

CONSUMER PROTECTION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Consumer Protection 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 Wednesday, March 8, 2006.

MEMBERS PRESENT:

Legislator Cameron Alden • Chairman

Legislator Wayne Horsley

Legislator Jack Eddington

Legislator Lynne Nowick

Legislator Tom Barraga

Legislator Kate Browning

MEMBER NOT PRESENT:

Legislator Jon Cooper • Vice • Chair • Excused Absence

ALSO PRESENT:

George Nolan • Counsel to the Legislature

Warren Greene • Aide to Legislator Alden

Charles Gardner • Director of Consumer Affairs

Richard Baker • Deputy Clerk of the Legislature

Ed Hogan • Aide to Legislator Nowick

Joe Muncey • Budget Review Office

Kevin Rooney • Oil Heat Institute

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(* THE MEETING WAS CALLED TO ORDER AT 1:20 P.M.*)

CHAIRMAN ALDEN:

Good afternoon. Welcome to the Consumer Protection Committee Meeting. We will start the meeting with the Pledge, and we'll have Legislator Browning lead us in that Pledge.

SALUTATION

CHAIRMAN ALDEN:

I would also ask, and it's become a tradition, for a moment of silence for those that have given their life for our country and those that continue to serve to preserve our way of life.

MOMENT OF SILENCE

CHAIRMAN ALDEN:

Thank you. Charlie, I'm just going to start the meeting and have you come up. You know, for the benefit of new members, could you just give us a quick overview of your department.

DIRECTOR GARDNER:

Sure. Good afternoon, everyone. We have •• in the Office of Consumer Affairs there are currently 41 employees in our organizational chart. We actually only have 40 because one of those employees is on full time union release, he is a union officer, so we have actually 40 employees working. There are three main bureaus; the Bureaus of Licensing, which currently regulates and administers approximately 15,000 occupational licenses in the County, electricians, plumbers, home improvement, home appliance repair, furnishings, home furnishings, purchased metals. Bureau of Weights and Measures, which is responsible for the testing and inspecting of all weighing

and measuring devices throughout the County, all of the scales in the supermarkets, candy stores, fish stores, butcher stores, produce markets, farms stands, etcetera, as well as all of the gasoline pumps, of which we have approximately 11,000 pumps in the County, about 600 gas stations, the 800 or so fuel oil meters that are on each of the trucks for the approximately 200 or so home heating oil companies tested.

The LPG, the propane meters, we have approximately 130 of those types of vehicles, all of those meters are tested. They all have to be done at least once annually. On average, each one is done about twice because of repairs that might be made to them. The scales used in the precious metal industry are also tested by that •• by the Bureau of Weights and Measures. And the other bureau is just General Consumer Complaints where people complain about billing or refunds or overpayments or some type of a contract where the consumer feels that the terms and conditions of the contract are •• have not been lived up to by the vendor.

CHAIRMAN ALDEN:

Any members have any questions as to the jurisdiction of the Consumer Affairs Department?

LEG. EDDINGTON:

Thank you. I'd like to ask you about the Bureau of Licensing.

DIRECTOR GARDNER:

Yes.

LEG. EDDINGTON:

That I understand that they actually are, like, in the black. In other words, we are making money.

DIRECTOR GARDNER:

For the last couple of years the Office of Consumer Affairs has returned approximately one million dollars net to the County. Most of that overage would be due to the •• or come from licensing fees, that's correct. We've been running about two to two point million (sic), I think, on the budget, Joe. And we've been taking in about three to 3.1 million in revenue. So we're actually •• in other words, if you did away with our department entirely, the County would lose about a million dollars.

LEG. EDDINGTON:

But isn't Consumer Affairs •• is that an area that's supposed to kind of be like a scale that equals out? In other words, it's not supposed to be a profit motivated place, right?

DIRECTOR GARDNER:

Well, that's certainly not one the goals of the office, no.

