

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, 725 Veterans Memorial Highway, Smithtown, New York, on November 21, 2008.

MEMBERS PRESENT:

Legislator Lynne C. Nowick, Chairwoman
Legislator Jack Eddington, Vice Chair
Legislator Thomas F. Barraga
Legislator Kate M. Browning
Legislator DuWayne Gregory

ALSO PRESENT:

William J. Lindsay, Presiding Officer
George Nolan, Counsel to the Legislature
Bruce Dragonette, Consumer Affairs
Barbara LoMoriello, Deputy Clerk
Joe Muncey, Budget Review Office
Kevin Rooney, Oil Heat Institute
William Shilling, Aide to Presiding Officer
Debra Alloncius, AME Legislative Director
And all other interested parties

MINUTES TAKEN BY:

Diana Kraus - Court Stenographer

MINUTES TRANSCRIBED BY:

Denise Weaver - Legislative Aide

THE MEETING WAS CALLED TO ORDER AT 12:05 PM

CHAIRPERSON NOWICK:

Hello, Kevin, how are you?

MR. ROONEY:

Very well. Thank you.

CHAIRPERSON NOWICK:

You used up a minute saying that.

MR. ROONEY:

Sorry. For the record my name is Kevin Rooney. I'm the Chief Executive Officer for the Oil Heat Institute of Long Island. Madam Chair, in reference to IR 2032, a resolution Establishing Home Heating Cost Information Program, I would respectfully request the committee to table this for one cycle to allow myself and general counsel to meet with the Presiding Officer. A meeting is scheduled for Wednesday at 10:30 where we will be discussing this and also Resolution 2033, which will be tabled, I assume, today for a public hearing.

In a nutshell, we certainly don't have any objection to saying what our prices are. But in terms of collecting this information on a bimonthly basis, and also it says quite clearly that, you know, heating oil fluctuates often. Yes, it does. I can tell you that between April 1 and July 14th of this year, a relatively short period of time, we saw wholesale prices rise from something on the order of 2.70 a gallon to as high as \$4.30 a gallon; a \$1.60 rise in wholesale and a commensurate rise in retail prices.

There are also a variety of different types of oil companies out there. There are different types of prices, multiple prices within those companies. So we have a lot of unanswered questions that I'm hoping we can resolve in our meeting with the Presiding Officer next week. So I would request -- respectfully request that this be tabled for one cycle only.

CHAIRPERSON NOWICK:

Looks like we have a few questions and actually the Presiding Officer is sitting here with us, so if you would like to talk to Mr. Rooney.

P.O. LINDSAY:

Yeah, Kevin, I am not by any stretch of the imagination indicting your whole industry. But some people in your industry are not doing the right thing by the consumer. This morning in Newsday, it was quoted that the average price for full service oil company is like 3.10 a gallon now. The wholesale price this week was a \$1.98. They're marking up their prices 30% some of them. Don't you think that's excessive? And don't you think consumers should have the ability to find out the prices in an easy format that they can make responsible choices on where they're going to spend their heating dollars?

MR. ROONEY:

It would be -- first, in answer to your first rhetorical question, it would be totally inappropriate for me as a representative of an industry to make any kind of comment as to whether the prices that the companies that I represent are excessive. I am not allowed to talk to any of the companies that I represent about their wholesale prices, their retail prices, their operating margins or the way in which they conduct their business. There are very clear state and federal antitrust laws that preclude that. So I cannot, with all due respect, answer your question.

However, I can tell you that the way in which the industry is structured, at times operating margins are higher than others. And there are a number of circumstances that play into that. Whether it's

an appropriate number, I don't know. I can tell you how that number is arrived. That number is arrived by a survey of 31 full service companies that operate -- and they vary in size and geographic location, from Oceanside to all the way out into the Hamptons. It is a survey that is conducted weekly by NYCERTA, under the auspices of the Energy Information Administration. Those 31 companies state their quote; posted retail price. It varies. That price varies from location to location, type of company, size of company, whether that company is in Nassau versus Suffolk, whether they are union, nonunion. It's all over the shop. So it's simply an average.

P.O. LINDSAY:

In getting involved in this issue, you know, there was normally standards in the industry where the spot dealers would -- might markup their product 20, 30 cents a gallon. The full service, I don't know, 50, 60 cents a gallon.

MR. ROONEY:

Not in today's market.

P.O. LINDSAY:

Well, in today's market with the prices, the wholesale prices falling, doesn't seem like the retail prices are matching the falling wholesale prices. And last year when the wholesale prices were escalating, there wasn't a day went by that the retailers didn't use that as an excuse to jack up their prices on a daily basis. Sometimes more than once in a day.

MR. ROONEY:

I don't know that that's a fact. And I think --

P.O. LINDSAY:

Okay.

MR. ROONEY:

-- it's totally unsubstantiated.

P.O. LINDSAY:

Okay, okay.

MR. ROONEY:

I mean --

P.O. LINDSAY:

But to answer your question, I'm going to request the committee to get this out of committee. I don't want it tabled in committee. And when it gets to the floor, I'll consider tabling it on the floor, that we can address all three bills together when the public hearings are over on the second.

MR. ROONEY:

Well then, Mr. Lindsay, could I -- since you're going to do that, can I ask you some questions?

P.O. LINDSAY:

Go ahead.

MR. ROONEY:

Exactly what kind of prices are you talking about here? Do you differentiate between a COD company and a full service company?

P.O. LINDSAY:

Yes.

MR. ROONEY:

Do you differentiate within a full service company, whether or not that is a contract customer? Are they under a service contract or not? Do they pay for the service contract or not?

P.O. LINDSAY:

Well --

MR. ROONEY:

Are they on automatic delivery? Are they on a budget plan? Are they on a Cap Price Program? Are they on a Fixed Price Program? Are they buying spot market whatever the prevailing rate is at the time? Which price exactly are --

P.O. LINDSAY:

Okay.

MR. ROONEY:

-- you going post on the website of the Consumer Affairs Department?

P.O. LINDSAY:

What we're going to be looking for is some kind of criteria to be established by Consumer Affairs, that one price, that everything is measured across and the nuances of a cap, a contract --

MR. ROONEY:

You're not buying gasoline here, Mr. Presiding Officer.

P.O. LINDSAY:

I know that, but the public and the consumer has a right to know and -- of what the prices are out there and what the dealer is paying for the wholesale price. Because I think that's very, very relevant to what we're talking about.

MR. ROONEY:

What other -- what other industry, what other industry does a consumer have the right to know what a manufacturer or a supplier or a retailer what they are paying for their wholesale product? The cost of goods that they are paying, that they are buying, and then they're adding in their operating margin, their taxes, their wages, their salaries, benefits, and then they come out with a retail price. I mean, if we're going to do this for one industry, why don't we do it for every industry?

P.O. LINDSAY:

Why are you guys so sensitive to information being put out --

MR. ROONEY:

I'm not, I --

P.O. LINDSAY:

-- to the public so they can be better consumers?

MR. ROONEY:

Mr. Presiding Officer, I asked -- I asked that this be tabled so that you and I could discuss this.

P.O. LINDSAY:

I know what you asked, I know what you asked. And you got my reply.

MR. ROONEY:

Okay.

P.O. LINDSAY:

We're going into an extremely difficult economy, where this Legislature just pumped a million dollars into a new program called My HEAP, to keep peoples' houses warm. The last thing we want to see is a third of that million dollars being scooped up into oil company profits.

MR. ROONEY:

Okay. I would totally disagree with you, but we'll discuss that on Wednesday.

P.O. LINDSAY:

Okay.

CHAIRPERSON NOWICK:

Are there any other questions of the committee? Legislator Gregory.

LEG. GREGORY:

Actually, the Presiding Officer had -- I was going to make the same suggestion that we could move the bill out of committee so that the Presiding Officer and the gentlemen here can have their meeting. But -- so if there are any questions that we can table it at the general meeting but we need to move it along. You know, if we table it too long, you know, winter's going to come and go before we can even act on it. So I think -- I suggest that we move forward with it and table at the general meeting.

CHAIRPERSON NOWICK:

Legislator Barraga.

LEG. BARRAGA:

Yeah, well, if we move it out of committee, it might -- maybe I'm a bit confused, between the time you move it out of committee and the time it hits the Legislative floor, are you two going to meet to discuss this bill?

LEG. BROWNING:

Wednesday.

MR. ROONEY:

We're meeting next Wednesday at 10:30.

LEG. BARRAGA:

Okay.

MR. ROONEY:

Which is why I honestly do not see the problem with tabling this for one session.

LEG. BROWNING:

Well, we're not meeting 'till the following Tuesday.

CHAIRPERSON NOWICK:

The 11th, we meet?

LEG. BROWNING:

Yeah. So they have a whole week before we meet again. The general meeting. The general meeting's a week from Tuesday.

CHAIRPERSON NOWICK:

Are there any other questions? Thank you, Mr. Rooney. Is there anybody else that would like to address the committee? Bruce, did you have anything that you wanted to say?

MR. DRAGONETTE:

No, not really.

CHAIRPERSON NOWICK:

Okay. You're going to let well enough alone. Having said that, we're going to go into the agenda.

Tabled resolutions, 1750. You know, before I do that, Bruce can I ask a question?

MR. DRAGONETTE:

Sure.

CHAIRPERSON NOWICK:

Sorry, you thought you'd get away with that, huh?

MR. DRAGONETTE:

That's all right.

CHAIRPERSON NOWICK:

This may or may not be in your bailiwick, I'm not sure if this goes to the Energy Committee or maybe you would know the answer, but LIPA, are they lowering their rates at this point because of the price of crude?

MR. DRAGONETTE:

Not that I know of and not that I have ever seen anything in the paper about it.

CHAIRPERSON NOWICK:

So nothing is changing there.

MR. DRAGONETTE:

Nothing is changing from your bill. I haven't seen anything in the paper to suggest that they are lowering their prices.

CHAIRPERSON NOWICK:

I haven't either. I just saw a little change on my bill and I didn't know why it was. And I was just curious from what I think I understand if the price of crude goes down, LIPA's prices should go down as well. But we haven't heard too much about that so I wondered.

MR. DRAGONETTE:

I haven't -- yes, I haven't heard anything. Our office hasn't gotten anything saying that their prices are going to go down.

CHAIRPERSON NOWICK:

Okay, okay. Thank you.

MR. DRAGONETTE:

The price of energy, I should say.

CHAIRPERSON NOWICK:

Okay. Thank you. All right, we'll go to tabled resolutions now, aren't you sorry because you're sitting there now?

MR. DRAGONETTE:

It's all right.

CHAIRPERSON NOWICK:

Okay. No, that's fine. Thank you.

TABLED RESOLUTIONS

1750, Adopting Local Law No -2008, A Local Law to increase and improve gasoline price notification to consumers. (Losquadro) Was this closed? Was this public hearing closed? This has been recessed, this public hearing. So I'll make a motion to table, second by Legislator Eddington. All in favor? Opposed? **1750 is again Tabled for Public Hearing. (VOTE: 5-0)**

1903, Adopting Local Law No -2008, A Local Law local law to prohibit the sale of old vehicle tires. (Barraga) The public hearing is closed on that? Do I have a motion?

LEG. BARRAGA:

Motion.

CHAIRPERSON NOWICK:

Motion by Legislator Barraga, second by Legislator Eddington. All in favor? Opposed? **1903 is approved. (VOTE: 5-0)**

1964, Adopting Local Law No -2008, A Local Law to require disclosure of the identity of users of clothing donation bins. (CE Levy). This has also been closed as public hearing. Do I have a motion? Motion by Legislator Eddington.

LEG. BROWNING:

Second.

CHAIRPERSON NOWICK:

Second by Legislator Browning. All in favor? Opposed? **1964 is approved. (VOTE: 5-0)**

1965, Adopting Local Law No -2008, A Local Law to require restaurants to disclose prices of specials. (Nowick) I'll make a motion.

LEG. BARRAGA:

Second.

CHAIRPERSON NOWICK:

Second by Legislator Barraga. All in favor? Opposed? **1965 is approved. (VOTE: 5-0)**

INTRODUCTORY RESOLUTIONS

2032, Establishing Home Heating Cost Information Program for Suffolk County Consumers. (PO Lindsay) What is your motion?

LEG. GREGORY:

Motion to approve.

CHAIRPERSON NOWICK:

Motion to approve by Legislator Gregory.

LEG. EDDINGTON:

I'll second.

CHAIRPERSON NOWICK:

Second by Legislator Eddington. All in favor? Opposed? **Approved. (VOTE: 5-0)** And I'm with the understanding that Mr. Rooney and the Presiding Officer will be meeting on Wednesday and hopefully working this out.

Introduction Resolution 2033, Adopting Local Law No. -2008, A Local Law amending the Suffolk County Code to prevent deceptive practices in the home heating oil industry. (PO Lindsay) This has to be tabled for public hearing. I'll make a motion.

LEG. EDDINGTON:

Second.

CHAIRPERSON NOWICK:

Second by Legislator Eddington. All in favor? Opposed? **2033 is tabled. Tabled for Public Hearing (Vote: 5-0)** That will complete the agenda. Does anybody have anything else to address the Committee with? If not, I'll entertain a motion to adjourn by Legislator Eddington, second by Legislator Barraga. All in favor? Opposed? This meeting is adjourned.

**THE MEETING CONCLUDED AT 1:27 PM
{ } DENOTES SPELLED PHONETICALLY**