

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, September 13, 2006.

MEMBERS PRESENT:

Legislator Cameron Alden • Chairman

Legislator Jon Cooper • Vice • Chair

Legislator Lynne Nowick

Legislator Tom Barraga

Legislator Kate Browning

MEMBER NOT PRESENT:

Legislator Ricardo Montano

ALSO PRESENT:

George Nolan • Counsel to the Legislature

Maria Barbara • Aide to Legislator Alden

Charles Gardner • Director of Consumer Affairs

Richard Baker • Deputy Clerk of the Legislature

Joe Muncey • Budget Review Office

Kevin Rooney • Oil Heat Institute

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(* THE MEETING WAS CALLED TO ORDER AT 9:52 A.M. *)

CHAIRMAN ALDEN:

Good morning, and welcome to the Consumer Protection Committee Meeting. We'll start the meeting, and we'll do it with the Pledge. We'll have Legislator Jon Cooper lead us in that.

SALUTATION

CHAIRMAN ALDEN:

As usual, we will observe a moment of silence for those who have given their lives for this country and for those that continue to be in harm's way.

MOMENT OF SILENCE

CHAIRMAN ALDEN:

Thank you. We have one card. Pete, good morning. Come on up.

MR. QUINN:

Good morning, members of the committee. I note that in Babylon Town and in •• some Legislators have opposed the wind project on perfectly good grounds; low candle watt, megawatt power during time of need in peak load in summertime for aesthetics and because the •• of the \$500 million cost. That's fine. But what is the renewable energy alternative that this body will consider?

I note that LIPA didn't meet its commitment. It agreed in 1999 to build 10,000 solar roofs. To date, its built, after over eight years now, it's built fewer than 600. So it's got a long way to go in a couple of years to meet its commitment. I propose •• by the way, we have been paying \$500 million each year since the takeover for debt services and amortization without getting us • that's over \$4 billion •• without getting us a kilowatt of electricity. That's astounding. That's 23% of our electric bill.

I propose an alternative, sit down with the powers that be come January and attempt to sell off the Queens section of the LIPA service territory, try to raise some \$3 billion, after all it's 125,000 customers and upgraded transmission and distribution lines. Then with a reputable auctioneer, which would charge half the cost of what an industrial •• pardon me, and institutional buyer and seller of bonds would sell, hold an auction on the internet, allow Suffolk and Nassau residents in the new LIPA to purchase stock, take over the company and ultimately pay off the balance of the debt with these bonds •• with those stock prices and become independent so that we ultimately can choose our own energy destiny.

And maybe then instead of the proposal I had made a year or so ago that you sell \$50 million in bonds to promote solar energy, you control the company. And hopefully, you'll pass this along to the new Governor. And maybe at some point, we can reduce our energy costs through renewable energy. I'm hopeful that you will consider that potential. I've already provided it in writing to you and given to Steve Levy since I'm a member of that Energy Advisory Committee, but I'd love to see some action.

CHAIRMAN ALDEN:
Mr. Presiding Officer.

P.O. LINDSAY:

Pete, first of all, just because one Legislator or two Legislators come out opposed to the wind project, don't assume that that's a position of this body. I think it's still something a lot of us are looking at. So that's one assumption. The second one is I got your paper and I read it with great interest. Aren't we, like, reversing ourselves? I mean, 20 years ago, we were screaming

for public power, that we didn't want a private company, a stockholder's company with the profit motive controlling our power. We wanted LIPA. Aren't we just reversing that decision of 20 years ago by your proposal?

MR. QUINN:

No. When LIPA came into being a state agency, we had great hopes for its •• and I was one of those who helped Paul {Herringberg} and Steve {Lizt} write the language of the LIPA Bill. But we wanted an elected board, that never occurred, and the powers in Albany controlled it through an appointee system, and the takeover resulted in our having to pay LIPA stockholders in full. And that resulted in the huge debt, which we still have. And it's a state agency, not a private company. But what did LIPA propose? They proposed •• one of the things they proposed is buying the generating plants from KeySpan, but another •• another proposal they made is to turn it into •• sell to a private entrepreneur. And with that prospect, we be would paying debt on top of the current debt, because entrepreneurs would have to take over and sell bonds in order to buy LIPA.