LEG. EDDINGTON:

Oh, I actually thought it wasn't allowed to be, I didn't know it was optional. Oh, okay.

DIRECTOR GARDNER:

No, I wouldn't say it's allowed to be. I mean it is •• you know, in the past few years as the number of employees have gone down, revenues have gone up[.|.|.]. You know, like, so many other County agencies, the great majority of our expenses are in personnel. We were •• at one time, we were in the high 60s, for many years we were in the '50s, four years ago when we had the last early retirement, we had 46 people. I went from 46 people on Friday to 33 on Monday. I lost 13 people over the weekend.

LEG. EDDINGTON:

If I could just ask another. So in other words, your licensing in the last few years has gone way up, but your staff has gone way down?

DIRECTOR GARDNER:

Revenues have gone •• I wouldn't say way up, but, yeah, revenues have gone up and staff has gone down, that's correct, especially over the last four years, yes.

LEG. EDDINGTON:

Okay. Thank you.

DIRECTOR GARDNER:

Again, almost entirely contributable to the early retirement.

LEG. EDDINGTON:

Thank you.

CHAIRMAN ALDEN:

There was a balancing and it was about a year ago, Legislator Lindsay had taken on •• it was a pretty, you know, like, large task to look through all the different licensing fees and try to, you know, like, equalize and create something that was little bit more fair and a little bit more, you know •• not sympathetic, but just so that in common sense •• it made a little bit more common sense, like the amount of money to take tests and things of that nature and to get the different licenses.

So that was updated about •• within I'm going to say the past year and a half maybe ••

DIRECTOR GARDNER:

That's correct.

CHAIRMAN ALDEN:

Maybe two years.

DIRECTOR GARDNER:

And if you took a •• naturally it depends where you want to take your snapshot. If you take a historical snapshot, I mean, we only started with this positive revenue flow just in the last few years. So it depends if you want to look at last year, you want to look at the last three years, you want to look at the last five, you want to look at the last ten. Certainly, if you looked at the last ten, you would not show a net positive revenue flow. So •• and again, most of it is, again, because of staff.

CHAIRMAN ALDEN:

Sometimes that works against us, because we Legislators tend to put in, you know, legislation that would require Charlie to do more stuff with fewer people, and, you know, it gets ••

DIRECTOR GARDNER:

Our motto is we can do anything, we just can't do everything. So, you know, the more we get, certainly there's other things that have to be either trimmed back or still on our list of things to do, but maybe we just won't quite get there.

CHAIRMAN ALDEN:

Good. Anybody else? Charlie, could you just fill us in, we're almost through the heating season. Were the complaints up this year, down this year, was it fairly steady as far as contracts?

DIRECTOR GARDNER:

Complaints were fairly steady. The home heating oil right now is ranging between two and \$3 a gallon, it's about an average of around 2.50, 2.55. The COD people naturally are at the bottom of that scale, because of the reasons we've gone over in the past, you know, the way they run their

companies compared to a full service company. Gasoline is running about •• the average right now is about 2.47. It had dipped a little bit, went back up a little bit. But it has been more stable in the last month or so than it had been prior to that.

CHAIRMAN ALDEN:

Luckily, this year's supply wasn't interrupted of anything really.

DIRECTOR GARDNER:

I would say mainly because of the 12 to 14% decrease in degree days, in other words, that we've had such a mild winter. You know, that could be a two•edged sword in that some of the oil companies that are expecting to sell X amount of millions of gallons over the season, then they don't, I mean, sometimes •• now, they've got to raise the price to, you know, make the same amount of money that they wanted to make or were expecting to make. But, yes, certainly the mild winter helped us. And if you remember in November they were predicting a cold winter. Thank God that didn't happen.

CHAIRMAN ALDEN:

So much for predictions too.

DIRECTOR GARDNER:

Yes.

CHAIRMAN ALDEN:

Legislator Horsley.

DIRECTOR GARDNER:

Yes, sir.

