

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

Minutes

A regular meeting of the Consumer Protection & Government Operations Committee of the Suffolk County Legislature was held in Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **November 14, 2002.**

Members Present:

Legislator Cameron Alden - Chairman
Legislator Lynn Nowick
Legislator Martin Haley
Legislator William Lindsay

Members Not Present:

Legislator Allan Binder - Excused

Also In Attendance:

Paul Sabatino - Counsel to the Legislature
Warran Greene - Aide to Legislator Alden
Meaghan O'Reilly - Aide to Presiding Officer Tonna
Terrence Pearsall - Aide to Legislator Lindsay
Neal Capria - Aide to Legislator Bishop
Joe Muncy - Budget Analyst/Budget Review Office
Nicole DeAngelo - County Executive's Office/IR
Tom Vaughn - County Executive's Office
Charles Gardner - Director/Department of Consumer Affairs
Tara Pensky - Teacher/Miller Place High School
Students from Miller Place High School
All Other Interested Parties

MINUTES TAKEN BY:

Alison Mahoney - Court Stenographer

(*The meeting was called to order at 11:37 A.M.*)

CHAIRMAN ALDEN:

Good morning and welcome to the Consumer Protection Committee. I want to say welcome to Miller Place High School and your teacher is Tara Pensky; did I pronounse that correct? Okay. We're going to start with the Pledge and we're going to have two volunteers from that class, John {Diffly} and {Katelyn} Malone are going to lead us in the Pledge.

Salutation

Thanks a lot. Okay, just for the record, Legislator Binder has an excused absence. Present we have Legislator Haley, Legislator Lindsay, Legislator Alden, Legislator Nowick. Okay, Charlie, you know what we're going to do? We'll just do the Consumer Affairs Department, we'll do that the report first.

MR. GARDNER:
Oh, the audit?

CHAIRMAN ALDEN:
Yeah. As you know, I wasn't prepared for that this morning but they do have a copy of our response and letter so we can do that and answer any questions that you might have.

This was done under the audit schedule of the County, you know, every so often the people from the Comptroller's Office come in and take a look at policies and procedures, especially when it comes to monies and funds that you collect and deposit. And they -- this was a very thorough audit this time, they really -- they interviewed the various department employees, they don't like to talk to the bosses first, they talk to the people who actually do the work to find out what's really going on. All in all, we were -- I was pleased with the results of the audit and their recommendations.

CHAIRMAN ALDEN:
Okay. There was -- how many recommendations did they have, there were only a few, right?

MR. GARDNER:
Only a few under the internal controls is what they call it. There is one of their recommendations that we agreed to disagree on. I told them that basically due to staffing issues it would be extremely difficult to conform to the recommendations. But the others, if you want to go through them.

CHAIRMAN ALDEN:
Actually, on the record, from your notes just put on what your response is going to be and how you're going to clear up a deficiency if that's what exists.

MR. GARDNER:
Yes, okay. The inadequate segregation of duties regarding the custody of cash and the recording functions, having to do with actually who was taking in monies and then doing the posting. That has been -- my answer to them was that we started computerized posting on August 1st

of this year. And the segregation of duties is no longer an issue because the people that were involved with that, because of the computerized process, one of the people has just been removed from duties. The segregation that is recommended under the good accounting principals is now in place. The Account Clerk that is posting to the database creates daily reports; a Senior Account Clerk is no longer posting, they had a problem with that, a little redundancy; and the Senior Account Clerk is now preparing the bank deposits which is reconciled against an access database report. So different people are handling different functions, reconciliations are not being done by the same person, they were satisfied with that.

CHAIRMAN ALDEN:

Good.

MR. GARDNER:

We -- their recommendation number two was that there was inadequate physical safeguards existing over assets that are susceptible to misappropriations, specifically cash. The cash issue, it just so happened a few of the licenses that came in paid cash. Out of the \$2 million that we get, that we collect each year, probably less than 1% of it is cash; I mean, people just don't pay cash when they come in to get their license, it's almost always check, usually a business check. But again, in following their recommendations, the cash and the checks that are taken in throughout the day are kept locked in a drawer during business hours and we have the safe in my office at night in case any funds that come in late in the day. It goes up to three o'clock, that's when we make our daily run to the bank to make deposits, anything that comes in late goes in the safe and throughout the day they're in locked draws now as opposed to -- and it's not that they were scattered around, they were -- the Senior Account Clerk that was taking in the money, she had it right there in front of her. But for instance, if she got up to go to the copy machine or something, the checks would be still on her desk.

CHAIRMAN ALDEN:

Do you get an escort to the bank?

MR. GARDNER:

No, we don't.

CHAIRMAN ALDEN:

How much are you usually taking over there?

MR. GARDNER:

There are days we take 25, \$30,000, sometimes 10,000.

CHAIRMAN ALDEN:

All right, that's something that we're going to have to look into because, you know, a lot of other --

LEG. LINDSAY:

Probably most of it's check.

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CHAIRMAN ALDEN:

Most of it's checks, but still, people might think that you're carrying cash or negotiable incidents or something like that. The other thing is just varying the times that you leave and go to the bank is probably a good idea, too.

MR. GARDNER:

That -- you can vary the times but not by very much, Mr. Chairman. There's a window, we need to get the money over there before the banks closed, we also don't -- it doesn't make much sense to bring the money over there, for instance, at 10:30 in the morning because then you're continuing to collect money right up till two, 2:30.

CHAIRMAN ALDEN:

No, just patterns, if somebody is looking at --

MR. GARDNER:

Not every day at twenty to three, in other words.

CHAIRMAN ALDEN:

Good, okay. Legislator Nowick?

LEG. NOWICK:

I'm sorry, I missed that; the 25, \$30,000 per day did you say?

MR. GARDNER:

Sometimes, yes.

LEG. NOWICK:

Cash or mostly checks?

MR. GARDNER:

Almost exclusively checks, very, very little cash is taken in, very little.

LEG. NOWICK:

Okay. I don't know if the County can do this, but I know that the banks might have a service where they come out and they'll pick up the checks as bank officers. I don't know that the County allows for that in their rules and regulation but that is something that I know that they used to do years ago in --

MR. GARDNER:

I can look into that.

LEG. NOWICK:

The banks are usually very happy to send out a bank officer and once it's in their possession you've actually made the deposit I believe.

MR. GARDNER:

We'll look into that. The next recommendation was the office did not have an accounting policies and procedures manual; it just so happened that we were working on it. We have it now, it's reviewed quarterly and updated as necessary. While they were -- it was just a matter of timing, in other words, we had -- Linda Lange, our Principal Account Clerk, had been working on it for quite a while, and at the time of

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the audit we did not have it. I think within a couple of weeks after the audit was finished the accounting manual was done, so that's now in place.

And the one area that we agreed to disagree on is there is no separate listing of mail receipts maintained by the office. We just -- I think even if I had the staff I would have better things to do for the person than what they would want. They want a separate mail log for all incoming receipts. Somebody -- some employee, let's say Henry {Roderman} for instance, he would open up all the mail. As you know, we get consumer complaints, we get business change, we get all that kind of paperwork, we also get a lot of checks in the mail. Well, for every envelope that he opens that has a check, he would then have to enter it in a separate log; received, you know, envelope so and so from so and so, how much and what for, whether by cash, check or money order, and then that log would then have to be reconciled against all the other logs that we now -- in other words, if it's a licensing fee, if it's a \$400 licensing fee, for instance, all that goes in now to accounting and they reconcile everything with the money that they post to the bank; well, then they would also have to reconcile it against what the person in the lobby did, the log that they created.

So I guess it would be nice, you know, but it's just not -- certainly we don't have the people to do that now anyway. And remember, this audit was done prior to the loss of our eleven employees out of 44. But again, our answer -- and they kind of understood, you know, they did what they had to do and I said, "Look, we just agree to disagree on that, if that's all right with you." And posting is now computerized anyway, but mainly staffing issues would make the creation and the maintenance of that mail log just a great difficulty. So it remains a goal of the office subject to adequate staffing.

CHAIRMAN ALDEN:

Legislator Haley?

LEG. HALEY:

But you feel comfortable enough to resolve the issues that were brought up.

DIRECTOR GARDNER:

Yes.

LEG. HALEY:

With the exception that it would take a little bit of time because of staffing issues.

MR. GARDNER:

Correct.

LEG. HALEY:

Okay.

DIRECTOR GARDNER:

And we didn't dismiss it out of hand, it remains a goal of the office. We would like to be able to do that, subject to adequate staffing in the future we would do that.

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CHAIRMAN ALDEN:

Thanks, Charlie. Any other questions?

LEG. LINDSAY:

No.

CHAIRMAN ALDEN:

No? All right, we're going to go right to the agenda then.

TABLED RESOLUTIONS

Tabled Resolution 1696-02 (P) - Adopting Local Law No. 2002, a Local Law to toughen fines for item pricing violations within Suffolk County (Alden). I'm going to make a motion to table that one more time.

LEG. NOWICK:

Second.

CHAIRMAN ALDEN:

Seconded by Legislator Nowick. All those in favor? Opposed? That stands tabled (VOTE: 4-0-0-1 Not Present: Legislator Binder).

1949-02 (P) - Adopting Local Law No. 2002, a Local Law to impose uniform occupational licensing fees and licensing terms (Lindsay).

LEG. LINDSAY:

Yeah, I'd like to table that. We're going through yet another revision, it should be ready for the next time we meet.

LEG. HALEY:

Second.

CHAIRMAN ALDEN:

Motion to table by Legislator Lindsay, second by Legislator Haley. All those in favor? Opposed? That stands tabled (VOTE: 4-0-0-1 Not Present: Legislator Binder).

1952-02 (P) - Adopting Local Law No. 2002, a Local Law to require retail food establishments to disclose salt, sugar, fat and carbohydrate contents to purchasers of food products (Postal). I was contacted by Legislator Postal, she's making some revisions. So my motion is to table, second by Legislator Haley. All those in favor? Opposed? That's tabled (VOTE: 4-0-0-1 Not Present: Legislator Binder).

2038-02 (P) - Adopting Local Law No. 2002, a Charter Law to modify designation of Director of Consumer Affairs as Director of Weights and Measures (County Executive). I'm going to ask Legislative Counsel, is everything in order for that?

MR. SABATINO:

There was a --

CHAIRMAN ALDEN:

We're hitting you a little bit on the run here, Paul.

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MR. SABATINO:

That's okay. There was a corrected copy that was filed. It's really just a question of its -- the only comment I had made in my analysis was what was the purpose of it because, I mean, basically it reverses what the Legislature had done in a previous time. So it's really just a -- I mean, technically the language is correct, it's just a question of --

LEG. HALEY:

What name you want to use?

MR. SABATINO:

-- you know, what the objective is.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

Yeah, what was the history here, Paul? Was it -- it was this way in the past and we segregated out the title?

MR. SABATINO:

No, what happened was in 19 -- this would restore it to the way it was before in 1996. In 1996 a Local Law was adopted to merge the two functions into the one title, I think it was done as a cost saving measure at the time, the idea was to consolidate thereby freeing up funds from the vacated position to use for other purposes. So this would go back to the way it was before in 1996.

LEG. LINDSAY:

Yeah, Charlie, do you have an opinion on this; what are they trying to do here?

MR. GARDNER:

Yes. Actually it came from me, the suggestion, and it's something that since '96 I really looked at changing. And when the possibility of the early retirement situation came up, I think it became a little bit more -- let's say it was just put on the front burner.

Essentially, New York State Law is permissive in allowing a County that has a population of more than one million to designate the head of its Consumers Affairs Office to also be the County's Director of Weights and Measures. The County has the option of having either one or two persons fulfilling the obligations of those both titles, so you could have a Director of Consumers Affairs or Commissioner of Consumer Affairs, whatever that title is, could also be the Director of Weights and Measures. The only mandate from the State is that each County must have a Director of Weights and Measures, there's no mandate that counties have Commissioners or Directors of Consumer Affairs but every County in the State must have a Director of Weights and Measures.

The amendment to the Suffolk County Charter takes away -- right now it takes away the flexibility of the County, in my opinion, of filling the position of the Director of Consumer Affairs because it kind of reverses what State law says. The wording is such that the County is precluded from having anyone other than a Weights and Measures

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official serve as the Director of the Office of Consumer Affairs. The language, in my opinion, should be permissive so that the County would have the ability and the option of having one person serving both capacities, or two depending on which option would best fit the needs of the County at the time.

LEG. HALEY:

Makes sense.

DIRECTOR GARDNER:

But the present wording severely restricts the choices available to the County. In other words, only somebody who has been let's say a Weights & Measures Inspector and then a Senior Weights & Measures Inspector and then Assistant Director of Weights & Measures could ever ascend to the title of Director of Consumer Affairs, and that's not right. So the people who work in Consumer Affairs, let's say, as the Deputy Director, Assistant Director of Consumer could never ascend to the title of Director.

If this amendment goes through, it would not preclude anyone who is currently eligible to be the Director of Consumer Affairs, it would expand the pool, it would expand the number of people who are eligible to be. It doesn't help me -- by the way, it has nothing to do with me, it neither helps me nor hurts me, I'm in the position now and nothing could change that. It's after -- it's who is going to ascend, you know, whenever it is that I leave, so it has nothing to do with me. And it doesn't help any -- you know, people say, "Oh, who are we taking care of here?" We're not taking care of anybody, it simply opens up the pool of potential candidates for Director of Consumer Affairs without excluding those people who are currently eligible, that's really all it does. And as Legislative Counsel said, it just brings it back to the way it was.

CHAIRMAN ALDEN:

Legislator Lindsay?

LEG. LINDSAY:

So it isn't a precursor to you leaving, Charlie?

DIRECTOR GARDNER:

No, it isn't.

CHAIRMAN ALDEN:

Does it -- I will direct this question to Legislative Counsel. Does this create a situation whereby we automatically have to hire somebody else or appoint somebody?

MR. SABATINO:

No. In a nutshell, the fundamental difference is that in 1996 there was a policy decision, there was a desire to do cost containment and to ensure there would only be one position. So the law as it's currently written as in '96 makes certain it will only be the one slot; this law, if it's amended with the current proposal, will then allow the possibility of having two slots. It doesn't automatically mean the next day you're going to have a second person, but the

difference between the two is that it's one person exclusively versus the possibility of having two.

CHAIRMAN ALDEN:

If the language was changed a little bit, would it make it mandatory to have a Commissioner of Weights & Measures that should also be the head of Consumer Affairs?

DIRECTOR GARDNER:

Well, that's the way it is now, it says whoever is head of Weights & Measures is the Director of Consumer Affairs.

CHAIRMAN ALDEN:

But we're not in violation of New York State Law then.

DIRECTOR GARDNER:

No, we're not. No, we're not.

CHAIRMAN ALDEN:

Okay. But you're saying it's restrictive in that --

DIRECTOR GARDNER:

Somebody who is extremely confident and very well qualified in the area of Weights and Measures but knows absolutely zip about Consumer Affairs could be the Director of Consumer Affairs and you nor the County Executive would have any control over that; that's wrong in my opinion, under the current wording.

CHAIRMAN ALDEN:

Did you put your papers in to retire? You didn't put your papers in, did you?

DIRECTOR GARDNER:

Well, I had them in, yeah, I pulled them back.

CHAIRMAN ALDEN:

And then you pulled them back.

LEG. HALEY:

So you are a {massacist}.

CHAIRMAN ALDEN:

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

LEG. HALEY:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator Haley.

LEG. HALEY:

On the motion.

CHAIRMAN ALDEN:

On the motion, go ahead. I'll second it so we can discuss it.

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LEG. HALEY:

Well, I think it's well taken. Charlie -- it just takes away the flexibility; a very simple language change provides a little bit of flexibility for future reference. I don't think it's that difficult to ask that perhaps the County Executive would modify that.

LEG. LINDSAY:

For what?

LEG. HALEY:

So that there's flexibility in that the Director of Weights and Measures, right, under this would automatically be --

LEG. LINDSAY:

No, no, just the opposite.

DIRECTOR GARDNER:

No, under current. Currently, right now the Director of Weights & Measures --

LEG. HALEY:

I misunderstood you. So what you're saying, you don't have a problem with this legislation?

DIRECTOR GARDNER:

No, no, I don't.

CHAIRMAN ALDEN:

He wrote it, Marty.

DIRECTOR GARDNER:

Absolutely not.

LEG. HALEY:

I withdraw my motion.

DIRECTOR GARDNER:

Basically I put it in.

LEG. HALEY:

I'm sorry. I withdraw my motion.

CHAIRMAN ALDEN:

We have a motion to approve by Legislator Lindsay, second by Legislator Nowick. All those in favor? Opposed? Approved (VOTE: 4-0-0-1 Not Present: Legislator Binder).

LEG. HALEY:

Thank God I didn't do that in front of the kids, huh?

CHAIRMAN ALDEN:

Paul, does this have to go for a public hearing? And this is a Charter Law, right?

MR. SABATINO:

This is a Charter Law, the Legislature's public hearing has already

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been concluded, the County Executive will have to hold a public hearing if you, in fact, approve it.

CHAIRMAN ALDEN:

At next Tuesday's meeting?

MR. SABATINO:

Well, no. In other words --

CHAIRMAN ALDEN:

He would hold it between now and next Tuesday?

MR. SABATINO:

No, no, if you adopt the bill on Tuesday then he would have to hold a hearing within ten days after you adopt it, so it would be a second public hearing by him. But your public hearing was closed on October 8th, so you've done as much as you have to do. If you pass the bill then the Executive would have to hold a separate, subsequent hearing.

CHAIRMAN ALDEN:

Okay, so this is approved (VOTE: 4-0-0-1 Not Present: Legislator Binder).

INTRODUCTORY RESOLUTIONS

2057-02 (P) - Adopting Local Law No. 2002, a Local Law updating regulations for precious metal exchanges and dealers secondhand articles (Carpenter). The sponsor of this legislation has contacted me and asked me to table this for one cycle so they can make some changes. I am going to make a motion to table, second by Legislator Nowick. All those in favor? Opposed? This stands tabled (VOTE: 4-0-0-1 Not Present: Legislator Binder).

2077-02 (P) - Adopting Local Law No. 2002, to strengthen enforcement of gas station and motor fuel distributor laws in Suffolk County (Nowick).

LEG. NOWICK:
Motion to table.

CHAIRMAN ALDEN:
There's a motion to table by Legislator Nowick, second by Legislator Haley. All those in favor? Opposed? 2077 is tabled (VOTE: 4-0-0-1 Not Present: Legislator Binder).

We have no Sense Resolutions, we have no Tabled Sense and we just have one tabled subject to call. Any other business for this committee? Seeing no one rushing at the podium, meeting stands adjourned. Thank you.

(*The meeting was adjourned at 11:57 A.M.*)

Legislator Cameron Alden, Chairman
Consumer Protection & Government Operations

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