P.O. LINDSAY:

But in your proposal, aren't you proposing the same thing, that we provide a private company, that people would buy •• buy stock in?

MR. QUINN:

But Long Islanders, ratepayers, would own LIPA. They would hire a management firm since few of them have the expertise to run it, but we would be •• in the long run, we would be far better off, because we would have paid off the bonds. And we

wouldn't •• we would have stockholders, that's true ••

P.O. LINDSAY:

We would pay off the bonds by the sale of the stock.

MR. QUINN:

And by the sale of the Queens service territory.

P.O. LINDSAY:

Okay. But, for example, I am a ratepayer, and I bought stock in this new private company, I'm going to expect a return on my investment.

MR. QUINN:

And of the •• you will note from my comments in the written article that I wrote was that we would ask •• I mean, we would then be back under the aegis of the Public Service Commission, but we would call upon the stockholders to wait for a period of time before it received guaranteed rate of return on its investment and dividends. So that •• and that happens. In many companies, they do not provide dividends. But this would •• they would delay receiving either a guaranteed rate of return on their investment or dividends until such time as we could use renewable energy sources to guarantee that we are never going to reach that peak load in July or August when we're using 5500 megawatts.

If we ventured into a renewable energy plan, we would probably never achieve even 4500 megawatts of power on that •• I mean, think of how utilities are run. That one hot humid day of summer has to be provided for. The other 364 days a year, we rarely achieve that kind of megawatt usage. As a result, we are victims of one day of hot weather for two or three hours. Isn't there a remedy through renewable energy that could achieve reductions and put more money in people's pockets than paying bond holders, financial institutions and Wall Street? That's the question I ask. And I think the remedy is for Nassau and Suffolk residents to take control over their own energy future.

P.O. LINDSAY:

It just seems to me that we're reversing where we were 20, 25 years ago. And I think an easier solution, if LIPA is flawed, fix it.

MR. QUINN:

I don't see any way to get out from under paying •• I mean, we are paying bonds to the Year 2031. So what you are saying is, wait. I say seek a remedy now. Thank you.

CHAIRMAN ALDEN:

Legislator Barraga.

LEG. BARRAGA:

Pete, let me make sure I understand this. What you're proposing is selling off the assets of LIPA in the Queens area a to private entity?

MR. QUINN:

Possibly to Con Ed, although Con Ed hasn't received a lot of applause from Queens residents. But they seem like the logical fit since they are in the borough that Con Ed already controls. I mean, they already control Manhattan, Bronx, Westchester. It would seem a logical fit for the City.

LEG. BARRAGA:

Whether it's a private entity or another utility company. I guess, my question centers around the revenues generated from the sale. Are you saying that that revenue now would be used to pay down the bonded indebtedness that LIPA currently has?

MR. QUINN:

Yes.

LEG. BARRAGA:

Now, you know, that's what I'm questioning, because historically authorities and even government entities, when they have an opportunity to sell an asset or there's an influx of revenue, they don't normally pay down debt. What is most normally done is they just spend the money on other programs, because paying down debt, politically and a lot for other reasons, it's pretty dull,

because people are already living with the indebtedness, so there's not a lot of zeal on the part of people who can to pay down the debt. They'd rather take the money if it's a billion or two billion and put it into new plants, new fixtures, whatever it may be. So you are really going •• your's is a logical position, but it's contrary to what normally is done by over 600 authorities in the state and a lot of different levels of government as well.

MR. QUINN:

There would have to be covenants written into an agreement that would assure that the money •• I mean, certainly Wall Street doesn't want •• I mean, they control the bond market as evidences by mergers, takeovers and acquisitions, which gives them extraordinary profit. But if you write •• if you have attorneys writing the right language, you can assure that those bonds are used to pay down the debt.

LEG. BARRAGA:

All I'm saying is that Long Island Power Authority in terms of a public authority probably ranks seventh or eighth in the state in terms of the outstanding debt associated with it, it's between six or \$7 billion.

MR. QUINN:

It's \$7 billion according to their own budget.

LEG. BARRAGA:

Seven billion. I haven't looked at it for a while. And most people are unaware of that, and they could care less. So there's no great pressure on LIPA officials or anybody else to pay down the debt.

MR. QUINN:

That I'm well aware.

LEG. BARRAGA:

Okay.

MR. QUINN:

I've been making that pitch for a long time. And I understand that elected officials don't want to get involved in utility rates. They're more than concerned about reducing taxes, cut taxes. When it comes to rates, which are in effect taxes, they are less amused to want to become involved. But I'm making the pitch that they should. When you think that we're paying 23% of our electric bill is money that is going to the financial institutions and Wall Street and to the bond holders, I mean, that's like having a credit card that's almost a usurious rate and nobody's questioning what we should do about it.

CHAIRMAN ALDEN:

Pete, before you leave, I have, you know, like, just a little bit of a question too. That's looking at almost, like, the supply side. So you're talking a little bit of building new plants, renewable energy and things like that. Wasn't most of the money that was given to LILCO, it was to pay for the acquisition of a distribution

system, and the distribution system is 50 years old and really is worth junk. It's worth nothing. Even today it's worth nothing.

MR. QUINN:

No. That's not true.

CHAIRMAN ALDEN:

It needs to be rebuilt completely.

MR. QUINN:

No. What happened to give you a little history, back in '96, when LILCO filed for a rate increase before the Public Service Commission, and I was an intervener at that time, there were plans to spend over \$500 million on upgrading the T&D system. When Lou {Thompson}, Governor Pataki's aide, came down and convinced {Catacasinos} about the takeover and promised to pay LILCO stockholders in full, {Catacasinos} changed his mind. They did no upgrading.

When LIPA took over, they had a decrepit T&D system. Since then, LIPA has spent 1.2 or \$1.4 billion on upgrading the T&D system so that it •• that in the long run has saved the public money because an upgraded system uses less energy. So it's been improved substantially. And that's why I argue that an upgraded system plus 125,000 customers from Queens would bring us revenue which could reduce the bonds.

CHAIRMAN ALDEN:

We're still in a •• you know, we haven't been hit with it, but we're in a hurricane zone that our distribution system is like 97, 96% above ground, whereas if you go to other areas, like any planned community that's being done in America now, it's an all •buried distribution system. Why? Because of nature. When you get hit with, you know, a tropical storm, you get hit with a hurricane or even a nor'easter, it's going to take out a good portion of our system as we saw down in the Gulf States. That's what I meant by an antiquated distribution system that is very, very prone to major breakdowns which are going to cause major, major types of •• if we ever have a storm, a major replacement, which, again, is going to be passed on to ratepayers.

MR. QUINN:

Well, if there were a recurring tree cutting effort made to remove •• most of the damage that's caused to transmission and distribution lines, comes from falling trees. If you were to remove •• if you had a massive tree cutting effort to remove limbs from various distribution lines, you'd cut the cost tremendously, and there wouldn't be that fear even from hurricanes, although poles do come down. To put all of those poles and wires underground would triple the cost of LIPA's cost today. They say it to themselves.

CHAIRMAN ALDEN:

An intelligence program would have been to try to bury, you know, part of this system or have a program, maybe it's a 20 year or a 30 year program, but •• and that's when it should have been rebuilt, 20 years ago, but that program should have been in •• really put in place a long time ago.

MR. QUINN:

Oh, it should have been.

CHAIRMAN ALDEN:

now, on a Different subject. I just read within the last month that there's a company in Australia that's doing a lot with wave power basically as far as generating electricity. And I don't know if you guys have looked at that. But the other thing is going back a number of years, Niagara Mohawk when it was Niagara Mohawk Power, so they were using water power from the Niagara River, they didn't know what to do with their electricity. And we •• not we, but LILCO never signed on to buy any of their output. I don't know if there's still ••

MR. QUINN:

We've had hydropower for years. And many companies through NYPA get reduced power from hydropower Upstate.

CHAIRMAN ALDEN:

Right, but I'm talking about on Long Island. We don't get any of that power except for a couple of programs where they get reduced rates, like Newsday, I believe, gets a reduced rate and a couple of other companies.

MR. QUINN:

There are about 150 companies on Long Island that benefit from Upstate hydro •• have over the years, through NYPA, not through LIPA.

CHAIRMAN ALDEN:

Great. Okay. Thanks. Any other questions? Thanks, Pete.

MR. QUINN:

Okay. Thank you.

CHAIRMAN ALDEN:

All right. Charlie. We have Mr. Gardner with us today too. Charlie, there were a couple of ongoing things •• there was the investigation of, I believe, it was a real estate company that was being sued by us and the Attorney General.

DIRECTOR GARDNER:

Yes. For Sale By Owner. That case was recently closed. It was settled. There were 40 complainants who received checks back. Our office held them in escrow until the case was settled, and then sent the refund checks out. They were a partial reimbursement to 40 of the consumers who had complained to our office. That was done •• that was a decision by the hearing office rather than to levy a maximum penalty, which would have been somewhere over \$20,000 into the General Fund. The penalty, the actual fine that they paid was \$1300 and then there was another \$10,000 refunded to the consumers who were injured in that the injury was that they didn't get what they were promised by the company.

CHAIRMAN ALDEN:

And there's a swimming pool company that was selling and not delivering.

DIRECTOR GARDNER:

That's ongoing. That hearing has been adjourned. I believe it's next week. We have more than 30 complaints now against that

company. The pattern is simply nondelivery, not living up to the terms of the contracts, people who have paid in full for pools to be constructed as late as June, some of them who had paid last year, September, October and November and still did not have pools. Since the publicity about the case, many of those consumers have now been, not surprisingly, taken care of by the company. But that does not change the fact of the injury that was caused by their inaction and their failure to deliver.

CHAIRMAN ALDEN:

Okay. Now, gasoline and fuel oil, are there stock piles?

DIRECTOR GARDNER:

Well, the good news is that in the last two weeks, we had a very tremendous drop in gasoline. We're back to where we were six months ago. I guess we're supposed happy now that average price is down to about 2.75 now. Lowest in Suffolk was 2.63. So it was a very precipitous drop in two weeks. Also heating oil finally dropped about seven or eight cents gallon down to, again, we should be clapping our hands, I guess, down to a low of \$2 a gallon. Some of the cap prices now are being offered we hear at 2.59 2.69 for the coming season.

CHAIRMAN ALDEN:

What's the reserves that we have on the Island if everybody •• and I know their private companies, but is it a week or two weeks of ••

DIRECTOR GARDNER:

Just on the Island?

CHAIRMAN ALDEN:

•• of heating oil, yeah.

DIRECTOR GARDNER:

No, more than that, yeah, because that's a continuous delivery system out at Northville or offloading at Port Jeff or coming in at Oceanside. You know, that's a continuous resupply problem •• • resupply process.

CHAIRMAN ALDEN:

Now, are we still doing the sting operations on home improvement contractors?

DIRECTOR GARDNER:

Yes. And we're still working with the seven precincts. We also •
• there's another law enforcement agency that we're about ••
that we're launching an investigation with also coming up, but,
yes, we are •• it's ongoing with the police, the COPE units and
the Street Crime Units in each of the precincts.

CHAIRMAN ALDEN:

Good. And how about manpower, are you okay, could you use something?

DIRECTOR GARDNER:

We're working right •• the County Exec's Office is working right now on filling our •• we have three positions, as you know, from the last meeting that are vacant; a Consumer Affairs Investigator, a Home Improvement Investigator and a Clerical

position that we're looking to fill. That's in the process now.

CHAIRMAN ALDEN:

I don't see Ben here, but I'll try to convey that to •• I'm sure he is aware of I think, but really that is something that needs to be taken care of, I think. Sooner rather than later. Do you have people •• are you interviewing for those jobs?

DIRECTOR GARDNER:

Yeah. The canvassing process has started. The first one is •• we just lost our Office Systems tech, which is very critical to the day•to•day operations of the office. He left, he relocated to California. So we're in the process right now to interviewing to fill that position. In the mean time, MIS is helping us out on a daily basis until we get that hiring complete.

CHAIRMAN ALDEN:

Okay. Your boards are filled and all that.

DIRECTOR GARDNER:

The boards are in the •• I just got a note that the people •• the terms that have expired or the new ones are •• as you know, the last meeting we did seven or eight, and we have another seven or eight coming up, I believe, for the next meeting.

CHAIRMAN ALDEN:

Okay. Good. Any questions? Legislator Nowick.

LEG. NOWICK:

Good morning, Charlie.

DIRECTOR GARDNER:

Good morning.

LEG. NOWICK:

Back to the swimming pool company. My concern would be if you have this company selling contracts for a swimming pool, swimming pools •• what is it •• after six months, seven months, eight months a year were never delivered. Some of these people did get their swimming pools delivered after there was a advertisement in the paper, others did not; is that correct?

DIRECTOR GARDNER:

Some did definitely. I don't know if any of complainants •• let's just say that the company has been working feverishly to fulfill whatever complaints that they have now on record. But there were so many •• I mean, if we have over 30 complaints, you can •• you can bet whatever you want to bet that there's well over 100 people at least that have been dissatisfied.

LEG. NOWICK:

Well, did this company just overbook or was there intention to •
•

DIRECTOR GARDNER:

Well, we don't know that yet. That will •• hopefully that will come out in the hearing.

LEG. NOWICK:

Now, if one of our constituents or taxpayers of Suffolk County did contract with this company and after seven months they said that's it, I've had it, I want my money back, do you have a remedy to get the money back from the company? You do.

DIRECTOR GARDNER:

Yes, because they hold our license.

LEG. NOWICK:

So you can go to a company and say, you know what, it's eight months, these people have a right to their money.

DIRECTOR GARDNER:

Let's not talk about the company in specifics, let's just talk about in general. The remedies that the office has or that a hearing officer has in this type of situation when you're dealing with a licensed contract as opposed to an unlicensed contractor. When you're dealing with a licensed contractor, the biggest hammer that Suffolk County has is the license. So a hearing officer can make several recommendations to me as the Director of the Office for a final decision, a final remedy coming out that hearing. Those recommendations carry a lot of weight if I agree with them, and then that decision is then basically give to the

company, take it or leave it. The license is what is in jeopardy. And generally speaking, if the contractor is legitimate and for whatever reason decides the foul-ups had occurred and wants to remain in business, they're going to cooperate with the office and do whatever it takes to quote, unquote make us happy as well as make the consumers happy in order to keep their license.

LEG. NOWICK:

So if it's a reputable company, of course they would want to keep their license and then you can possibly get the money back and say, hey, this particular ••

DIRECTOR GARDNER:

Satisfy the consumer, period.

LEG. NOWICK:

And if they're not a reputable company and you pull their license ••

DIRECTOR GARDNER:

Well, see, if they don't •• if we have a hearing •• if the company does not have a license then it's a criminal operation.

LEG. NOWICK:

Then you are out.

DIRECTOR GARDNER:

We're out in the sense that it moves into the Criminal Justice System. If they don't have a license and they take care of the complaints, they take care of the consumers, they pay whatever penalties under our •• don't forget it was just a couple of years ago that the Legislature raised the maximum penalty for an unlicensed contractor is now \$5000. So if they paid the penalties, if they made restitution, if they made the consumers whole, if they sworn on the Bible that they're going to do what they have to do and follow the law, I'll grant them what's called a conditional license. I might grant them a license, they might have to pay a bond, and we will keep that bond, in affect, for the two years of the license. There are many things we can do even for an unlicensed contract who does want to do business in the County. Now, if they're unlicensed and they don't care, then they go into the Justice System.

LEG. NOWICK:

If they're brought to your attention, though, the unlicensed, and they want to do it to stay in business, they have to come and have a license. They've been operating all this time without it.

DIRECTOR GARDNER:

That's correct. That's correct.

LEG. NOWICK:

Okay. Thank you.

CHAIRMAN ALDEN:

Any other questions of Charlie? Thanks, Charlie. I just want to bring one thing to everybody's attention. I'm sure that some of you have gotten the same thing that I got. A number of constituents have contacted me about their phone bills, whether they be land lines or they be cell phones. And I'll just read this. This pretty much sums up most of the complaints •• or correspondence I've been getting on this.

"My Verizon telephone bill just arrived. Every month I get more upset. Just to have a dial tone the bill is \$9.85, local calls were \$3.33 and the taxes were \$10.59." Then she goes on to say that how it bothers her so much that she doesn't even •• she's not even able to sleep. And I contacted Verizon, and this is in a way funny, but it really isn't. "Dear Legislator Alden, we frequently receive questions pertaining to this topic. I am attaching a document that explains a lot of it. This doc is fairly current with the exception of the federal excise tax which was recently done away with after many years of vigorous lobbying by the telecom industry. It was originally instituted by the feds to pay for the Spanish•American War."

P.O. LINDSAY:

Is it paid yet?

CHAIRMAN ALDEN:

I don't think they've paid it off, Bill. Verizon will respond if you get •• if you get complaints, you know, in your Legislative District Office. But that's •• you know, the main thing here is I think more than 50% of the bill was taxes. So it might be an area that other levels of government •• but unfortunately, we do collect a little bit of those taxes ourselves out here in Suffolk County. All right. Now we can just jump right into the agenda.

LEG. COOPER:

Wait a second. Did they even have telephones at the time of the Spanish•American War? When was that?

CHAIRMAN ALDEN:

They must have had it, because •• you know what happened though. The Spanish•American War they probably did have telephones. That was •• wasn't that Teddy Roosevelt and the charge up San Juan Hill and stuff?

DIRECTOR GARDNER:

1898.

LEG. COOPER:

And when did they invent the telephone?

CHAIRMAN ALDEN:

1876, something like that.

LEG. COOPER:

Pete, how do you know this stuff? One of the Legislators, I won't say which one, said you were alive then.

CHAIRMAN ALDEN:

Not me, Pete. All right. We'll go to Tabled Resolutions. **1391,**

A Local Law to ensure proper storage of toxic pesticides in retail stores. I think we have to table that because •• no that one was closed, right?

LEG. COOPER:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator Cooper, seconded by myself. All those in favor? Opposed? **TABLED (VOTE:5•0•0•1 • Not Present; Legis. Montano)**

1791, A Local Law to require gasoline service stations to install emergency generators for fuel pumps.

The hearing •• public hearing was recessed, so I'll make a motion to table.

LEG. COOPER:

Second.

CHAIRMAN ALDEN:

Seconded by Legislator Cooper. All in favor? Opposed? Okay. **Tabled (VOTE: 5•0•0•1 • Not Present; Legis. Montano).**

1951, A Local Law to protect consumers from predatory towing practices. The public hearing was closed.

LEG. COOPER:

I wanted to make a motion to approve, but, Charlie, if you can just come up. Do you still have concerns about the resolution? Was your concern primarily that you might not have the personnel to properly implement it?

DIRECTOR GARDNER:

Yes, sir. It's not that it's not enforceable, it is enforceable, but it would have a •• what I would consider a fairly significant impact on the office because of that •• the line that would call for all the copies of all the agreements to be filed with our office.

LEG. COOPER:

I'll make a motion to table the bill and maybe my office can work with your office so we can fine tune the language to address that concern.

DIRECTOR GARDNER:

Certainly.

CHAIRMAN ALDEN:

I'm going to second that motion. All those in favor? Opposed? That's **tabled. (VOTE: 5•0•0•1 • Not Present; Legis. Montano).**

Also, Legislator Cooper, I remember at the public hearing, it seems like this is prevalent in Nassau County, but not really in

Suffolk County. So this is a preemptive type of ••

LEG. BROWNING:

At the Public Safety yesterday when the scrap metal issue came up, Chief Brown mentioned that there was a car from my district was stolen and it was, I believe, a breakdown and was towed away. Wouldn't this also apply to that? He didn't call for a tow truck, it was stolen.

CHAIRMAN ALDEN:

That's actually just Grand Theft Auto. What Legislator Cooper is trying to do is ••

LEG. BROWNING:

Yeah, but it was towed away and taken to a ••

CHAIRMAN ALDEN:

Yeah, but on the side of the road, I don't think that this applies.

DIRECTOR GARDNER:

I'm sorry to interject. But this law has to do with towing from privately•owned public access parking lots only, not even railroad station or MTA lots or anything like that. Privately•owned public access parking lots.

LEG. BROWNING:

So it wouldn't apply to, like, somebody's car broke down and the next thing they go back and find that somebody towed it and it's gone.

CHAIRMAN ALDEN:

Generally speaking, if it's on a public thoroughfare that's regulated by the individual towns, the towing practice is then ••

CHAIRMAN ALDEN:

Or just by, you know, your criminal law.

DIRECTOR GARDNER:

I mean, obviously if someone just stole it, you know, towed it, it's completely unauthorized, that's another issue.

