

**CONSUMER PROTECTION and GOVERNMENT OPERATIONS
of the
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Consumer Protection and Government Operation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Thursday, **June 19, 2003.**

MEMBERS PRESENT:

Legislator Cameron Alden - Chairman
Legislator William Lindsay - Vice-Chair
Legislator Lynne Nowick
Legislator Angie Carpenter

ALSO PRESENT:

Paul Sabatino - Counsel to the Legislature
Ed Hogan - Aide to Legislator Nowick
Warren Greene - Aide to Legislator Alden
Meghan O'Reilly - Aide to Presiding Officer Postal
Charles Gardner - Director of Consumer Affairs
Alexandra Sullivan - Deputy Clerk of the Legislature

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

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(*THE MEETING WAS CALLED TO ORDER AT 9:45 A.M.*)

CHAIRMAN ALDEN:

Good morning. We'll get started with the Consumer Protection Committee meeting with the Pledge, and we will have Ilona lead us in the Pledge.

SALUTATION

CHAIRMAN ALDEN:

Thank you. Charlie, did you get a copy of this? It's a memo, I guess, with changes to Resolution Number 1191, that's the local law to license process servers.

DIRECTOR GARDNER:

Yes, Mr. Chairman, I did.

CHAIRMAN ALDEN:

Okay. I guess by the next committee meeting if you could try to digest that and see what else is necessary, because I know that there was some problems with putting that law in effect, and you raised them at the last couple of committee meetings. I don't think we have an another committee meeting until the end of July though at this point.

DIRECTOR GARDNER:

Well, I'd just like to point out that we met with the key industry rep, Mr. Vince Gillis, and we met with Meghan, Presiding Officer Postal's aide, to go over this. And he is the industry representative, and by the way, he is still to date, he is the only official member of the board. He has already been appointed to the board. So he is acting in his official capacity as a member of the licensing board as well as the key industry spokesman. And all of these changes that have been suggested, the office agrees with 100%, and so does he. So as far as we're concerned, not knowing your process or how -- what the timeline is, but we're ready. With these -- with these changes, we would be able to start the administration and enforcement of this law just as soon as possible.

CHAIRMAN ALDEN:

What we'd actually have to do is this would have to amend the law that was passed. So it's going to have to go through the committee process. So the next committee meeting is --

LEG. LINDSAY:

Last week of July.

CHAIRMAN ALDEN:

Yeah. Last week of July, first week of August. I think we have a -- so that's the earliest they can amend the law. But does this include licensing, not individuals, but firms?

DIRECTOR GARDNER:

Yes, Mr. Chairman. That is certainly the key part of this recommended amendment is that it would now bring this law into uniformity with all of our other licensing laws in that the licensee will be responsible for his or her -- the acts of his or her employees. And the office

would be required to license just that agency. There is -- by the way, the definitions that are in here, have been taken out of the existing New York State laws relating to a process server and a

process serving agency, and that's a key definition, the agency. We would be able to handle this with no additional staff, as we promised last year if the law was enacted as --

CHAIRMAN ALDEN:
As modified.

DIRECTOR GARDNER:

Yes. And by the way, there was also a lot of work done to modify many of the sections relating to the licensing board that had this particular licensing board doing things that none of the other licensing boards have had to do and were sometimes redundant and sometimes unnecessary. Again, with the industry's sanction and with Mr. Gillis' approval, again, he's already on that board, several of these -- in other words, for instance, in the law it required that -- in the current law, it required that when you're mailing a process, that the zip code had to be on the envelope. Now I mean, you know, not for nothing, but we agree that the zip code has to be on there, but I don't think you needed to make that a part of the law. And by the way, what about the street address or the house number or other things like that? That's part -- that would now come under the purview of the rules and regs authority that the board has, the wearing or not of insignias or what type of insignias. Let the board take care of that. So there are several items that relate to the boards, that while removed from the law, will not be removed from the administrative process, because the rules and regs as determined by the board will establish that.

