

**CONSUMER PROTECTION COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE
MINUTES**

A 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 Tuesday, August 10, 2010.

MEMBERS PRESENT:

Legislator Ricardo Montano, Chair
Legislator Jay Schneiderman, Vice Chair
Legislator Thomas Barraga
Legislator DuWayne Gregory
Legislator Edward Romaine

ALSO IN ATTENDANCE:

Presiding Officer Lindsay, Legislative District No. 8
Denis McElligott, Commissioner, Department of Consumer Affairs
Bob Martinez, Aide to Legislator Montano
Paul Perillie, Aide to Legislator Cooper
Jason Richtberg, Aide to Legislature Gregory
Linda Bay, Aide to Legislator Losquadro
Dot Kerrigan, AME 4th VP
Thomas Gallagher, Appointee
All other interested parties

MINUTES TAKEN BY:

Lucia Braaten, Court Stenographer

MINUTES TRANSCRIBED BY:

Kim Castiglione, Legislative Secretary

(THE MEETING WAS CALLED TO ORDER AT 1:06 P.M.)

CHAIRMAN MONTANO:

We're going to get the meeting called to order. Would you please stand for the Pledge of Allegiance, led by Legislator Schneiderman.

(Salutation)

You may be seated. Okay. We don't have a presentation this morning, but, Denis, could you come up? I wanted to maybe follow-up some things with you. Anything you wanted to tell us first? Anything noteworthy that we should know?

COMMISSIONER McELLIGOTT:

Not that I know of.

CHAIRMAN MONTANO:

Okay. No, I didn't mean -- may or may not be. But at the last meeting we took up a couple of issues. One had to do with the legislation involving the Taxi and Limousine Commission in Nassau. I understand that you have the legislation. You're going to be forwarding that to me shortly?

COMMISSIONER McELLIGOTT:

Yeah, I have a copy of the section of the Vehicle and Traffic Law for you as well as the rules and regulations from the Nassau vehicle and traffic -- or Taxi and Limousine Commission for you.

CHAIRMAN MONTANO:

Great. Okay, so maybe after the meeting we can get a copy of that or you can e-mail it to my office and we'll print it up and start to look at that. And you also have the State legislation?

COMMISSIONER McELLIGOTT:

The vehicle and traffic section which creates --

CHAIRMAN MONTANO:

Is that the Section 483 I think it was called?

COMMISSIONER McELLIGOTT:

Correct, correct.

CHAIRMAN MONTANO:

Okay. That's Vehicle and Traffic Law. The only other thing is that at the last meeting I have some notes here that we asked the County Attorney to provide some information, any documents or correspondence, which would assist us in understanding where we are with the Nassau County Limousine Commission. And my understanding was that there was some kind of memo of understanding or some discussions? Lynne, do you want to -- because I got your e-mail. I've attached a copy to the agenda for all the Legislators. Basically your e-mail says that the Department of Law doesn't have any documents. And I'm not -- I don't have the minutes of the last meeting, but I thought we were talking about that there had been some correspondence, and correct me if I'm wrong, about maybe a working relationship between Nassau and Suffolk?

MS. BIZZARRO:

Well, I received the e-mail from, you know, Bob from your office stating that he wanted any documents that would assist in a better understanding where we are with the Nassau County Taxi and Limo Commission and its relationship with Suffolk County businesses, and I know not including any kind of privileged documents. So I went through the files that we had and I just didn't come up with anything other than, you know, what the law that was ultimately passed by the County, which I'm sure you have, and the MOA that was ultimately signed by the parties. But other than that, I just had a lot of drafts --

CHAIRMAN MONTANO:

All right. The MOA.

MS. BIZZARRO:

Right.

CHAIRMAN MONTANO:

Refresh my recollection. Do we have a copy of that?

MS. BIZZARRO:

I'm just assuming that you do, because you're asking me to better understand the relationship now between the Nassau Taxi Limo with Suffolk County businesses, so I'm just assuming -- I just had nothing that would shed any light on anything.

CHAIRMAN MONTANO:

But do you have the MOA?

MS. BIZZARRO:

That we have in our file, yes.

CHAIRMAN MONTANO:

All right. Has anyone seen -- Ed, have you seen the MOA, Legislator Romaine?

LEG. ROMAINE:

No, I haven't.

CHAIRMAN MONTANO:

All right. That's what I'm alluding to.

MS. BIZZARRO:

I can send you a copy of that, sure, sure.

CHAIRMAN MONTANO:

Denis, would you have a copy of the MOA? First of all, I know what an MOA is, but I have no idea what the MOA is with relation to this particular issue, or whether or not there is -- is there an existing understanding or agreement between us and Nassau, either Commissioner or Ms. Bizzarro?

COMMISSIONER McELLIGOTT:

My understanding is that --

CHAIRMAN MONTANO:

You've got to hold the button.

COMMISSIONER McELLIGOTT:

My understanding is that any agreement fell by the wayside once the State Vehicle and Traffic Law was passed, which allowed --

CHAIRMAN MONTANO:

Okay.

COMMISSIONER McELLIGOTT:

-- for the creation of Nassau's Taxi and Limousine Commission.

CHAIRMAN MONTANO:

Okay. Now -- so once the State Law was passed, it vitiated or voided the MOA for lack of a better word. Is that accurate, Ms. Bizzarro?

MS. BIZZARRO:

Our office was never asked to opine on it, but I do know that Mr. McElligott looked at the issue and has opined on it, so.

CHAIRMAN MONTANO:

All right, why don't we do this. Just so -- for our information, get us a copy -- who's going to get it to us, you or the Commissioner? It's up to you guys.

COMMISSIONER McELLAGOTT:

I'll take a look through the files that I have. What we have is we have a statute with regard to the licensing of the taxi business here in Suffolk County.

CHAIRMAN MONTANO:

That's what you have in the book that you showed me earlier.

COMMISSIONER McELLAGOTT:

Correct.

CHAIRMAN MONTANO:

All right. But that's not the MOA.

COMMISSIONER McELLAGOTT:

Correct.

CHAIRMAN MONTANO:

But you have the MOA, right, Lynne?

MS. BIZZARRO:

Yes. I have a -- I think it's an MOA, an MOA or an MOU, whatever it is called.

CHAIRMAN MONTANO:

Whatever it is called, yeah, MOU, you know, agreement, you know, a rose by -- whatever it is. I'd like to take a look at it, even if it's outdated, so this way it gives us some background in terms of what was going on at that time and, you know, the idea is to take a look at the State Law and see whether or not there is any way to, you know, to impact that, maybe an amendment by asking one of our State representatives to take a look at it.

And not for nothing, but as I told the Commissioner, I ran into this problem this weekend for my daughter's wedding because I wanted to take my local cab and she was getting married in Farmingdale. So, you know, it is an issue and other people have commented to me about this. So we're going to follow-up on that.

So first we'll take the MOU, MOA and also those documents that you have, Commissioner, and then we'll take a look at that and follow-up at the next meeting.

With that, is there anything else that anyone would like to ask either the County Attorney's Office or the Commissioner? Legislator Romaine first and then Legislator Barraga.

LEG. ROMAINE:

Yes, just a quick question for the Commissioner. Commissioner, could you fill us in on the impact that the early retirement and/or retirements may have on your department or having on your department and what the current number of vacancies are?

COMMISSIONER McELLAGOTT:

As of right now, my understanding is three individuals have made the applications, and I have not yet heard whether there have been -- whether they've received their response as of yet.

LEG. ROMAINE:

Okay. Maybe I could make a request, if there's anyone here from the Exec's Office, as to the deadline for the Executive making his decisions on who is eligible for the early retirement, because the last time I looked I think it was that everyone was allowed to submit an application for early retirement, but he alone personally, as the State Law provides, would make the decision on who would be allowed to take early retirement and who would not. Their papers had to be in, if I'm not mistaken, by the end of July, and I think the deadline for retiring is something like August 22nd or something of that nature. So when would these people be told you're not eligible so that they could withdraw their papers and not have their papers submitted as if they're actually retiring? Some people that I got e-mails from, different County employees saying they put in their papers, but they haven't heard anything.

Is there anyone here from the administration that could say when the Executive would make a decision so that if it was a negative decision these people could withdraw their retirement papers if they truly didn't wish to retire? I guess that's a pregnant question looking for a response, but I guess no one's going to disseminate it with a response.

CHAIRMAN MONTANO:

I'm sorry. Would you just repeat what it was you're looking for?

LEG. ROMAINE:

Yeah. What it was that everyone's allowed to put in who wants to take the early retirement and then the Executive would decide yes or no.

CHAIRMAN MONTANO:

Right.

LEG. ROMAINE:

When is the decision date that the employees would be notified whether it's yes or no, because they put in their papers.

CHAIRMAN MONTANO:

I was just discussing that with Counsel. My understanding is that we extended the date at the last meeting.

LEG. ROMAINE:

Til?

CHAIRMAN MONTANO:

Til?

MR. NOLAN:

September 21st.

LEG. ROMAINE:

September 21st. So --

CHAIRMAN MONTANO:

Hear me out. It was contingent upon the sale of the nursing home. I know I didn't support that, but it did pass. Now, what the implication of that is maybe I'll ask Counsel. Can you just reiterate what that exactly means if we don't sell the nursing home, and I guess that's being taken up on Tuesday?

MR. NOLAN:

Tuesday is the day. If it doesn't pass --

CHAIRMAN MONTANO:

So it doesn't pass on Tuesday. What happens with the early retirement and those people that put in their letters.

MR. NOLAN:

The open period will elapse, you know, the same date, sometime in like August 21st or so. How the Executive's administering that, what the cutoff is to notify people, I would have to punt to the County Attorney or somebody else. I don't know.

CHAIRMAN MONTANO:

Do you know how that's going to work?

MS. BIZZARRO:

I'm sorry. I don't know that, that's why I'm not answering it.

LEG. ROMAINE:

I believe it's a legitimate question because I do continue to get e-mail from County employees who say you know, "Look, I put in my papers because I'm willing to take advantage of the early retirement, but if I'm going to be denied I obviously want to withdraw my papers in time, when am I going to get a decision".

CHAIRMAN MONTANO:

I mean, it is a legitimate question. I don't have the answer.

COMMISSIONER McELLIGOTT:

Nor do I.

CHAIRMAN MONTANO:

I don't know how that's going to work. I guess on Tuesday when we vote on the nursing home bill, if in fact it's sold, Counsel, my understanding is it extends the date, the cutoff date for the County Executive to respond to those people that put in their papers to September 21st. But -- excuse me?

LEG. GREGORY:

I thought the vote on the sale was the 17th?

CHAIRMAN MONTANO:

Yeah, that's what I'm saying, Tuesday. Maybe I misspoke. The vote is Tuesday, but if we don't sell -- if we sell the nursing home, then the early retirement response date I think is moved back to the 21st. Am I correct on that, Counsel?

MR. NOLAN:

The open period.

CHAIRMAN MONTANO:

The open period.

MR. NOLAN:

That people can take advantage of it, yeah.

CHAIRMAN MONTANO:

But by taking advantage --

LEG. ROMAINE:

And if we don't sell it that day?

CHAIRMAN MONTANO:

Well, let us finish this part. If people -- if we sell it, the open date is still -- is still available for people to apply and then the County Executive has to choose whom he's going to accept, am I correct?

MR. NOLAN:

Correct.

CHAIRMAN MONTANO:

All right. If we don't sell it, when is the cutoff?

MR. NOLAN:

Approximately August 21st, I believe.

MS. BIZZARRO:

Something like that.

CHAIRMAN MONTANO:

All right, so that's where we're at. So, you know, Tuesday is the big day. Does that answer your question, Legislator Romaine?

LEG. ROMAINE:

That does partially answer my question. The question is when do the County employees get to know whether they're going to be allowed to participate or not.

CHAIRMAN MONTANO:

That's when the County Executive -- whatever date he has he's obligated to respond and either accept or deny will be that date, but I don't know when that date is. Is that date August --

LEG. ROMAINE:

Is that in case in any regulation law statute that there is a firm date that he has to respond by?

CHAIRMAN MONTANO:

I believe that that was in the legislation and I notice that George, our Counsel, just stepped out so he probably went to get the bill, but I'll wait until he gets back. So hold that. In the interim, I'll ask -- I'm going to turn the mic over to Legislator Barraga and now that Ben has walked into the room maybe he knows the answer. You know the answer, right Ben?

MS. BIZZARRO:

I don't think our Local Law had that date in there.

LEG. BARRAGA:

The confusing part to me is this. I thought that -- my impression was that the bill we passed last week extended that date one month to September 21st in order to at some point include the Foley people if we sold that facility. But if they're not included, say we don't sell the facility, I thought the date was extended to the 21st anyway. How do you just extend the date for a certain group and exclude the majority, do you understand, if that group isn't able to participate or is able to participate. I think once you extend the date from the 21st of August to say the 21st of September, you're in essence extending it for everyone.

MR. ZWIRN:

That's correct.

LEG. BARRAGA:

Correct. So if you sell Foley, fine. If you don't sell Foley, those people, everybody else, still goes until the 21st to participate in the Early Retirement System.

CHAIRMAN MONTANO:

August or September?

LEG. BARRAGA:

September.

CHAIRMAN MONTANO:

No. I don't -- see that's -- Ben --

MS. BIZZARRO:

That bill only became -- I believe that bill --

CHAIRMAN MONTANO:

Which bill?

MS. BIZZARRO:

The second bill that you passed, which would extend the period, I believe only becomes effective --

CHAIRMAN MONTANO:

If we sell the nursing home.

MS. BIZZARRO:

If you sell Foley.

CHAIRMAN MONTANO:

Right.

MS. BIZZARRO:

If you do not sell Foley --

CHAIRMAN MONTANO:

It's void.

MS. BIZZARRO:

-- then the original 30-day period is the only period open. But you're right, if you do sell Foley the open period is applicable to everyone, correct.

CHAIRMAN MONTANO:

Right.

LEG. BARRAGA:

So everybody gets a 30-day extension if you sell Foley.

MS. BIZZARRO:

If we sell Foley, correct.

CHAIRMAN MONTANO:

If we sell Foley on Tuesday, and if we don't, then we're going back to a different date. Go ahead, Legislator Romaine. Wait, hold on a second. Go ahead, Ben. Let him answer.

MR. ZWIRN:

A lot of the letters are going out now.

CHAIRMAN MONTANO:

We read that in Newsday, right.

MR. ZWIRN:

And that was accurate.

CHAIRMAN MONTANO:

Right, but that's not all the letters. There's still a group of people that are going to be waiting, and Tuesday's vote will also determine, I think, whether or not other people get their notice that they're accepted or rejected?

MR. ZWIRN:

I think there were about close to 80 from the Foley Nursing Home facility that had applied that are on hold until we see what happens on Tuesday. For the most part the letters are going out as to who is going to be accepted and whose application was not.

CHAIRMAN MONTANO:

So tell me, you got the votes or not?

MR. ZWIRN:

I would never presume.

CHAIRMAN MONTANO:

Legislator Romaine.

LEG. ROMAINE:

Well, with that comment --

CHAIRMAN MONTANO:

You know, you didn't need to put that the record.

LEG. SCHNEIDERMAN:

He's bluffing.

LEG. ROMAINE:

Let's make an assumption, if we would. If for one reason or another the sale of the nursing home does not proceed on the 17th of August, number one, there's a whole group of people at the nursing home who will be excluded from early retirement. Number two, there's a whole group of people who all of a sudden the open period then ends on what, August 22nd? Is that correct?

MS. BIZZARRO:

As George and I have said it's around that area, 21st, 22nd, something along that time.

LEG. ROMAINE:

The 21st, 22nd. So you're going to have to work like busy beavers getting those letters out to these people who have put in who you've decided not to allow to retire because they'll have to withdraw their retirement papers. I would hope that you would give them enough time to do that, because essentially to retire they've had to submit their papers saying that they want to retire. They have to withdraw those papers at a certain time and many of them say well I put the papers in because I can benefit, but if I'm not going to be given the early retirement I'm going to withdraw them and work a few more years.

CHAIRMAN MONTANO:

If I may. I'm not sure that that's the mechanism that we're talking about. It's not like they put in their papers to retire, I think they're putting their request to be included in the Early Retirement Program, and if they are accepted then they would put in their papers. Am I correct in that?

MR. ZWIRN:

Yes.

CHAIRMAN MONTANO:

So it really is -- it is not an issue. They're not putting in their --

LEG. ROMAINE:

Then I withdraw my question. I was concerned about the timing had they put in their papers that they couldn't withdraw them in time.

CHAIRMAN MONTANO:

No, I don't --

LEG. ROMAINE:

Okay.

CHAIRMAN MONTANO:

Excuse me. Based on the way I understand, I don't think that's what we're doing. Am I correct, Ben?

MR. ZWIRN:

Yes, and the time frame won't be a problem.

CHAIRMAN MONTANO:

Right, I don't expect it to be a problem.

MR. ZWIRN:

I mean, they think that most of the people who are going to be accepted into the program have already put in their papers and have gotten letters saying that they have been accepted in the Early Retirement Program. So I think it's going to be -- you are talking about a handful.

CHAIRMAN MONTANO:

But putting in a request, just to clarify, is different than putting in papers.

MR. ZWIRN:

Oh, absolutely. Once you put your papers in you're done.

CHAIRMAN MONTANO:

You've got a certain amount of time to withdraw them, that's what Legislator Romaine is talking about. But we're not talking about that. We're talking about putting in a request to be eligible to put in your papers.

MR. ZWIRN:

Correct.

CHAIRMAN MONTANO:

Okay. Any other questions?

LEG. ROMAINE:

One last thing, Mr. Chairman.

CHAIRMAN MONTANO:

Go ahead.

LEG. ROMAINE:

At some point in our oversight role I think it would be helpful for the members of the Legislature to know how many people put in for early retirement, how many people were rejected and how many people were approved. I think that would be helpful for us from an informational standpoint.

CHAIRMAN MONTANO:

We can request and if not then we can FOIL it; am I correct?

MR. ZWIRN:

Yes. I don't think --

CHAIRMAN MONTANO:

We shouldn't have to FOIL it. We can simply request. I think that more than likely the County Executive would just tell us the numbers and -- but if not, there's always the FOIL avenue.

MR. ZWIRN:

I don't think that should be a problem, and by Tuesday most of those numbers should be, you know, definitive, so.

LEG. ROMAINE:

No, I'm not looking for it that quickly. Obviously there is a vote Tuesday, but certainly within the next two or three weeks that information would be available. By the end of the month.

MR. ZWIRN:

Absolutely.

LEG. ROMAINE:

Okay. Thank you very much.

CHAIRMAN MONTANO:

Bill, you want to say anything?

P.O. LINDSAY:

No, thank you.

MR. ZWIRN:

Most of the numbers have already been accumulated.

CHAIRMAN MONTANO:

Right. I think we're all on same page. We're just -- a little loose ends there. Any further discussion on any of these issues? Hearing none, what I'm going to do is we have no cards from the public. We have no presentation today. So we'll move right into the resolutions. No tabled resolutions. And lo and behold we have three Introductory Resolutions.

Introductory Resolutions

I.R. 1753, Adopting Local Law No. -2010, A Local Law to safeguard the integrity of sales made at precious metal and gem exchanges. (Barraga) I'm going to make a motion to table for a Public Hearing, which I believe is set for 8/17.

LEG. BARRAGA:

Second.

CHAIRMAN MONTANO:

Second by Legislator Barraga. All in favor? Opposed? Abstentions? Motion carries. **(Vote: 5-0-0-0).**

I.R. 1834, Adopting Local Law No -2010, A Local Law to Standardize Home Energy Audits in Suffolk County. (Horsley) I'm going to make the same motion, same second. All in favor?

Opposed? Abstention? That's tabled for Public Hearing. **(Vote: 5-0-0-0).**

Third resolution on the agenda ***I.R. 1839, Resolution No. , Approving the Appointment of Thomas Gallagher as a Member of the Suffolk County Commercial, Industrial, Residential Septic Tank/Sewer Drain Treatment, Bacteria Additives and Maintenance Board. (Presiding Officer at the request of the County Executive).*** Is he here?

COMMISSIONER McELLIGOTT:

Mr. Gallagher is here.

CHAIRMAN MONTANO:

Mr. Gallagher, would you step forward? Now, you're a new appointment to this board as opposed to a reappointment. Am I correct?

MR. GALLAGHER:

Yes, that's correct.

CHAIRMAN MONTANO:

Good afternoon, sir. I'm Legislator Montano. I'm the Chairman of the committee here. You want to tell us something about your background and relative to this particular board?

MR. GALLAGHER:

Sure. I've been employed in the liquid waste industry through the cesspool company or portable toilet industry since 1987. I practically grew up in the industry. I'm currently employed doing same thing for the same employer for that whole period of time. I'm currently the President of the Long Island Liquid Waste Association. I've been attending some of the meetings over of the past year and understand the format and what is expected of me on the board.

CHAIRMAN MONTANO:

Could you -- for my information, what does the board do, exactly? I've never -- I don't think I've ever voted on one of these appointments.

MR. GALLAGHER:

Okay.

CHAIRMAN MONTANO:

But I have a description of what the board does. Determine the fitness of applicant for a commercial, industrial, residential septic tank sewer drain treatment, bacteria additives and maintenance license and shall investigate and report on all proposed suspensions or revocations of licenses as hereinafter provided. So what do you really do?

MR. GALLAGHER:

We review the applications after they're received by the Consumer Affairs office to see that the experience that they have put down on the paperwork does coincide with all the supporting documents, as well as the trade references we verify. My experience, I hate to say that I know everybody in the industry, but I know a good portion of the people in the industry, and a lot of the applicants I actually know, either have worked for a company that I've worked with or worked together on projects, so I have an understanding who's coming in. And so that's reviewed and we can basically validate the information that's provided by the people. We haven't, in my experience, limited, of attending the meetings, were there anything, revocations or complaints that they've had to deal with. So that I don't have any experience with firsthand.

CHAIRMAN MONTANO:

I imagine that it's a relatively small industry. Let me turn to Commissioner McElligott. How many such licensees do we have in, you know, by the department?

COMMISSIONER McELLIGOTT:

As of the end of July there were 355.

CHAIRMAN MONTANO:

Do you get a lot of new applications or do you get mostly renewals?

COMMISSIONER McELLIGOTT:

There are about 18 new applications.

CHAIRMAN MONTANO:

On a yearly basis.

COMMISSIONER McELLIGOTT:

Last month.

CHAIRMAN MONTANO:

Oh, last month.

COMMISSIONER McELLIGOTT:

Last month. Correct. If I could just explain.

CHAIRMAN MONTANO:

Sure. Go ahead.

COMMISSIONER McELLIGOTT:

The most important part or most important role of the board, of this board as well as all the boards, is basically to bring just real life experience to the building and to educate me and to answer questions -- to answer my questions and to educate me about the industry and about the business.

CHAIRMAN MONTANO:

Right, understandable.

COMMISSIONER McELLIGOTT:

They do a fantastic job. Mr. Gallagher is incredibly qualified and we really do look forward to him being a full participant on the board.

CHAIRMAN MONTANO:

Do you get a lot of complaints and do you do a lot of revocations and suspensions on this? I would imagine not; I'm just curious.

COMMISSIONER McELLIGOTT:

Our biggest problem is -- our problems and our concerns are not with the folks who are licensed. Our problems and our concerns are about the individuals in the industry that are unlicensed.

CHAIRMAN MONTANO:

Do you have a lot of that going on?

COMMISSIONER McELLIGOTT:

Yes, too much of it.

CHAIRMAN MONTANO:

Really. This is the company you call when your cesspool is backed up and they come and they drain it. Now, let me ask you this. Do we have the same problem with this license that we have with others in terms of jurisdiction? I mean, do you need a Suffolk County license, do you need a Village of Islandia license, do you need a Town of Islip license? Do we have the same, you know, cross or multiple licenses issued with this industry as with electricians and plumbers that we talked about?

COMMISSIONER McELLIGOTT:

No, you don't have that type of problem. The problem is a little bit different. The first problem that you have is in the vast majority of the consumer -- the vast majority of the problems first of all start off as emergencies.

CHAIRMAN MONTANO:

Yes, I know. I've been there.

COMMISSIONER McELLIGOTT:

And so therefore there are very few consumers who can plan on making the phone call. It becomes an emergency situation so there's not a whole lot of planning that goes on. Secondly, when it comes to residential -- the residential services that are provided, in many cases your -- you end up purchasing a service that you rarely get to see the results of the work that's done, so there's a lot of opportunity for -- there's a lot of opportunity for somebody to be cheated.

CHAIRMAN MONTANO:

Well, I've never had an issue where the cesspool has collapsed, but I've had situations where by emergency the cesspool was filled. And I've gone to the phone book, looked under cesspool, and there are a number of companies and I call the closest one that's there. They come in, they lift the top or pull the plug, stick the stick in there, drain out the water and then they want to sell you \$500 worth of chemicals, which I personally don't think necessarily are needed every time, but that's a choice that the customer will make. But I assume that anyone who has one of those big, ugly trucks is licensed, and you're telling me no.

LEG. ROMAINE:

Honey dippers.

CHAIRMAN MONTANO:

What was that? I didn't mean to say ugly. I'm apologize.

LEG. ROMAINE:

Honey dippers.

CHAIRMAN MONTANO:

I take that back. Strike that from the record, please. No, but seriously, I have a company in my district that I've used in the past and, you know, I really never checked. I assume -- they've been around for a long time. Do you get a lot of complaints of unlicensed trucks?

COMMISSIONER McELLIGOTT:

Not with --

CHAIRMAN MONTANO:

Not on residential, right?

COMMISSIONER McELLIGOTT:

Rick, there are a bunch of different kinds of problems. There are certain issues with regard to licensing, but there's a lot of complaints with regard to services that were or were not provided, services that were paid for and there's always a question about what services were provided. You've got a question where there's an invoice with a list of services provided and all you really have is a hole in the ground and a claim that chemicals A, B and C or aeration was done or that a pool was emptied, and yet a week later, two weeks later, a problem repeats itself. And then the question is what actually was done and how do you prove what was or was not done. It's a difficult industry in that regard.

CHAIRMAN MONTANO:

Right. I don't want to belabor this, and I know that you're more than qualified, but this is an

education for me and I'm sure for some of the others. My understanding was that when they stick the hose in the tank they're charging you per ton of water that they're taking out; am I correct in that?

MR. GALLAGHER:

It's a per thousand gallon price is a general industry --

CHAIRMAN MONTANO:

I mean per gallon, yeah. For a gallon. Per thousand, five-hundred. I think the minimum is a thousand and fifteen -- fifteen hundred and two thousand.

MR. GALLAGHER:

Right. Depending on the company they might have different -- right.

CHAIRMAN MONTANO:

But isn't that metered? Isn't there a meter on the truck that tells you how much water is going through?

MR. GALLAGHER:

Pretty much every cesspool company does not have a meter. It's a liquid level site gauge and usually some sort of graduation on a truck. So there is no meter, and you can't effectively meter wastewater going into a vehicle similar to oil or whatnot because of the debris that is associated with it.

CHAIRMAN MONTANO:

So how do they know -- how do you know that they took out fifteen hundred gallons?

MR. GALLAGHER:

That's the biggest question.

CHAIRMAN MONTANO:

Oh, it is. Okay.

MR. GALLAGHER:

If you are a savvy customer and you need the service often enough, you would know what the graduations are on the truck. My biggest gripe when I see trucks going down the road, they're supposed to have the volume and capacity indicated on the side of the truck. Many of them, the numbers are erased. So how do you know? Is it a 2,000 gallon truck or 5,000 gallon truck. Now, I would know that by looking at the size and eyeball it, I'd be pretty close to the number, but how would you, the layman customer, know what the volume is. So okay, now you see half of the truck is full. How much was that really pulled out if there's no numbers on the side of the truck?

CHAIRMAN MONTANO:

Right. All I can tell you is that when I had it done in my other house I just simply looked in the cesspool and I can see that when they started it had "X" amount of water and then I'm down here. But I don't, you know, I thought it was metered, sort of like a gas meter. Apparently not.

MR. GALLAGHER:

It is not. It is a common misunderstanding. Three years with servicing the cesspools, you standing out there by the cesspool to actually see it emptied, I find that to be not the norm. The customer doesn't want to be around when we're doing the work. They don't like the smell, the odor, whatnot -- do whatever you got to do, as long as you're doing it right we're not going to holler.

CHAIRMAN MONTANO:

I've seen it done a couple of times. And, Denis, is the Town of Islip license under this -- I mean, do the towns have their own licensing for this also or no?

COMMISSIONER McELLIGOTT:

No.

CHAIRMAN MONTANO:

It's just a County license.

COMMISSIONER McELLIGOTT:

That's correct.

CHAIRMAN MONTANO:

I got you. All right. Are there any other questions? Legislator Schneiderman and Barraga next.

LEG. SCHNEIDERMAN:

My first question has to do with the pricing knowing, as the Commissioner said, it's often an emergency. Do the waste haulers disclose before they pump what the per gallon fee is and what the likely -- and give some kind of estimate? Because really people are at the mercy of these companies.

MR. GALLAGHER:

Yeah, sure -- in some respects. I know how my firm operates as well as the recommendations that we put forth by the liquid -- Long Island Liquid Waste Association is that we actually give it to you in writing before any work is done. And that's our company policy as well as we have an outline, a standard operating procedure by the Association.

LEG. SCHNEIDERMAN:

Is there any requirement, though, that you do that? I've been in this situation, I have a bit of experience there.

MR. GALLAGHER:

There is no law, code or requirement. It's like a code of conduct more or less with the Long Island Liquid Waste Association. We put forward a standard operating procedure, how you should relate with a customer.

LEG. SCHNEIDERMAN:

So there must be a lot of situations with people who are desperate, they call whatever number they come to first, and a guy comes with a truck, pumps out the system. They might be there a week later if there's still a running toilet and doesn't tell the person that, you know, a rising water, that they are just throwing their money out. But in general they will come and they will pump and they'll tell the person, they'll give the person the price after. Is that in many cases?

MR. GALLAGHER:

I've heard of that in many cases, yes.

LEG. SCHNEIDERMAN:

And is the price based on any -- I mean, I know what Bergen Point charges, I know what some of the smaller sewage treatment facilities charge. How do you base your prices?

MR. GALLAGHER:

I base my prices based on the cost of labor and fuel price and what it's going to actually take for the truck -- I got basically a price index per hour for my truck to operate. Then with their disposal fees, I take into account. Depending on the distance away from Bergen Point I set my pricing, and that's how -- that's basically what it's going to take for my truck to run from my home base, which is in Bay Shore, which is relatively close to Bergen Point, out to whatever facility that I'm going to pump and then return back to Bergen Point. If they're doing it for over 40 years, the companies pretty much have that down. We have a good understanding of what the cost is going to be.

LEG. SCHNEIDERMAN:

Let me ask you a different question. You're sitting on a board that potentially can revoke a license of one of your competitors. I imagine there is not that many people in this business. Traditionally I would think that's a conflict because, I mean, it is great to have that kind of institutional knowledge, but you can put a competitor out of business just by pulling their license.

MR. GALLAGHER:

I can also make sure people get a license in the same respect. I'm not here to try to pull someone's license.

LEG. SCHNEIDERMAN:

That's again, that's a potential conflict, too. You can prevent somebody, a new person, from getting a license. Or no, Denis is shaking his head; it's just advisory?

COMMISSIONER McELLIGOTT:

I do it. They recommend.

LEG. SCHNEIDERMAN:

Okay. But you still could influence a decision made by the Commissioner if you didn't want somebody, if you wanted less -- you know, I'm not saying you're like that. Please don't misinterpret me. You know, our job is to prevent potential conflicts of interest.

COMMISSIONER McELLIGOTT:

It's no different than the Electrical Licensing Board or the Home Improvement Licensing Board.

LEG. SCHNEIDERMAN:

Just say something to make me feel comfortable.

MR. GALLAGHER:

Being the President of the Long Island Liquid Waste Association I'm looking to further the industry, the image of the industry. I want to see more people get involved, only make it better for everyone. I'm all for healthy competition. I have no problem with that. I'm not looking to quash anybody in any way, shape or form.

COMMISSIONER McELLIGOTT:

Without them, I'd be all alone. That should make you feel better.

LEG. SCHNEIDERMAN:

How many people serve on this board?

CHAIRMAN MONTANO:

I've got the names here. Do you want to know?

LEG. SCHNEIDERMAN:

Yeah, I want to know. When was the last time you guys met?

CHAIRMAN MONTANO:

Do you want the names?

LEG. SCHNEIDERMAN:

I want to know how many people.

COMMISSIONER McELLIGOTT:

Four others.

CHAIRMAN MONTANO:

Well, what I have, I don't know how dated this is --

LEG. SCHNEIDERMAN:

Is it five total? What are they all in the industry or --

CHAIRMAN MONTANO:

One, two, three, four, five, yeah, they would be in the industry, six seven. Is that correct Denis, or is there more?

COMMISSIONER McELLIGOTT:

Wait, the Liquid Waste Board has --

CHAIRMAN MONTANO:

No, Commercial, Industrial, Residential Septic Tank and Maintenance Board. I got C.W. Coleman, term expired December 7th, appointed by the County Executive with the approval of the Legislature in 2005. Charles Gardner.

LEG. ROMAINE:

He's an employee.

CHAIRMAN MONTANO:

No, he serves at the pleasure of -- is he on the board, Denis?

COMMISSIONER McELLIGOTT:

No.

LEG. ROMAINE:

Cliff Coleman's an employee.

CHAIRMAN MONTANO:

Of what, the board?

LEG. ROMAINE:

No, of the Consumer Affairs Department.

CHAIRMAN MONTANO:

Is he your employee, Denis?

LEG. ROMAINE:

Cliff Coleman.

CHAIRMAN MONTANO:

No, that -- C.W. I don't know what C stands for.

LEG. SCHNEIDERMAN:

Maybe Thomas can tell us who is on the board.

MR. GALLAGHER:

C.W. Coleman, he goes by the name of Judge, Judge Coleman. He has or had a business building, the tank trucks, the vacuum tank trucks.

CHAIRMAN MONTANO:

But he has his own business, does he not?

MR. GALLAGHER:

He does not pump cesspools. He more or less services the trade by building the trucks and support equipment.

CHAIRMAN MONTANO:

Right, but he doesn't work for the Department of Consumer Affairs. He's a businessman.

MR. GALLAGHER:

Exactly.

CHAIRMAN MONTANO:

So we're talking about someone else. Now, I got Charles Gardner, who I don't know if he was appointed because he was Commissioner, doesn't work that way, or is he appointed now? Is he an appointee, an active member of the board?

COMMISSIONER McELLIGOTT:

No.

CHAIRMAN MONTANO:

All right, because it says here Charles Gardner, Commissioner. Are you a member of the board, Denis?

COMMISSIONER McELLIGOTT:

I think that technically pursuant to the statute I'm a member of all of the boards.

CHAIRMAN MONTANO:

So then you would be taking Gardner's place.

COMMISSIONER McELLIGOTT:

Correct.

CHAIRMAN MONTANO:

Got you. All right, not an issue. Joseph Baier, term expires December, again, appointed by the County Executive. It's B-A-I-E-R. Do you know that gentleman?

MR. GALLAGHER:

He's an engineer; he's not in the pumping industry.

CHAIRMAN MONTANO:

Kenneth {Bailey}, again, appointed by the County Executive.

MR. GALLAGHER:

He's no longer on the board. My understanding that's the seat I'd be --

CHAIRMAN MONTANO:

That's the one that you're going to be filling.

MR. GALLAGHER:

Correct.

CHAIRMAN MONTANO:

Okay. Richard {Crazenzo}.

MR. GALLAGHER:

He operates a sewage treatment plant operating company, management and operating company,

and he also --

CHAIRMAN MONTANO:

He's on the board.

MR. GALLAGHER:

He's on the board and also has his own pump trucks to support his own business.

CHAIRMAN MONTANO:

Now, have Robert Falk, who is the Assist Director, Sewer District Activation, DPW, I guess he's a County employee? He's on the board.

COMMISSIONER McELLIGOTT:

That's correct. My understanding is he has recently given us notice that he intends on leaving the board.

CHAIRMAN MONTANO:

All right. His term according to my information, which could be dated, expired December 7, 2006, so he's a holdover.

COMMISSIONER McELLIGOTT:

Correct.

CHAIRMAN MONTANO:

And then I have William Baessler, B-A-E-S-S-L-E-R, I guess he's also a County employee, 853-4600 number. Serves at the pleasure of the Director of Consumer Affairs?

COMMISSIONER McELLIGOTT:

Yeah. He was the Director of the Bureau of Licensing and has been retired for a number of years.

CHAIRMAN MONTANO:

Is he on the board?

COMMISSIONER McELLIGOTT:

No.

CHAIRMAN MONTANO:

Has he been replaced by anyone?

COMMISSIONER McELLIGOTT:

No.

CHAIRMAN MONTANO:

So what do we have, five active members?

COMMISSIONER McELLIGOTT:

That's my understanding; correct.

CHAIRMAN MONTANO:

Out of seven. Okay. Did that answer your question?

LEG. SCHNEIDERMAN:

Kind of. Of the active members, I was trying to figure out who are not County employees. It sounds like there may be two?

MR. GALLAGHER:

Right now --

LEG. SCHNEIDERMAN:

The one guy who makes the trucks, one guy who's an engineer, operates sewage treatment facilities, has some of the trucks themselves.

MR. GALLAGHER:

Right.

LEG. SCHNEIDERMAN:

You, who's not on the board yet, but who's also in the business of pumping sewage. Was there any other from the private sector?

MR. GALLAGHER:

No.

CHAIRMAN MONTANO:

If I may. Out of seven it appears that three are County employees.

LEG. SCHNEIDERMAN:

But we don't have seven. So out of who's left maybe five --

MR. MONTANO:

Well, we don't have seven because --

LEG. SCHNEIDERMAN:

It sounds like three are not County employees of the five that are left. Well, assuming Mr. Gallagher is on the board.

CHAIRMAN MONTANO:

Well, they're all holdovers.

LEG. SCHNEIDERMAN:

Assuming Mr. Gallagher gets appointed that he would join two other members of the private sector who are on this board. So let me ask you the question, do you have any business relationships with those other two from the private sector?

MR. GALLAGHER:

Mr. Coleman we purchased trucks from in the past, but he no longer has that business of building the trucks.

LEG. SCHNEIDERMAN:

And the other individual?

MR. GALLAGHER:

I don't have a business relationship directly with his company. I've worked on privately owned sewage treatment plants that he was the contract operator for, but my client was the owner, homeowner association, whatnot, for that sewage treatment plant. So he was -- I wasn't working for him or with him, just working at the same place as that company.

LEG. SCHNEIDERMAN:

I just want to make sure on this board that the majority of this board is not controlled by one particular company or interest.

MR. GALLAGHER:

Right, and I can understand what you're saying.

LEG. SCHNEIDERMAN:

And that there's not this web of conflicts there. Because people who are trying to get into this business kind of need to go through this board to get their license.

MR. GALLAGHER:

As long as they show the required five year documentation of experience in the industry I have no qualm --

LEG. SCHNEIDERMAN:

I want to make sure it's not anti-competitive. I think you can understand my line of questioning.

MR. GALLAGHER:

I understand your line of questioning completely. The law is pretty specific that it requires five years of working experience in the past ten, I believe, in order to be eligible for the license. So that's usually what we're looking for, that they have the substantiating documentation.

LEG. SCHNEIDERMAN:

And you feel you could do your duties without any kind of bias, prejudice, or?

MR. GALLAGHER:

Absolutely.

LEG. SCHNEIDERMAN:

Okay.

CHAIRMAN MONTANO:

Denis, you don't get a lot of rejects, you know, applications rejected on there, do you? I mean, you said you had 18 new applications this month. Is it -- I would imagine, as Mr. Gallagher said, they need to come in with a minimal amount of experience and qualifications, and that would probably be screened. So are you rejecting -- are a lot of these applicants going to get rejected or not? I wouldn't imagine so.

COMMISSIONER McELLIGOTT:

We had this discussion last year about a different license category.

CHAIRMAN MONTANO:

Yes, we did.

COMMISSIONER McELLIGOTT:

And I don't recall which one it was.

CHAIRMAN MONTANO:

It might have been electricians.

COMMISSIONER McELLIGOTT:

But I do recall that it led me back to my IT person and the answer was my computer system is not designed to tell you exactly the number of -- of any type of application, any category or total number of applications that were rejected.

CHAIRMAN MONTANO:

Well, your computer needs to be updated.

COMMISSIONER McELLIGOTT:

Well, that's true, too.

CHAIRMAN MONTANO:

But on this motion I'm going to make an application to approve the nominee and we'll deal with that issue later. Do I have a second on this?

LEG. ROMAINE:

Second.

CHAIRMAN MONTANO:

With that, all in favor? Opposed? Abstentions? **(Vote: 5-0-0-0)**. Congratulations, sir. You won't have to appear at the full Legislative meeting next week. That's going to be on Tuesday. If you'd like to be there, you're more than welcome to come. I don't think that you'll need to say anything. That's generally our practice.

MR. GALLAGHER:

Okay. Thank you very much for your time.

CHAIRMAN MONTANO:

Thank you. It was very interesting. With that, I'm going to take a motion to adjourn.

LEG. ROMAINE:

Motion.

CHAIRMAN MONTANO:

I don't think we need a second on that. We are adjourned. Thank you.

(THE MEETING WAS ADJOURNED AT 1:49 P.M.)

{ } Denotes spelled phonetically