CHAIRMAN ALDEN:

This is more where the owner really just gives the authority to a tow company to come in and police their policy. And that's where it's been abused a little bit in Nassau County. Presiding Officer Lindsay.

P.O. LINDSAY:

You know, even if there isn't a prevalence of this in Suffolk County now, if it isn't •• doesn't clog up Charlie's operation, I don't think it would be a bad thing if we opened the door for Consumer Affairs to handle complaints if somebody is taken advantage of in this area.

CHAIRMAN ALDEN:

I agree with you. I agree with Legislator Cooper. And I think

that we could stop the problem ••

P.O. LINDSAY:

Just as long as we don't clog up his operation any more.

CHAIRMAN ALDEN:

So I think we're on the right track. Legislator Nowick.

LEG. NOWICK:

I apologize, but I'm not sure I understand what the problems have been. Is this would you say in the mall or something like that, somebody entices you to park •• I'm not sure what the problems have been.

LEG. COOPER:

Charlie, you want to address that.

DIRECTOR GARDNER:

The original problems stem from people who •• and now there is signage that is required all over the place •• people who would park in somebody's private parking lot, it might be an individual restaurant or bar, it might be a strip mall parking lot, it might be a medical office building, it could be a mall, you know, Walt Whitman Mall, Smithaven Mall, privately-owned public access, but they •• basically the signs say, if you don't have any business here, you can't park here, you know, in different kinds of language. And if so, you will be towed, and you will towed by •• it gives the name of the company.

Prior to the law, there either were no signs posted, so people didn't realize that if they parked there without permission they would be subject to towing, and that if they were towed, they had no idea at all where their vehicle was. So they would come back, have, like, heart attack figuring that their car was stolen, they would go to the cops, report the car stolen. It really wasn't stolen, stolen, it was towed by the owners who called the towing company and said, "Tow that car, because she doesn't have any business here and I don't want her here."

The law that is on the books now requires proper signage at the entrances and exits and gives all the proper information so that if your car is gone and it's been towed, you at least know where it is. And the towing company has to notify the precinct that they towed the car, by the way. That's what's on the books now. So that is what the problem is. But remember, not railroads.

LEG. NOWICK:

How would this change that?

DIRECTOR GARDNER:

Well, this amendment would add that all of the agreements between the owners and the towing companies would have to be filed in our office, and that's a lot of agreements and a lot of change of owners and a change of tow. So is it enforceable? Yes, it is. But it's •• we can work on it. We'll talk about it.

LEG. NOWICK:

All right. So this is filing the agreements.

DIRECTOR GARDNER:

Right. I mean, all of those agreements are now required, but the owner and the towing company have them. They are not on file with our office right now.

LEG. NOWICK:

Thank you.

CHAIRMAN ALDEN:

And just maybe to the sponsor, have you looked at •• Charlie might even need some legal assets to look at some of these agreements, because it might need an analysis by an attorney. Is that something that the County Attorney's Office is ••

MR. NOLAN:

I think the reason •• the law actually does a couple of things, and one thing it does is it prohibits fee splitting arrangements between the parking lot owners and the tow companies, and that's why we put in the provision that they should file the agreements so we can be assured that they don't have a fee splitting arrangement.

DIRECTOR GARDNER:

At least in writing.

MR. NOLAN:

At least in writing.

DIRECTOR GARDNER:

Right. And by the way, just as a note, most of the complaints that we got in the early days of the law were not even from the shopping centers or those types of malls. They were from, believe it or not, apartment houses and townhouse and condo complexes. That's where most of the complaints were coming from. People were parking there, you know, in an apartment house parking lot or a townhouse or condo complex parking lot. Those were the majority of our complaints. And we haven't had any complaints now since mid 2001.

CHAIRMAN ALDEN:

All right. The only thing else we have on the agenda is a •• we have a tabled Memorializing Resolution, **M. 62, Memorializing resolution requesting the New York State Public Service Commission to review the proposed LIPA/KeySpan agreement.**

We have a motion to table by Legislator Cooper, seconded by Legislator Browning. All in favor? Opposed? That's **tabled.** **(VOTE: 5•0•0•1 • Not Present; Legis. Montano).** Anybody else have anything they want to raise before the committee? We have nothing? Okay. Thank you. We stand adjourned.

(* THE MEETING WAS ADJOURNED AT 10:30 A.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY