

**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, November 15, 2006.

**MEMBERS PRESENT:**

Legislator Cameron Alden • Chairman  
Legislator Ricardo Montano  
Legislator Lynne Nowick  
Legislator Tom Barraga  
Legislator Kate Browning

**MEMBER NOT PRESENT:**

Legislator Jon Cooper • 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  
Joe Muncey • Budget Review Office  
Kevin Rooney • Oil Heat Institute

**MINUTES TAKEN BY:**

Donna Catalano • Court Stenographer

**(\* THE MEETING WAS CALLED TO ORDER AT 9:40 A.M. \*)**

**CHAIRMAN ALDEN:**

I've been granted permission to start Consumer Protection's Committee Meeting, and we'll have the •• we'll start the meeting with the Pledge. And we'll have Legislator Browning lead us in the Pledge.

**SALUTATION**

**CHAIRMAN ALDEN:**

I also usually start with a moment of silence. And we should remember our troops that are serving all over the world. Also keeping in your thoughts and prayers the POWs and the MIAs. And the debate about whether there should have been a war or not a war, that's just the exercise of democracy, and it's every citizen's right. But there should never ever be a debate about whether we support our troops.

**MOMENT OF SILENCE**

**CHAIRMAN ALDEN:**

Thank you. Charlie, if it's okay, come on up. I see you have given out the •• oh, just as a note, Legislator Cooper has an excused absence. I see you've given out the price surveys and the •• on Suffolk home heating oil. How is that looking?

**DIRECTOR GARDNER:**

The home heating oil has been kind of flat, which is normal at this time of year. But it's at the range of about a dollar. You know, low runs from about buck ninety to about two•ninety. The average full service is around two and a half. The average when you factor in the CODs is around two and a quarter

per gallon.

**CHAIRMAN ALDEN:**

That's down from last year then, right?

**DIRECTOR GARDNER:**

Yes, it is. Yeah. And gasoline has just started to creep up a little bit just in the last week or so. So that's up to about •• that survey was done last •• last week. The average has gone up about three cents. It averages about two•thirty one right now for gasoline.

**CHAIRMAN ALDEN:**

While we'd all like to see it back where it was even 20 years ago, but that's better news than where it was six months ago, so.

**DIRECTOR GARDNER:**

Yeah. I mean, actually, the gasoline price is actually lower than it was a year ago. You know, it's higher than it was two years ago. I mean, if you look at the curve, it goes up, it goes down, it goes up, it goes down, so.

**CHAIRMAN ALDEN:**

So stocks of heating oil look like, you know, normal for this time of year? There's no shortage.

**DIRECTOR GARDNER:**

As of this morning, inventory is at or above where they would like it to be, meaning the industry would like it to be. So they're just getting ready for the winter •• you know, the winter season stocks of home heating oil ••

**CHAIRMAN ALDEN:**

Can you say that four times real fast? Any questions about the heating oil or gasoline?

**CHAIRMAN ALDEN:**

Charlie, how is Harrow's bankruptcy affecting •• are we getting a lot of calls, or? Didn't Harrow's declare bankruptcy?

**DIRECTOR GARDNER:**

Well, we reached out yesterday. We had a couple of investigators go out yesterday just to check on what they are doing and how they're going about

it. So far we're okay there. We don't have the big complaints. We just settled the •• you know, that whole industry there, Island Recreational, was just settled as of yesterday, so there's about \$30,000 in consumer refunds going out from our office to affected consumers. And this week, they're paying a \$13,000 penalty to the County. That was Island Rec.

**CHAIRMAN ALDEN:**

You're in reorganization too, right, under a bankruptcy protection?

**DIRECTOR GARDNER:**

But Island Rec is a case where they just took on a lot more than they could do, okay? I mean, the bottom line is they just didn't have the people to fulfill the contracts that they wrote. The other one was Posieden Pools. That is a criminal case, and that's with the DA's Office right now. All of that kind of affected Harrow's. It's a whole ••

**CHAIRMAN ALDEN:**

Yeah, because Harrows in their filing in US Bankruptcy Court blamed basically the liquidation or ••

**DIRECTOR GARDNER:**

They even mentioned Poseidon. But there's criminal things going on with Poseidon.

**CHAIRMAN ALDEN:**

Legislator Montano.

**LEG. MONTANO:**

Good morning.

**DIRECTOR GARDNER:**

Good morning.

**LEG. MONTANO:**

Could you just elaborate on the criminal aspect. What, you're talking about fraud, if you can? I mean, I'm not looking for anything privileged.

**DIRECTOR GARDNER:**

There are elements of fraud, there are elements of an individual representing himself to be in a position that he wasn't with the company. There were

contracts being signed in a fraudulent matter, etcetera.

**LEG. MONTANO:**

Right. All right. Thanks.

**DIRECTOR GARDNER:**

It has a lot more to do with just the home improvement or the licensing aspect of it.

**LEG. MONTANO:**

Thank you.

**CHAIRMAN ALDEN:**

Legislator Browning.

**LEG. BROWNING:**

Yeah. I know that one of my constituents sent something to you about a gambling thing that was going through the mail, are you familiar with that? Do you remember that?

**CHAIRMAN ALDEN:**

Yep.

**LEG. BROWNING:**

Do you know anything about it?

**MS. BARBARA:**

It's exactly like the scam you brought to ••

**CHAIRMAN ALDEN:**

Right. It's •• it has nothing to do with, you know, like, the pool business or something like that, but it's more like the lottery from Canada, that the person won a foreign country lottery. And if you send \$1800 •• they send you a check for \$5000, but you just send \$1800 back to them, it covers the missing tax or whatever, and then they'll send you the remaining 30,000 or \$100,000. And people that send their check soon find out that the check that was sent to them is bogus. That's the same thing with this gambling thing.

**DIRECTOR GARDNER:**

I get approximately •• I'm on their list for reasons, so I get probably four to five a month of the •• whether it's from Canada or the UK or Africa with

unbelievable deals. I mean, you can be a millionaire so easily. All you have to do is give up some of your personal identity and your bank account stuff and mail checks to different people.

**CHAIRMAN ALDEN:**

Well, that's the other part of the scam, is you give them the identifiers and the ability for them to wire the money to you, then they say they'll wire the money to you, but unfortunately, you've just given away all your identity. And they go out and take on huge amounts of debt and all types of things for you.

**DIRECTOR GARDNER:**

It usually involves people on the other end who are looking to get in on what seems to be a sweet deal and shouldn't be doing that in the first place. And they're the ones who ultimately wind up getting taken if they really go for it.

**LEG. BROWNING:**

I have one constituent that sent me information. And the only thing I knew to do was, like, go through mail fraud, send it •• so I sent the information to the Post Office. I mean, what can I do if I get somebody else who comes in with this?

**DIRECTOR GARDNER:**

Besides the Post Office •• the Postal Inspection Service Branch of the Post Office and the FTC, that's who we deal with and give this information to.

**LEG. BROWNING:**

Okay. Thanks.

**CHAIRMAN ALDEN:**

We did have the FBI in earlier in the year about identity theft. And if you think it would be profitable, we could have them back in, you know, just to, you know, give us a little bit more of an update of what's happening with that and some of the •• you know, like, the more prevalent scams.

The other thing that •• I'm sure all of this get the question. The person that calls up and gets a home improvement contractor in and they get ripped off by the home improvement contractor. So, Charlie, could you just walk us through as far as what is the whole purpose of having a license and having these home improvement people licensed?

**DIRECTOR GARDNER:**

The main purpose of having a license is very similar to DMV and why you need a license to drive an automobile. It's a tool. As DMV's is a tool of the state, this is a tool of the County to help control those in the industry. It's not •• other than some basic competency requirements, it's not meant to •• it's very similar to taking your drivers test or the learners permit. And just because you or I have a drivers license doesn't necessarily mean that we obey all the laws all of time but or are the best drivers in the world, but our record will speak for itself, and our record will determine how long we are able to •• if we are able to maintain that license or it gets suspended or revoked or there are penalties as in traffic fines and things like that.

Without the license, consumers would have to deal solely with the courts. That's the main reason that the licensing laws came into affect some 30 years ago. I can't imagine today not having the industries licensed, because there is so much work that we do investigating the claims against licensed and unlicensed contractors that would otherwise be in the courts. It's unfathomable to me that the system would be able to work. Consumers would just •• they would have to be hiring attorneys and the court system would be overloaded.

We get •• oh, we average about 3500 written complaints a year, and about 1800 of them, 1700 of them are in the field, in the licensed category. Now that doesn't mean /WRER they're against licensed contractors. Remember that about half of those complaints are in the licensed category, but they're against contractors who are unlicensed. But all of those complaints without the •• without Consumer Affairs would be in Small claims Court, would be with the District Attorney's Office where there is theft and larceny involved, you know, taking money doing absolutely no work. So that's really the main purpose. It's a more direct response to consumers' complaints and an ability for the County to deal with those complaints without getting lawyers and the courts involved. Most of our cases are resolved without the benefit of attorneys.

**CHAIRMAN ALDEN:**

We don't guarantee any, like you said, any level of competency or even any legality, because there is a disclaimer on the website, right, that you can't really sue Suffolk County for ••

**DIRECTOR GARDNER:**

Correct.

**CHAIRMAN ALDEN:**

And that's the way it should be. As far as ••

**DIRECTOR GARDNER:**

And by the way, just to mention, competency, the great majority of our complaints that are truly horrible experiences for consumers don't really have to do with competency. They have to do with people who are terrible business people. There's a very small percentage who are just out and out crooks. There was a fellow that was arrested last week. He's just an out and out crook. He just steals money. He takes money and does no work. But the great majority of the complaints do not revolve around whether or not the contractor is competent. It revolves around mainly people who have, for instance, bid on a \$50,000 job, and you know, they •• they get the job, because the bid was 35 grand. They get halfway through it and they say, uh •oh, this ain't going to work. And they literally walk out and leave the house a mess. It nothing to do with whether or not he knows how to drive a nail. He's a terrible businessperson, he can't spec a job, he can't do an estimation, he has no idea of Worker's Comp, insurance, taxes, payrolls, etcetera. They have no clue to that.

**CHAIRMAN ALDEN:**

And that leads into do we look at financial backgrounds, whether the person's been, you know, in bankrupt, or members of his family have been bankrupt, are the a sexual predator, do they have a criminal record, those types of things. Do we do those backgrounds?

**DIRECTOR GARDNER:**

The background questionnaire that has to be filled out by the applicant for the license has all those questions on it. It deals with any criminal offenses, it deals with bankruptcies, it deals with judgments, either past or pending. You have to have a bank account. I only instituted that after I became Director, where there was no requirement for somebody to come in and get • be licensed as a contractor to show that they had a bank account.

So they need to •• we need to •• and we still have people coming in today that they'll say, no, I don't have one, or well, I'll get it some time. No. You don't have a bank account, you're not getting a license. So financial stability, how long have you been a resident, you know, where you're living now. A red flag is we see somebody that •• we say, how long have you been living at

current address? A month. Well, then we take a little bit longer look at those.

We do about 800 renewals and/or new licenses per month. So there is a lot of paper coming in, and there's a lot of applications. What we do is anybody •• we have about a dozen or so red flags •• out of our 35 or so questions that need to be answered, we have about a dozen or so red flags that come to me for further review, maybe an interview. We might have to talk to a Probation Officer, the Police Department, etcetera. Child support is on there. And then we do about another 10% kind of at random where we do a full background check to verify what they have said on the application.

**CHAIRMAN ALDEN:**

So every application, though, we don't •• we don't actually do a bankruptcy search or criminal search?

**DIRECTOR GARDNER:**

No. Not on every one, no.

**CHAIRMAN ALDEN:**

Just at random. Do we fingerprint the applicants?

**DIRECTOR GARDNER:**

No. No, we do not fingerprint.

**CHAIRMAN ALDEN:**

Okay. What happens in the instance where one the •• I guess, one individual would have license, he'd either lose it or go bankrupt, and then it pops up in the name of either the wife or another member of the family, and they try to continue business that way even after they've been found guilty of ••

**DIRECTOR GARDNER:**

We have the records of every single license holder in our data base, I mean, from day one. There are almost 60,000 records in our data base. So they •• if you come in and make application, your name is run. When you have to list partners or principles on the back, those people are run. The reference that you give is run. And there is many •• we have mothers and wives and husbands and brothers of people coming in to get a license for somebody else.

**CHAIRMAN ALDEN:**

Okay. Because that was brought to my attention. There was, you know, like, court cases where the persons declared bankruptcy and actually has some judgments against them. And they folded up. And the whole contracting license ended up in the wife's name for a while. And when she had the same thing happen to her, it ended up in the son's name.

**DIRECTOR GARDNER:**

If you're not in our data base, that could happen. But if you have lost your license because of bankruptcy or judgments or restitution funds or failure to pay child support, once your name is in our data base, then it's going to be matched up against any future applications.

**CHAIRMAN ALDEN:**

Even the address? Because, again, another instance that was shown to me was different name, same address. And where one of them actually •• you had caught them and removed their license, they changed the name and stayed right at the same address and just had a different name.

**DIRECTOR GARDNER:**

It could happen. I mean •• • and there are people that are arrested every year. When it •• sooner or later, most of those people, it catches up to them, and then they're charged with filing a false instrument or some other type of criminal charge.

**CHAIRMAN ALDEN:**

Would it be profitable •• or, I guess, would it help in enforcement measures if we tried to do background and police checks on everyone? And also for sexual predators, do we check for it specifically?

**DIRECTOR GARDNER:**

That's not a specific crime that is asked about, no. And could it be done? Of course. But it would take •• I mean, the reason that we don't do it now is because the Police Department just can't run that many checks for us. We do background checks on all of our precious metals dealers, for instance. And they •• we only have •• we don't even have 200 of those. And that takes, you know, on average about anywhere between one and a half to two and a half months to get it back on one. So when you're talking 800 a month, could it be done? Sure. But I mean, you'd have to have a unit to do that, otherwise the system would pretty much come to a halt.

**CHAIRMAN ALDEN:**

I'm just thinking, you know, outside •• a different industry, bus industry, they do require fingerprints, and they do require background checks, especially for arrests for, you know, like, sexual type of crimes.

**DIRECTOR GARDNER:**

Correct.

**CHAIRMAN ALDEN:**

All right. Legislator Nowick.

**LEG. NOWICK:**

Good morning, Charlie.

**DIRECTOR GARDNER:**

Good morning.

**LEG. NOWICK:**

I have a question which does not have to do with this, but it was just a thought that I had other day. While I know that we as Suffolk County Legislators have no regulation of banks, is there any way for us to make the public aware of something that I realized when I was at an ATM machine, and it's the second time it's happened at two different ATM machines. But just to let the public be aware, when you put your card in and the ATM machine feeds it back •• sends it back to you, so know that's in your possession, put PIN number, how much money do want to withdraw or whatever, money comes out, receipt comes out, person drives away. There are times when some of these machines then say would you like another transaction.

Now my concern is, and I know these things can happen, the person that has the card and the money and the receipt in his hand pulls away. The person behind them, by mistake sometimes, sometimes not, would you like another transaction, yes, boom. Now I know of somebody that got \$500 out of an ATM machine and said, "This is not mine." Went inside to the bank, and the bank said, we have no way of tracking that. Now, is there a way to have the consumer •• I know that's a banking thing, but just a way to have them beware, look for this?

**CHAIRMAN ALDEN:**

I can answer it. You could put that in your newsletter.

**LEG. NOWICK:**

I did.

**CHAIRMAN ALDEN:**

That's a good thing then.

**LEG. NOWICK:**

I did. And I don't know if anybody else is interested in doing that either.

**DIRECTOR GARDNER:**

I didn't know that was possible. The experiences that I've had, that question comes up before the transaction is ended and before the receipt and before the card is returned.

**LEG. NOWICK:**

Well, the receipt came out, the card comes back immediately. Not all of them do that, but my card •• • my card you put it in ••

**DIRECTOR GARDNER:**

That question comes up, well, would you like to •• would you like another transaction, yes or no. No, and then the receipt and the card come out.

**LEG. NOWICK:**

The card •• in many banks, you put the card in and you take it out. You put it back in your pocket, then you do ••

**CHAIRMAN ALDEN:**

Lynne, do you have a list of those banks that just go for the second shot at the apple.

**LEG. NOWICK:**

Well, then I would suggest that maybe some people put it in their newsletter. It's a handy thing to know.

**CHAIRMAN ALDEN:**

Maybe afterwards we'll put it in the newsletter, but I'd like a list of those banks.

**DIRECTOR GARDNER:**

That's something that could be •• if that is a •• if that is a fact, it's something

that we can put on our website also.

**LEG. MONTANO:**

Lynne?

**LEG. NOWICK:**

Yes.

**LEG. MONTANO:**

That does happen, but in my bank, you have to reinput in •• reinput you PIN number. So there's a check. In other words it asks if you want another transaction ••

**DIRECTOR GARDNER:**

That sounds like a disaster waiting to happen.

**LEG. NOWICK:**

I went back to check that, and don't you know, I go back to the same bank, and it doesn't say do you want another transaction. But I do know of somebody that got \$500 out of the bank, and the bank had no way of checking where it came from. Wasn't me, of course. But he actually went back inside and said, your ATM gave me \$500, obviously on someone else's account too.

**DIRECTOR GARDNER:**

Maybe we should talk to some of the banking people, have a little meeting or something.

**LEG. NOWICK:**

And maybe it's true where you're okay with that, maybe you do have to put a PIN number back in, but I think it's ••

**CHAIRMAN ALDEN:**

Where is that bank, though? Just in case on the way home I want to just check that out.

**LEG. NOWICK:**

There are a few of them.

**LEG. MONTANO:**

Be careful of the video.

**CHAIRMAN ALDEN:**

I have disguises. Rick, anything else?

**LEG. MONTANO:**

Yeah. I'll tell you a story. I actually put the number in, the cash came out, I took the receipt, I drove away, I left the cash in the machine. I drove away and left the cash in the machine, because I was in a hurry. But •• no, this is true. I've done it twice. If the person behind you comes up and sees the cash, they'll take the cash and they'll be gone. But if there's no one in back of you, the machine eats the cash. And that's what happened in my case. However, you will never know unless you call the bank. And like a week later, I was telling someone the story, and she said, "You need to call the bank, they probably have your money." And sure enough, I called and I got my \$200 back. But if I had not been told that, I would have lost the \$200 and the bank would have kept it.

**DIRECTOR GARDNER:**

That's the first time I've heard about leaving cash there. I know that many of the banks do that with the card ••

**LEG. MONTANO:**

I'm not sure how i'm going to take that, but that's all right.

**DIRECTOR GARDNER:**

But, you know, when the card comes out, if it's not taken, they suck it back in. And by the way, the card is gone then. It shows it up.

**LEG. MONTANO:**

No. There are some banks where you swipe the card and you put the card away and then you do your transaction.

**LEG. NOWICK:**

Well, i would have to disagree with that, if the card comes out and you don't take it, it sucks it back. Because I had a call on my answering machine, as only one of my daughters would have done, the bak called and said one of the other bank clients came in and said, oh, there's a card left in the machine. She never pulled it, the bank never sucked it up. Fortunately, she got it back.

**CHAIRMAN ALDEN:**

There's an opportunity for someone here. All right. Wow. This is interesting. All right. We'll go to the agenda. We have tabled resolutions.

**1791. Adopting a Local Law to require gasoline service stations to install emergency generators for fuel pumps.**

**CHAIRMAN ALDEN:**

There was a problem with this, and we continued to table it because ••

**LEG. NOWICK:**

The hearing was recessed.

**CHAIRMAN ALDEN:**

I think the hearing is recessed. So we have to keep it tabled.

**LEG. BROWNING:**

Motion to table again.

**CHAIRMAN ALDEN:**

Thank you. Seconded by myself. All in favor? Opposed? 1791 remains **TABLED (5•0•0•1 • Not present • Legis. Cooper).**

**M•062. Memorializing Resolution requesting the New York State Public Service Commission to review the proposed LIPA/KeySpan agreement.**

**CHAIRMAN ALDEN:**

This would be a great thing, but, Legislator Montano, motion?

**LEG. BROWNING:**

Motion to table.

**LEG. MONTANO:**

Yeah, because there's no •• there's no accompanying Assembly or Senate Resolution.

**CHAIRMAN ALDEN:**

But there should be.

**LEG. MONTANO:**

There has to be under the rules.

**CHAIRMAN ALDEN:**

I think they're actually investigating this. Didn't they ask them do to this?

**LEG. MONTANO:**

Did who ask?

**CHAIRMAN ALDEN:**

I think New York State asked them to do this. I just would ••

**LEG. MONTANO:**

Well, there's a letter here from Richard Kessel. I guess it's in response to the letter that the Legislator sent out where he says very clearly that LIPA has been in negotiations with both KeySpan and National Grid. And that they've been briefing not only Pataki's Office, but the Attorney General, State Comptroller. He says I can assure you that LIPA will not move forward on any agreement until the Governor, attorney General, Comptroller are all comfortable with an agreement if we reach one. I also commit to appear before the Suffolk County Legislature prior to formally adopting any agreement with KeySpan and National Grid. I know that the Legislature has taken a keen interest in this issue, and I want to both inform the Legislature and also get your input as we move forward. I hope this addresses your concerns. So there's action on this.

**CHAIRMAN ALDEN:**

George, if the Governor and the Legislature, New York State Legislature, the Senate and the Assembly, have asked for LIPA to submit to a review by the PSC, does that qualify as an official action.

**MR. NOLAN:**

You need a resolution. You need a State Bill.

**CHAIRMAN ALDEN:**

Man, you guys are being hard on my here.

**MR. NOLAN:**

So you really need to table this.

**CHAIRMAN ALDEN:**

This is some harsh treatment. All right. Motion by Legislator Montano, seconded by Legislator Barraga to table. All those in favor? Opposed? I'm opposed. **(TABLED (VOTE:4•1•0•1 • Opposed • Legis. Alden • Not Present • Legis. Cooper).**

Now, does anybody else have any concerns or •• anybody else have any questions, concerns or anything else to bring before the committee? Seeing none, thank you very much. We stand adjourned.

**(\* the meeting was adjourned at 10:02 A.M.\*)**

**{ } DENOTES BEING SPELLED PHONETICALLY**