LEG. HORSLEY:

Commissioner, just a quick question. Tell me about if I have a complaint, and this has occurred, where I have a constituent that calls particularly about a home contractor or things like that, how long would it take before you would address that issue? Do you have •• do you have an idea? I know your constraints and things like that, what would you say would be the average time that actually started to •• the file is opened and you start making phone calls and investigating, etcetera?

DIRECTOR GARDNER:

Well, the file is opened pretty much immediately upon receipt. Within 24 hours of the complaint coming into the office, the file is opened. It then depends on the nature of the complaint and against whom the complaint is. For instance, if it's against a contractor that we already have open cases, that is kind of taken up quickly and added to that packet. So I might have an investigator that is already working on three or four complaints against ABC Construction Company. If that complaint comes in, that will be looked at much more quickly, because when a complaint comes in and it's against a licensed contractor, the first thing we do is send a letter to that contractor.

And basically in plain English, the letter says, Mrs. Jones says this, and here's the copy of the contract, etcetera, all the details of her complaint, what say you? And the contractor then usually has •• if it's a licensed contractor, has

ten days to two weeks to reply to that. So we'll get the reply from the contractor. That's when the real nuts and bolts of the investigation or the resolution of the complaint starts to take place, because we need to get the other side.

Most of the complaints are generally three sides; there's what the consumer says, what the vendor says, and the truth generally lies somewhere in the middle. The next caveat we have to consider is if it's against an unlicensed contractor. If a complaint comes in against an unlicensed contractor, they don't get the courtesy of a ten day letter or a two week letter. Because first of all, if they are •• if they have done home improvement regardless of whether the complaint is valid or not, that's a criminal action, that's a misdemeanor in the County of Suffolk, because they did not have a license.

So the criminality part of it kind of takes a little bit of precedence over consumer's complaint. We will contact that •• attempt to contact the contractor immediately or as quickly as possibly to get an answer. We want to get the contractor into the office. If the contractor is working, we want to know where the site is, and we'll go to the job site. And many times the consumer then gets a little upset because we stopped the job because they are unlicensed, they are not allowed to work in the County of Suffolk.

So I guess it kind of •• it depends if we have open complaints against a contractor, it depends if the contractor is licensed or unlicensed to answer that question. But in general, if it's a complaint against a licensed contractor against whom we have no open complaints, before the consumer will hear anything, approximately two to four weeks at least will go by, because we get the complaint, we process it, we send it out to the licensed contractor, we wait for that contractor to answer it, to come back in, and then start the investigation.

LEG. HORSLEY:

And you've been keeping on this schedule pretty much? Because I had an instance where one •• where when we called it in someone said, "Well, we're so busy at the moment," that type of thing.

DIRECTOR GARDNER:

Well, let me just say •• and the committee is aware of this, in the last, let's see, it started in about October, so that's in the last five months, we went from four investigators to one, four home improvement investigators to one. So we are back up now to two, we are hiring number three as of this coming Monday, and we'll get back on track. And it was through no one's fault or anything else. They were budgeted positions, but one fellow, as I mentioned at the outset, he left our office.

LEG. HORSLEY:

So if we recall on this particular issue, if it's still germane •• I know it apparently has been brought to the attention of the DA's Office and things like that ••

DIRECTOR GARDNER:

Well, if it's been brought to the attention of the DA's Office, that means it was an unlicensed contractor.

LEG. HORSLEY:

Maybe so, I'm not sure to be honest with you. I just wanted to check to see what you're •• how you are approaching these issues. But this backlog will be cleared up, if there is a backlog, simply by these hirings of the four people?

DIRECTOR GARDNER:

Well, as of •• in fact, we had been up to 170 cases per investigator. Just as of last week, we're down to 141, 101, 78, that's an electrician investigator, where most of those complaints are home improvement, they're really not electricians, but since we're down, he is also handling home improvement. So that dropped down a little bit. But we get about •• we average about 100 home improvement complaints new per week.

LEG. HORSLEY:

Wow.

DIRECTOR GARDNER:

I'm sorry. Not per week •• 100 per month. We get about 12 to 1400 home improvement complaints, just home improvement now, nothing electricians, plumbers, Macy's, etcetera. We get about 12 to 1400 per year, we get about 100 new ones per month.

LEG. HORSLEY:

Thank you.

DIRECTOR GARDNER:

You're welcome.

CHAIRMAN ALDEN:

Legislator Browning.

LEG. BROWNING:

Yeah. Wayne just brought something up, and in my district I actually have an incident going on, and evidently the contractor has been fined. Are they still required to continue to finish the job even if they are fined?

DIRECTOR GARDNER:

Of course. Again, if they are licensed. I mean, if they're licensed, a fine •• you know, there are penalties for disregarding building codes, disregarding state codes, disregarding County codes, not working •• not fulfilling the terms and conditions of the contract, not having a start and completion date on the contract, not giving the three day right of rescision. There are all kinds of things that a contractor might be fined for, but because they pay a fine, doesn't mean that •• you know, what the consumer said is or is not valid or if they pay a fine, well, we fined them, you know, that's it. The complaint •• the allegations of the complaint are looked at by the individual investigator.

And, again, really we go by the contract. The contract is the main tool of the investigation and/or resolution of the complaint, because it depends on the terms and conditions, not what he said or she said. We look at the contract,

and the contract is the guiding instrument that takes us through the resolution of a complaint.

LEG. BROWNING:

And if you get reports about a particular contractor who is licensed and, you know, he has been fined, whatever, you know, how many reports do you decide that, you know, maybe we need to take his license away?

DIRECTOR GARDNER:

There's no set number, because it depends on the complaint. In other words, if we get a complaint that's on a \$100,000 job and the consumer has paid \$85,000 up front and no work has been done and that's the only complaint against the contractor, we go immediately to the District Attorney's Office and work with them.

LEG. BROWNING:

You don't have, like, this person's got a real history of complaints?

DIRECTOR GARDNER:

Oh, sure. My point is there's no set number, because it depends on the quality or the type of a complaint. It could be one, it could be some people who do a lot of business and really do too much business, do more business than they really should be, and they are fine about 95% through the job, they just don't finish the job, you know, then when we call them, they take care of business and it's taken care of in a couple of days. But again, that

only goes so far. After a while we have to tell them, "Look, we are not your consumer complaint department. We don't exist •• the taxpayers of this County don't pay for us to resolve your complaints, you have to take care of this." And the facts that well, I had 15 complaints in the last two years and I took care of all them, you know, not for nothing, but we have better things to do than take care of all your complaints. You're supposed to take care of them yourself

And honestly, since the County has been licensing for a little bit more than thirty years now, and I can tell you that there are thousands and thousands and thousands of contractors who have been in business over that time or most of that time against whom we have had zero complaints, none, absolutely never had a complaint and been in business for 20 years or more.

LEG. BROWNING:

It should be that way.

DIRECTOR GARDNER:

Most of the complaints that we're getting are home improvement, most of them are people who have worked for somebody for a couple of years and figured, I can do this, I don't need this guy, and they don't have a clue, they have no business sense, they have •• they can't inspect a job, they underbid and they get half way through the job and realize, uh•oh, I'm in trouble, there's no way I can finish this job. It's very few that are really scam artists and really the bad guys, unfortunately they are really bad. And those are the ones that we most spend most of our time with with the District Attorney's office.

I mean people that come in and somebody has taken out usually a home equity loan or they get some •• they get a nice pot of money from some place, people don't have the experience in dealing with this. It's not like well, the next time I do this, or, you know, the last time I did it, generally speak, they went to a big job, and it's for the most part the first time they have done it. And they will give people 90% or all •• the contractor •• of that money up front, because they think they're going to be the contractor's next best friend. And it's a \$100,000 job and they give this guy 90 grand. He hasn't done a thing yet, and they give him \$90,000. Now, that's bad enough, but then when •• and too often that contractor skips, doesn't do anything, never starts.