CHAIRMAN ALDEN:

Did anybody get in touch with the Suffolk County Bar Association and have a representative --

DIRECTOR GARDNER:

I sent a letter to them, I have not yet received an answer. But that was -- remember, we kind of put everything on the back burner. If these go through, I'll just reestablish those contacts.

CHAIRMAN ALDEN:

Okay. I'm going to take the liberty of sending this over to the Suffolk County Bar and just -- it will give them a little extra time to review it, and if there are minor changes or something like that, that they can suggest, you know, because it's always good to get everybody that's going to be affected by this on board, and every law firm actually serves process. So you know -- Meghan, do you know the intent of the Presiding Officer? Is she going to actually file this as an amendment to the bill?

MS. O'REILLY:

I already gave it to Paul Sabatino to make the changes.

CHAIRMAN ALDEN:
Great. All right.

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DIRECTOR GARDNER:

And just for the record -- and by the way, slower is usually better, and as you said, to check with everybody. Just remember that the -- as long as we -- when we get calls about July 1st, and we say, well, you know, we're just holding off a little bit. I see no harm to anybody, even though the actual effective date is July 1st. I'm not going to start enforcing anything knowing that there is the potential of these pending amendments. So we'll just say, just relax, we'll take of it, we're working on it and we'll be in touch with you just as soon as possible.

CHAIRMAN ALDEN:

I think that's a good position. You have the sponsor of the bill, the original bill, giving you a whole bunch of amendments that really make sense and make it more enforceable and more able to carry it out and to the intent that the original sponsor had for this. So I think that's a good position to take. Okay. Heating oil is not really -- although with the weather the way it is, sometimes people do need heating oil. Gasoline is pretty much that main topic. How are we looking there?

DIRECTOR GARDNER:
Stable.

CHAIRMAN ALDEN:
Stable?

DIRECTOR GARDNER:

Yes. Still in the -- you know, in the lows -- in the low 50s. And actually the range is still there. But it hasn't changed very much in the last couple of weeks.

CHAIRMAN ALDEN:
Legislator Lindsay.

LEG. LINDSAY:

Yeah. Charlie, the last two days, and I don't know whether we monitor it or not, but I've gotten a couple complaints about the KeySpan bills rising in term of gas. Do we monitor that at all?

DIRECTOR GARDNER:
Public Service Commission.

LEG. LINDSAY:

We don't even do any monitoring on it.

DIRECTOR GARDNER:

No. The only interaction we have with KeySpan is the plumbing licenses and the electrical licenses, but not the rates at all.

LEG. LINDSAY:

The other thing, Mr. Chairman, if you allow me, Charlie maybe we could -- the conversation we had before, maybe we could -- you could share with the rest of the committee, at the last session, we passed a bill that was an adjustment to the Capital Budget where we took the red light camera funds and reappropriated for a couple of different

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reasons. One of things was to buy Charlie an octane analyzer. Maybe you could explain to the committee what that does. I think it's good for them to know.

DIRECTOR GARDNER:

The portable octane analyzer, that's very good news, the passage of that. Because for -- we currently in a normal year do between 1000 and 1200 octane tests, we take samples of gasoline. Most of those expenses are reimbursed by the state. But what is entailed is that you take a sample from a gasoline pump, maintaining a chain of custody from the time you take the sample to a state courier. Generally the courier will pick up the average about 50 samples from our pick up point in Suffolk County. He also goes to Nassau and Westchester, etcetera. Then those samples go to a lab in New Jersey for testing. And then the results are relayed back to us. That time frame runs one to two weeks, meaning that depending on when I took the sample, and when the sample was tested, and when the results come back to Suffolk, it might be two weeks, sometimes even more than that before we get the results. So that if a station fails, for instance, they were selling 93 octane gas, and it came back as say 90 or 89, we can issue them a violation and they come in to hearing and we find out where they got the gas, etcetera, etcetera, but that's it.

With a portable octane analyzer, we can take the -- we can analyze the octane level on the spot. If it fails, not only will they be subject to a violation, we can close the station right then and there. As we used to do when there used to be a certified lab over in East Setauket at the Northville location. When they closed, we lost that opportunity. We were able to take a sample at nine o'clock in the morning, bring it over to that lab, have it tested. And by ten, 10:30 in the morning, if it failed, the station would be shut down. That's a much more potent weapon and a much bigger hammer than a penalty. So that's number one.

Number two, because we don't have to maintain chain of custody and there isn't all that paper work associated with it, we can do in the same amount of time, four to five times the number of octane tests. It doesn't mean that we're going to go do 5000 tests, but what it means is that I can now manage in a less period of time even and do the same or more octane tests then we do now. So we'll have better coverage and more effective enforcement for approximately 10 to \$12,000.

CHAIRMAN ALDEN:

So we have one piece of equipment?

DIRECTOR GARDNER:

That's correct.

CHAIRMAN ALDEN:

Now, how many people do you have that are trained to use it?

DIRECTOR GARDNER:

We will have -- right now there's only myself and one other inspector, but it's a very easy process. So we will have eight people that are able to do that.

CHAIRMAN ALDEN:

Great. Bill, do you know if it was signed by --

LEG. LINDSAY:

I don't know.

CHAIRMAN ALDEN:

Okay. Legislator Nowick.

LEG. NOWICK:

I'm just thinking, this also goes hand in hand with our piece of legislation for the gasoline stations, it certainly makes it more practical.

DIRECTOR GARDNER:

Yes. It's a terrific piece of equipment. And as I explained to Legislator Lindsay, one reason that the state doesn't want to allow the counties to put in for a reimbursement for that piece of equipment is that the tests that are conducted by the state, it's done under state contract, and they pay a very low price per sample. Why? Because of volume. So if several different counties, especially the larger counties, Nassau, Suffolk, Westchester, started using these, it would significantly decrease the number of tests and therefore, increase the costs of each test to the state. But as we said to them,

that's your problem, you do that with the other counties, we'd rather have a more effective enforcement program down here.

CHAIRMAN ALDEN:

In a way, I don't think the state really cares whether they increase the cost to us on a number of different things. So I think it's appropriate just again, for us to act like that in our own best interest. Legislator Nowick.

LEG. NOWICK:

With regard to the octane levels at the different gas stations, I know when I pull in, I see the signs super premium, ultra premium, no premium. That is a little bit deceptive to me. Is there anything that the County can do to make that a little clearer to the consumer?

DIRECTOR GARDNER:

Well, the County is already -- we were the first county in the State of New York to enact legislation concerning grade identification in the names of the products of gasoline. We had tried -- I had submitted a proposal to the state to have the state law changed, and they said, no, it's really not important, we don't think it's a problem. It was a big problem in both Nassau and Suffolk County. So we made a local law concerning grade ID, and about two or three years ago after we passed it -- that is now also a state law. But what it addresses is the fact that they are certain terms that can be used and certain terms that can't be used for different grades of gasoline. For instance, regular, the term regular, can only be used for 87 octane. The term premium can only be used for octanes of 91 or greater.

What was going on is that we had gasoline stations in this County that were advertising regular, and it had a low ball price, they would

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advertise unleaded -- by the way, you can't do that in Suffolk County anymore, all gasoline is unleaded. So just the term unleaded itself was and is confusing, and people would pull in and get a fill up of unleaded, and they were being served premium. And they said, well, I asked for unleaded, well, that is unleaded. And technically it is, all gasoline is unleaded. So there is a law now concerning what can be --

LEG. NOWICK:

There's no difference between unleaded and the --

DIRECTOR GARDNER:

Pardon me?

LEG. NOWICK:

All gasoline is unleaded?

DIRECTOR GARDNER:

Yes. And see that's a leftover from the days of, you know, when we were transitioning from leaded gasolines as they were being phased out. But today again, except for your high octane racing fuels that are only sold in a few, very few, locations, and they still have some lead. But other than that, all gasoline is unleaded. So, yes, we do have a law regarding the grade names and what each grade can or cannot be called.

LEG. NOWICK:

Is the sign supposed to say it -- when you pull into a gas station, and it says regular, it's supposed to say next to it 87 octane?

DIRECTOR GARDNER:

Every gasoline has to be identified by the octane number. And in all of our consumer literature, that is what you should be buying by, the 87, 89 or let's say 92 or 93. Because ultra premium, super premium --

LEG. NOWICK:

What the heck does that mean?

DIRECTOR GARDNER:

No, it means nothing. It's the octane number.

LEG. NOWICK:

So that number is supposed to be up there, the octane?

DIRECTOR GARDNER:

Yes. You will see that, it's a yellow background, black numerals. You will see the octane number near or adjacent to every nozzle and on the face of every pump. As well as the cetane for diesel, by the way.

LEG. NOWICK:

Is that only supposed to be on the pump or is that on the sign that's overhead?

DIRECTOR GARDNER:

No, not on the signs. On the face of the pump, on each side of the dispenser.

LEG. NOWICK:

Okay. So you have to literally go to the pump and take a look?

DIRECTOR GARDNER:

That's correct.

LEG. NOWICK:

Rather than up by the sign.

DIRECTOR GARDNER:

That's right, yes.

LEG. NOWICK:

Good to have it by the sign as you are pulling by too so people know. But I guess if 87 is the law, that's the law.

DIRECTOR GARDNER:

That's right.

CHAIRMAN ALDEN:

Just in furtherance of one thing that Legislator Lindsay brought up before, we plan on having KeySpan at one of our next -- if not the next meeting, the one after that, in furtherance of that discussion we had about the interruptible gas service and some of the -- and how that affects heating oil and things of that nature. So we're going to try to get them in there. So any questions that we had, you know, as far as the price of gas and things like that would be appropriate to bring up to them at that time. All right. Is there anything else, like, on litigation or anything like that that we need an update on?

DIRECTOR GARDNER:

No. I trust that everybody received the copy of the annual report. We sent it out last week.

CHAIRMAN ALDEN:

Yes. Good. All right. So we can go to the agenda then.

TABLED RESOLUTION

(P) 1242-2003. Adopting Local Law No. -2003, A Local Law to toughen and graduate fines for item pricing violations within Suffolk County.

(ALDEN)

CHAIRMAN ALDEN:

The first resolution we have is tabled Resolution 1242. I'm going to make a motion to table that and seconded by Legislator Nowick. All in favor? Opposed? That stands TABLED. (VOTE: 4-0-0-0)

SENSE RESOLUTION

(P) SENSE 44-2003. Memorializing resolution requesting Cablevision to extend full Suffolk County coverage to WVVH-TV58, Hamptons Television.

(GULDI)

CHAIRMAN ALDEN:

We have a Sense Resolution, Sense 44-2003. We don't have Paul

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Sabatino here. Who else would be appropriate to give an explanation of the bill? Charlie, that's not something that affects you, right?

DIRECTOR GARDNER:

No, Mr. Chairman.

LEG. CARPENTER:

May I say something?

CHAIRMAN ALDEN:

Sure. Legislator Carpenter.

LEG. CARPENTER:

This is a cable station -- this is a TV station out in the Hamptons that has been fighting for years to get coverage on cable. And this is a Sense Resolution we've passed here before. So for what it's worth. Basically just a statement, we have no jurisdiction. But we did pass a resolution like this once already.

CHAIRMAN ALDEN:

So, Legislator Carpenter, do you believe that this would go to New York State Government? If we passed this, we would end up sending a certified copy to Cablevision requesting them to --

LEG. CARPENTER:

I don't have the bill in front of me.

LEG. LINDSAY:

Go to Cablevision.

CHAIRMAN ALDEN:

Just go to Cablevision. They love me.

LEG. CARPENTER:

Why don't we discharge without recommendation.

CHAIRMAN ALDEN:

Okay. Motion to discharge without recommendation. I'll second it. All in favor? Opposed? Good and then -- so that's discharged.
DISCHARGED WITHOUT RECOMMENDATION. (VOTE4-0-0-0)

By the meeting, though, we'll have -- I'm sure Legislator Guldi will be more than happy to give an full background, a half hour, hour dissertation on this. Okay. Any other business to come before the

committee? Having none, we stand adjourned. Thank you very much.

(*THE MEETING WAS ADJOURNED AT 10:03 A.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY