDEN:**

For your investigation. Can you just give me a quick breakdown on what's going on there?

**MR. GARDNER:**

Yes. At the same time that you had become aware of it, we had already had consumer inquires about the same notice that was sent out by Petro. I've been in contact with Kevin Rooney of the Oil Heat Institute and also with John Ryan, the Vice President and General Manager for the New York Region of Petro about their intent to institute a \$12.00 annual charge for all of their customers.

The way the notice at first went out, it appeared that they were going to be back charging customers. Basically that discharge was going to appear on past -- your most current statements and or bills that might be coming in now. They have since amended that. And we are still in -- it hasn't been finalized because while the Office of Consumer Affairs is not very satisfied with this business practice that they intend to start, we find it very objectionable. And we also find that it is simply a -- it's a camouflaged way of increasing the price per gallon of residential home heating oil. However, as objectionable as we might find it, if they do certain things, it would not be illegal in our opinion. For instance, if they have new customers come on board and new contracts are drawn up and part of the contract explains about this \$12.00 annual fee that is going to be instituted and the consumer signs it, so be it. They are now a Petro customer and they have agreed to this \$12.00 fee.

For current customers with current or as they say in the trade start contracts,

if the contract contains a clause that Petro is able to modify that contract by written notice to their customers and the post card would then satisfy as written notice. Again, while we find it objectionable, it would not be illegal in our opinion.

**CHAIRMAN ALDEN:**

Under the UCC there is some language in the UCC Article 3 that would require him or her, whoever it is. They have to embolden that or there's some kind of drawing of attention to that because you can't just bury that type of a clause in there, especially when your dealing with a novice.

**MR. GARDNER:**

Yes.

**CHAIRMAN ALDEN:**

So you'd look at though right?

**MR. GARDNER:**

We did and we also don't like the way the postcard was written in that -- well in their letters back to you and in my conversations with them and in their letters to me, they're very explicit. And they talk about, you know, they have the right to provide customers with 30 days prior written notice for all modifications to the contract. But nowhere in the postcard does it say anything. There's no note. They don't call attention to the fact that we are modifying your contract. Note this will be a modification to your existing contract. No words to that effect at all appear on the postcard. They simply say we are charging twelve bucks a year, period. That's all they say.

So anybody who complains to us, our position is going to be if they have -- if Petro can show a signed contract and they have the modification clause in there, it's legal if they don't have a contract. And Petro, mind you is turning into the eight hundred-pound gorilla on Long Island. They are buying up and have been buying up many small companies. In Nassau County, Petro now accounts for more than one third of all of the oil trucks on the road. In Suffolk County, we're about maybe 18 percent and that increases every day. So there are a lot of people involved.

Petro is also at the high end of the scale of price per gallon. There are no price controls. We realize that. Understand that \$12.00 equates to, on the average, about a one point two cent per gallon increase in the price of home heating oil. All of the charges and practices that Petro detailed in the letter, while we don't argue, they are all legitimate charges but they are not unique to Petro. I mean these are practices, rules and regulations that are required of everybody in the industry. They are simply charging -- instead of just increasing the price per gallon of heating oil, as part of your overhead, they are just throwing in the \$12.00 fee.

**CHAIRMAN ALDEN:**

Have you included the County Attorney's Office in any correspondence and --  
?

**MR. GARDNER:**

No, not yet. We don't have a final --

**CHAIRMAN ALDEN:**

Good.

**MR. GARDNER:**

You know we are -- we are going to do what you want or we're not going to do what you want. In other words, we're still right in the middle of it.

**CHAIRMAN ALDEN:**

Okay. Any questions on it from the members of the committee? All right.

**MR. GARDNER:**

It's really just a -- it's an overhead cost. I mean that's all it is. And they're breaking this out. It's like going into the deli ordering a pound of potato salad, three eighty-nine a pound, getting a pound, paying three eighty-nine, the guy says by the way give me a quarter for my light bill. It's the cost of doing business. And they're just breaking this one piece out and saying we're going to charge you twelve bucks for it. Marty? Legislator Haley?

**LEGISLATOR HALEY:**

Charlie, so at the end, you're just really going to make them do it right.

**MR. GARDNER:**

Yes. We just want to make them do it right. Right now, it's not -- while we might find it a little odd and objectionable? But it's not, in our opinion. No it is not illegal.

**LEGISLATOR HALEY:**

All right so --

**MR. GARDNER:**

They're going to do it right.

**LEGISLATOR HALEY:**

How did you leave off with them? Are they at least going to do it --

**MR. GARDNER:**

Mr. Ryan is on vacation this week. So Monday morning I'll be back in touch.

**LEGISLATOR HALEY:**

All right.

**MR. GARDNER:**

Legislator Lindsay?

**LEGISLATOR LINDSAY:**

Yes, Charlie wouldn't it almost fall in with deceptive pricing? I mean --

**MR. GARDNER:**

Well again, as long as everything is up front and they disclose it and they have a signed contract.

**LEGISLATOR LINDSAY:**

Okay.

**MR. GARDNER:**

Then it's not deceptive.

**LEGISLATOR LINDSAY:**

Okay.

**MR. GARDNER:**

And that's what we were going -- that's what we were making sure. The initial notification to consumers was not as good as we would like to have seen it. They've made a little bit of a change to it. But if they do it, as Legislator Haley says. If they do it up front and you know people sign it and they have it in the contract there's nothing illegal about that.

**LEGISLATOR LINDSAY:**

So maybe a little publicity about it would help.

**MR. GARDNER:**

Jaw boning and moral persuasion etc., you know but yes --

**CHAIRMAN ALDEN:**

Legislator Nowick?

**LEGISLATOR NOWICK:**

Charlie it sounds a lot like when I apply for a credit card and by the time I get to the fine print, it says there's an annual fee, you've accepted the credit card. They have every right.

**MR. GARDNER:**

Yes they do.

**LEGISLATOR NOWICK:**

And it's not so boldly printed either that there's an annual fee.

**MR. GARDNER:**

That's right.

**CHAIRMAN ALDEN:**

Charlie I don't know if you were involved too much with the -- as far as the florist that we -- that scam that we had gone into?

**MR. GARDNER:**

Um-um.

**CHAIRMAN ALDEN:**

You have any update on that?

**MR. GARDNER:**

Nothing new since the meeting. Nobody from the association or the florists have gotten back to us and we received no further complaints since the meeting.

**CHAIRMAN ALDEN:**

I got a letter from Verizon. Verizon but they haven't taken any action yet either so -- And last week we went into -- Legislator Lindsay had a constituent that there's a florist scam going on. It's an out of town florist that gets a -- actually steals the identity of the florist in this area and ends up with non-performance, non-delivery of certain items and things like that so --

**MR. GARDNER:**

Yes with -- based on the phone number, what would appear to be a local florist but yet no address appears and they are, in fact, not local florists.

**LEGISLATOR LINDSAY:**

We don't have any ability to control that Charlie?

**MR. GARDNER:**

At the -- Verizon was supposed to help us out and give us a little bit of insight, as far as what they require and why they don't, addresses for instance. The FTC didn't take any action other than to issue the standard consumer alert about ask for the address. And if they hem and haw about the address or can't give you the local address, well then it's pretty obvious it's not a local florist, even though the phone number might indicate that.

**CHAIRMAN ALDEN:**

All right, any other discussion? Anybody else want to address the committee? If not, we'll go to the agenda. All right, we have tabled resolution number 1187, 2002. That's a Local Law to insure scanner item pricing accuracy within Suffolk County. Legislator Lindsay?

**LEGISLATOR LINDSAY:**

Yes, since the last committee meeting the bill has been modified. The title has been changed to more accurately reflect what it's all about. Just to go through with the committee again, it's an amendment to the -- an existing legislation and it will expand the practice of item pricing being visible to the customer. Right now we require and Charlie, correct me if I'm wrong, we require, you know, supermarkets and other retail outlets like that to physically display each item's cost as it's rung up. That does not apply to department stores. And the practice has been, the department stores with their new computer registers are all under the counter. You do get a receipt at the end with the individual items priced out. But as they're being rung up, there is not -- then the item price doesn't appear on a display to the

customer.

And I kind of got involved in this during the holiday season because it gets very, very confusing to consumers when they go to a department store because items are marked one price. There's 10 percent off today. There's a special one-hour sale, 20 percent off the marked down item. And really nobody knows what they're paying for the individual item at the end of the day. And they're ringing up ten or fifteen items; it kind of gets lost in the shuffle. And we don't think it would be a huge modification for the department stores to put a display that the customer could see the individual item, it's cost as it is rung up. And we haven't heard anything back from the industry about it so --

**MR. GARDNER:**

No and most of the devices that are in use do have the capability of having the remote displays added to the system, so that it would be easily readable from a normal customer's position.

**CHAIRMAN ALDEN:**

Are the modifications in? Is this eligible to be voted on now or do you want to table it?

**LEGISLATOR LINDSAY:**

Yes, no I'd like to make a motion to release it from committee.

**CHAIRMAN ALDEN:**

Motion by Legislator Lindsay to approve, second by Legislator Nowick. All those in favor?

**LEGISLATOR HALEY:**

Charles a question?

**CHAIRMAN ALDEN:**

On the motion Legislator Haley.

**LEGISLATOR HALEY:**

Charlie isn't there a level of complaints concerning this?

**MR. GARDNER:**

There are, at our speaking engagements that is one of the items that is most frequently addressed along with the individual item pricing of packages. How come I can't see the prices that are being run up? We don't take it as an official complaint right now because it's not against the law. So it's really under the inquires section. Because there isn't anything we can do about it. This law would require the display.

You know it's a little bit ironic in that, in the supermarket checkouts where sometimes, as you know, you can have very, very, many items going across that checkout lane. And you do have the display facing the customer but it's very difficult to keep up with it because there's so many items going by. Yet

in the department stores, where a lot of times you're only buying two, three, four things, you know, if you buy seven or eight maybe different items at one cash register in a department store that would be a lot. And it would be -- obviously, you can read the individual prices but they're not shown on that side, you know, so --

There are other Counties, you know, in the lower part of New York State, Westchester, Rockland County. Westchester's law requires the same thing. So this is not, you know, technology that is so innovative that they're going to require a year or so to comply with it. Because they have to do it already in other Counties in this area.

**LEGISLATOR HALEY:**

Thank you Charlie.

**CHAIRMAN ALDEN:**

Okay. All those in favor? Opposed? Abstentions? It's unanimously carried.

**TABLED RESOLUTIONS:**

**I.R. NO. 1187-2002 Adopting Local Law No. -2002, A Local Law to ensure scanner item pricing accuracy within Suffolk County. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator William Lindsay)**

**VOTE: 4-0-0-1 APPROVED**

**CHAIRMAN ALDEN:**

We have a tabled sense resolution. I'm going to make a motion to table, second by Legislator Nowick. All those in favor? Opposed? Sense 33-2002 is tabled.

**TABLED SENSE RESOLUTIONS:**

**I.R. NO. 33-2002 Memorializing resolution requesting the Federal Communications Commission (FCC) to step up to the plate and protect Long Island baseball fans by bringing New York Yankee games to Cablevision's basic service package. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Cameron Alden)**

**VOTE: 4-0-0-1 TABLED**

**CHAIRMAN ALDEN:**

Legislator Lindsay had brought up at the last meeting about the -- these a resolution that was drafted to -- or there was a suggestion for a resolution that would change some of the prices that we charge for replacement of lost I.D. Cards and things of that nature, to make some more uniform type of

charges that we do. I understand you had that redrafted?

**LEGISLATOR LINDSAY:**

Yes.

**CHAIRMAN ALDEN:**

Did you have a name of a change too? Because it actually -- overall it lowers the amount that's charged rather and it says raising. I remember the initial title of it, so to raise --

**LEGISLATOR LINDSAY:**

Actually some of the fees are raised, some are lowered.

**MR. GARDNER:**

Some don't change.

**CHAIRMAN ALDEN:**

In the aggregate though, it actually lowered fees by eight thousand dollars or something.

**MR. GARDNER:**

You know to talk about the raising? It's really not a raising or a lowering, as much as it is a streamlining and making them all equal.

**CHAIRMAN ALDEN:**

Okay.

**MR. GARDNER:**

So that it would essentially, if you look at the chart that was prepared, it would essentially charge the same fee for the same required, let's say new card, new license, additional business location. But whatever licensed occupation you're in, it would be the same charge. So some fees would be raised and some fees would be lowered and some would stay the same. Overall, the net effect in one point nine million dollars in just licensing is negligible.

**LEGISLATOR LINDSAY:**

Okay.

**MR. GARDNER:**

Really.

**LEGISLATOR LINDSAY:**

But actually it's going down, the amount of fees that we would collect?

**CHAIRMAN ALDEN:**

Right.

**MR. GARDNER:**

Base it one year because we only did one year. We took all those changes and did last year and I think the net effect for last year was like minus thirteen thousand dollars. But you're talking in that pool alone, just like eight hundred thousand dollars.

**LEGISLATOR LINDSAY:**

And again, it's for administrative simplification. We have a Clerk over there that works for Charlie and she actually needs a score card to figure out, you know, if you show the license for one occupation, it's one fee for another occupation, it's another fee to replace it. A lost license for one industry is one fee. For another industry it's another fee. So it would really make the Clerk's job much easier and would eliminate potential mistakes.

**MR. GARDNER:**

There's at least one process, I think, it has to do with, I did. There is actually four different. In all the licenses for the same thing to replace it? It's in one occupation there's no charge. In another it's fifteen dollars. In another it's twenty-five dollars. And in another it's fifty dollars. So by making that twenty-five dollars, for instance, the one that's zero is going to go up. The one that's fifteen is going to go up. The one that's fifty is going to go down. But the net effect is going to be -- it's going to cost twenty-five dollars, regardless of what licensed occupation you're in. It's the exact same process by our staff. It's not different because you're an electrician or a plumber or a home appliance repair or home improvement. We have to do the exact same thing. There's really no reason that the price is -- the fee should be different. So that's when it's -- about raising and lowering? Some go down. Some go up.

**CHAIRMAN ALDEN:**

Paul is that eligible? Is that going to be in the packet?

**MR. SABATINO:**

I got the request a couple of days ago and I started to go through the chart. First of all, the chart is wrong in several respects. So it's an enormous amount of reconciliation.

**LEGISLATOR LINDSAY:**

Yes.

**MR. SABATINO:**

You have no idea what it entails. But I got the second draft done last night. I need another day or two to try and reconcile the numbers because they're all over the place. The only other policy question I have is that the tax grievance consulting the dry cleaning, the process servers and the polygraph, those four categories were each negotiated over an extensive period of time with representatives from the industry. So unlike all of the other occupational licenses, which was basically the County said one day we're going to put whatever regulations or fees in. Those four categories were really unusual in a sense that we sat down with representatives from the

industry who were willing to participate in the process. So the reason that there's some disparity is because they were like individually negotiated. I have no problem making the uniformity. But I just wanted to make you aware of that before you make a final decision. That those four are sort of like off the chart because they had their own little history.

**LEGISLATOR LINDSAY:**

But most of the fees that are being changed are not for obtaining the license. It's for, if you lose your license or -- which sometimes you could be in business your entire life and never have to pay it.

**MR. SABATINO:**

That's true. The preponderance of the changes are there but some of the changes deal with the application fee. And again, I'm not saying you can't do it but I just want you to be aware that those particular industries had negotiated a package.

**CHAIRMAN ALDEN:**

Legislator Lindsay, you want to -- when that's filed, then you want to bring that up in the committee? Or did you want to do more of it today or --

**LEGISLATOR LINDSAY:**

It's filed in the legislation.

**CHAIRMAN ALDEN:**

Good.

**MR. SABATINO:**

Another two days, it should be done. It's just that it's extremely complicated and it's a lot of pages. It's long bills.

**CHAIRMAN ALDEN:**

Anybody have any other business to come before this committee? No one rushing to the front? Okay motion by Legislator Nowick to adjourn, second by Legislator Haley. All those in favor? Opposed? We stand adjourned, thank you.

***(The meeting was adjourned at 12:10 P.M.)***