That's •• we can work with the District Attorney's Office on those because that's a grand larceny, because no work has been done. So there's nothing to prove about the work that has been done, meaning that if they start the job, we go into court and the defense attorney will claim •• we'll say, he took \$50,000, he did about \$15,000 worth of work, Your Honor. The defense will say, that's his opinion on 15,000, my client is very, very top shelf, that's really \$40,000 worth of work. And when it gets subjective like that in the courtroom, we usually lose.

But the worst ones are the contractors who start the job, rip out the kitchen, rip out the bath and leave and never come back. Now the consumer has no money, they are repaying •• you know in a repayment status with the loan, and they have no kitchen and they have no bathroom. Those are the people that should be hung by the heels. But then it goes into the court system, and we have to deal with it. So you want to lose your money and have no •• at least you have your old kitchen, you still have that. But the guys that start the job and walk away •• now you have no kitchen and no money, and you can't get another loan, because you just went and got a home equity loan. We have absolutely no sympathy for those people, obviously.

LEG. BROWNING:

Thank you.

CHAIRMAN ALDEN:

Legislator Eddington.

LEG. EDDINGTON:

Thank you. It's my understanding, I just learned recently that, you know, I'm saying this for Kate's benefit, that I heard that you have tracked the Irish Travelers, that there's a group that have gone up and down the East Coast.

DIRECTOR GARDNER:

Sure. Mainly driveways using black paint or very thin based oil products, absolutely. Not only do they do that in the driveways, and obviously, it's a horribly incompetent job, but the worst part is that there is usually a second or third accomplice who is talking to the senior citizen because they love to prey on the senior citizens, and while they are doing that lousy rotten job on the driveway, they are also •• the second or third accomplice is going into the house by asking for a drink of water or can they use the bathroom, and then they case the house and burglarize the joint besides, absolutely.

LEG. EDDINGTON:

Thank you.

DIRECTOR GARDNER:

And, yes, we do track them and, yes, we work with the District Attorney's Office and other jurisdictions on those people.

LEG. BARRAGA:

But I understand they're not all Irish.

DIRECTOR GARDNER:

Absolutely not.

CHAIRMAN ALDEN:

Thanks, Charlie. If you could just sit there for a minute, we'll go right into the agenda. **1247, a Local Law to facilitate implementation of reciprocal municipal livery business registration.**

I'll make a motion to table it. Seconded by Legislator Browning for a public hearing. All those in favor? Opposed? 1247 is **tabled** for a public hearing. **(VOTE:6•0•0•1 • Not present • Legislator Jon Cooper).**

Memorializing Resolution M. 004, requesting the State of New York to repeal the monthly administrative fee for electronic toll collection.

Did they do that yet? They're still considering that, right? I make a motion to approve, seconded by Legislator Eddington. All those in favor? Opposed?

LEG. BARRAGA:

Opposed. I'd like to speak on the resolution.

CHAIRMAN ALDEN:

Oh, I'm sorry.

LEG. BARRAGA:

I just wanted to make it clear as to why I will probably normally be voting against these Memorializing Resolutions. I have certainly nothing against the subject matter of a given resolution. I mean, everyone has heard about this administrative fee as it's laid down by the way of MTA and EZ Pass, and the same way with the affordable housing this morning in a different committee. But the whole question of Memorializing Resolutions in terms of how effective they are when they are final delivered to the New York State Legislature or at the federal level has to come into some serious scrutiny.

I understand the Legislature here, and I was part of it, did away with Sense Resolutions, but Memorializing Resolutions fair no better. I mean, what you are doing here really here is putting in a lot of time and effort. Somebody has to write these resolutions, they come to the floor, you go for a vote, and then they're send off, say, to the State of New York. Two hundred and ten pieces of mail that are delivered to every Assembly person and Senator, frankly, most of it winds up in a circular file, to be nice, because you have many different county Legislatures thoughtout the state doing the same thing. And in many cases it's not 210 pieces, sometimes you get a piece in Albany and the same piece comes down in your district office.

When you take a look •• a good example is this one right here. Who is the prime sponsor of the bill? A local Legislator, Ginny Fields, I know her very well, she is very familiar with the issue. She doesn't need this. There's

enough mail coming up there. Save some time, save some money. If you feel strongly about the issue, then write a personal letter out of your district office to the prime sponsor in the Assembly and the Senate. And you know something? They will get read, because when a letter like that comes to an Assembly member or a State Senator and it's a local Legislator, you want to pick it up, because you feel, number one, they must feel pretty serious about this issue otherwise they wouldn't be writing you, you number two, especially if it's a local Legislator, I don't want to suffer the embarrassment of being at a social function only to have Mr. Horsley come up and say to me, "Gee, Tom, did you get my letter?" On what? Well, on affordable housing. Oh, yeah I did get it and I read it.

So the probability when a personal letter from a County Legislator comes to a State Assembly person or a Senator of that person reading it is very, very high as opposed to what you are doing here. These Memorializing Resolutions, they do not fair well. You're putting in a lot of time and effort for, you know, a reward aspect, which is almost minimal. And if the papers are true and you're talking about a \$66 million or an \$86 million deficit depending upon who is saying what, whether it's the County Executive or the Budget Office, one way to save money is do away with these things. And you'll save a lot of time and effort up here. Now, a number of County Legislators have gotten message. Legislature in the state, they've stopped doing this. And they've restricted it to basically, you know, if an individual Legislator has a problem, he writes a letter or he contact the prime sponsor in each House.

CHAIRMAN ALDEN:

I'm in favor of this as the prime sponsor. I felt that nailing down all lose ends •• because actually, and prior to you mentioning it right now, I've written, but I've also called my local representative •• not local, but my State Representatives, and I've asked them to try to take care of this. I've gone a little bit further now too, I've contacted people in the authority that I felt maybe should have gone a little bit further a little bit stronger and made their point.

I feel, though, that this is •• it ends up sending, not just one Legislator, it shows that there's a united •• whichever way it ends up as far as the vote goes, that there's •• if it passes that there's a majority of the Legislators that feel the same way. But I do want to take one point that you made, and I actually agree 1000% with it, I think we waste a lot of paper here, and I'd be more than happy to go paperless and just electronically, even though I don't have the skills to do that myself, but Maria has more than enough skills for my office. So if we wanted to go paperless at some time, I'm 100% in agreement with that, because I do think we kill too many trees and waste a little bit of time and energy on the paper end of it. But having said that, again, all those in favor? Opposed?

LEG. BARRAGA:

Opposed.

CHAIRMAN ALDEN:

One opposed. That resolution **passes (VOTE:5 • 1 • 0 • 1 • Opposed; Legis. Barraga • Not present; Legis. Cooper).**

That's all the business we have unless someone else wants to bring it up. But I would like to call on Legislator Horsely and just remind people at the end of this month we have an opportunity to talk to, I think it's first, Richie Kessel •• Catell first from KeySpan to explain a little about what's going •• and it's going to be a joint meeting between us and Economic Development. And just to kind of find out from Catell what's going on with the KeySpan merger and some of the delivery of services on Long Island.

And then coming up after that, we'll have Richie Kessel address a joint meeting between Economic Development and Consumer Protection to explain a little about what's going on with LIPA and some of their plans for the future and some of the things they're doing right now. So just as a reminder, one of those meetings is a Special Meeting on a Monday, the Catell meeting

coming up at the end of this month, and then the other one will be during the regular cycle. All right. Anything else? Nothing? Okay. We stand adjourned. Thank you. Legislator Cooper has an excused absence.

(* THE MEETING WAS ADJOURNED AT 1:48 P.M. *)

_ _ **DENOTES BEING SPELLED PHONETICALLY**