

Public Hearing
Council Chambers – Olean Municipal Building
Tuesday, November 21, 2017 – 5:30 p.m.

Present: Aldermen Gonzalez, Witte, Dougherty, Crawford, Smith, and George. Others: Mayor William Aiello; Nicholas DiCerbo, Jr., City Attorney; Bob Ring, Director of Public Works; Bob Bell, Fire Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

Alderman Gonzalez opened the meeting at 5:30 p.m. and began by reciting the Legal Notice of Public Hearing:

The Common Council of the City of Olean, New York has scheduled a Public Hearing for Tuesday, November 21, 2017 at 5:30 p.m. in the Council Chambers of the Olean Municipal Building. The purpose of this hearing is to receive public input on proposed Resolution #93-17, to amend and replace the City of Olean Code of Ordinances Chapter 12 in its entirety with the following: Chapter 12, Property Maintenance and Residential Occupancy Code: Article I, Property Maintenance Code; Article II, Residential Occupancy Certificates; and Article III, Rental Dwelling Registration, Inspection and Occupancy Permits. For more information or for a copy of the proposed legislation, please contact the Common Council Office at 716-376-5635 or visit www.cityofolean.com.

Alderman Gonzalez continued in explaining the procedure of the Hearing, such as the five minute time limit per speaker and requested that speakers stick to the topic at hand.

Paul Hessney of 411 East State Street questioned if what is presented is the “final draft” of the proposed law, could changes and modifications be made. Alderman Smith replied that the Council has deliberated for many months regarding this legislation. It is not done until it is voted on, but theoretically, it can be changed. He feels, though, that this is what the Council has been working towards and feels comfortable with. Alderman Gonzalez added that no law is entirely final. If there are any issues, amendments can be made down the road.

Edith Schrot of 402 Laurens Avenue stated that she and her husband own the rental property next door to them. They feel that there should be inspections of rental properties; however, she feels that \$60 is too high. That is 10% of the rent for some rentals. She also feels that inspections after every single tenant leaves is really kind of a bother. She would suggest that if a unit looks fine after an inspection, that a period of time be able to pass before the next inspection. She feels that the burden should be placed on those who do not pass inspection.

Alderman Crawford stated that the \$60 fee, compared to an average rent of \$500 per month, is 1% of the rental cost for the year. He wants to clarify that it is not 10% of the annual revenue. Ms. Schrot replied that there are other expenses involved in owning and maintaining apartments, and \$500 a month is not a net profit.

Jerry Brass of 319 West Henley Street stated that he has been to a few of the work sessions during which the Council discussed this topic, and he knows what they have gone through to draft this legislation. He feels that what is presented tonight is a better version than what was originally drafted, and he thanks the Council for that. He questioned if businesses and commercial properties that are inspected annually, currently with no charge, will now be charged. Alderman Gonzalez responded that this law applies to these properties only when the title transfers. According to this legislation, there are no annual inspections for owner occupied homes or businesses; the inspections only occur for title transfer in this case.

Chief Bell added that the business inspections that occur each year are fire safety inspections that are separate from what is being proposed tonight. Mr. Brass questioned if there is a charge for this, and Chief Bell responded that there is not. Mr. Brass questioned why landlords are being charged if businesses are not, and Alderman Gonzalez replied that these are two completely separate things. Mr. Brass stated that he has read that there is an issue with the number of people that the Genesis House has, and he suggested putting into law a certain number of unrelated people that can occupy a residence.

Gail Faulkner, a Public Health Nurse with the Cattaraugus County Health Department, applauded the Council's efforts with this legislation. She stated that she sees children who come from run down homes that need help. She is happy to see this. She stated that the Council could consider adding lead safe work practices for when a dwelling is "under construction". Lead poisoning is a big problem that she sees, and when homes with lead paint are pressure washed, the paint ends up on the ground and contaminates the soil that children are playing on or with. She stated that this is great, and certainly an excellent start. She stated that the County has begun a lead safety coalition and invited the Council and public to attend.

Alderman Gonzalez stated that the Council would take Ms. Faulkner's suggestions regarding lead issues into consideration. Alderman Crawford stated that the checklist for inspections hasn't been finalized, and we can certainly consider this when it is being created.

Elizabeth Ludvik of Allegany stated that this is a really great draft, and it sets a good example for other towns. She pointed out several grammatical errors throughout the draft. She also stated that the word "transient" is used without a proper definition or clarification of the meaning.

Carmen DeGiglio of North Union Street stated that he has a handful of rentals, and he has several concerns. He is concerned about the cost of \$60 every time an apartment turns over. Alderman Crawford responded that this is unless there is a turnover in a twelve month period, as each subsequent inspection in a twelve month period due to tenant turnover is \$30. Mr. DeGiglio questioned if owner occupied homes are subject to inspection, and Alderman Gonzalez replied that they are only subject to inspection when they are bought and sold.

Mr. DeGiglio stated that he has about twelve units, and they are already inspected as he rents through HUD and Housing Options, who both inspect rentals prior to occupancy. He questioned

how this compares to the City inspection, and if the City has considered this when preparing the legislation. Alderman Gonzalez replied that it has been taken into consideration. Mr. DeGiglio questioned why the additional inspection is needed. Mr. DiCerbo stated that another inspection cannot be used in place of this. Mr. DeGiglio questioned if the HUD guidelines are not strict enough.

Alderman Gonzalez responded that the City wants to be in charge of our own destiny in terms of blight. HUD inspections have been done for years, but we still have blight. Mr. DeGiglio questioned if there is any other blight in the City, and Alderman Gonzalez responded that of course there is. We are simply trying to tackle blight, one step at a time. He stated that we are not throwing out the rest of the Code of Ordinances, and we will still address other issues.

Mr. DeGiglio questioned where money will be going from the inspections, and Alderman Gonzalez replied that it will go directly back to Code Enforcement. Mr. DeGiglio asked if the City intends to hire more Code Enforcement personnel, and if so, how many. Alderman Gonzalez replied that we do; however, that decision is up to the Mayor and Fire Chief, not the Council.

Mr. DeGiglio stated that fair rental value does not increase; yet, each year, his expenses as a landlord increase. He doesn't agree with the \$60 fee. He doesn't think that it is fair to target good landlords for the actions of the bad. He complies with Codes, and he feels that he is still being penalized.

Alderman Smith stated that using other entities inspections of rental properties was debated at length with the Council. A lot of entities inspect rental properties, but not all in the same way. Not all entities inspect with the same standards, on the same timeline. The City wants to be in control of our destiny, and we want one inspection that is the same across the board.

Alderman DeGiglio questioned if the checklist for the inspection is finalized, and Alderman Gonzalez stated that it is not. Alderman Dougherty stated that the checklist will be based on the current New York State Building and Fire Code. Alderman Gonzalez stated that the Council will have a say on the final checklist. Mr. DeGiglio questioned if the Council could say that they would compare their checklist with that of other agencies, and Alderman Dougherty responded that it is not so much how they are the same, as it is how they are implemented.

Mr. DeGiglio stated that HUD does an inspection each year, and questions how the City's inspection would be different. He doesn't feel that it is true when the Council states that they compared the inspections. Alderman Gonzalez stated that it is not whether or not the inspections are the same. It is about what the Council and the City can control.

Mr. DeGiglio questioned if there will be any concessions on the fee. Alderman Gonzalez stated that this has been discussed for many months, and this is what the Council has decided on.

Robert Kennedy of Salamanca questioned what will happen if landlords decide not to deal with HUD because their inspections don't mean anything, since a City inspection is still needed. Alderman Gonzalez stated that he reverts to his earlier comments regarding the City controlling its own destiny. He questioned how we have ended up where we are if HUD has been doing inspections all this time. Mr. Kennedy questioned why previous Codes weren't abided by, and Alderman Gonzalez replied that the rules were toothless and ineffective. Mr. Kennedy questioned how many people would be hired, and Alderman Gonzalez replied that it is up to the Mayor, Fire Chief, and Code Enforcement to determine staffing needs. Mr. Kennedy questioned if the Council has a say over this matter, as they are running the City, and he stated that all matters regarding personnel are the Mayor's decision.

Mr. Kennedy stated that he feels that the City should take care of its own backyard, such as blighted properties, before it attacks landlords. He questioned what would happen to a tenant who destroys a property, since landlords can't go after them. Alderman Gonzalez stated that no one says that a landlord needs to rent to a certain person. It is a risk of doing business. Mr. Kennedy stated that he wonders if there is something that the City can do to hold tenants responsible.

Kathy Sader of 302 West Sullivan Street stated that HUD inspects units once a year. When there are children under age seven in a unit, standards are very strict. For example, there can be no peeling paint on the roof. She added that she sees that heat requirements in the proposed legislation are for September 15th, and she believes New York State requirements begin October 1st. She also stated that New York State has guidelines regarding unrelated people in a rental. One family plus one unrelated person and their family is what New York State limits vacancy to.

Ms. Sader questioned if the legislation states that a refrigerator and stove must be in working condition in a rental, does this mean that the landlord must provide them? Mr. DiCerbo responded that the dwelling unit must have them, but the landlord is not required to provide them. If, per a lease the tenant must provide them and doesn't have them in the rental, then they are in violation of the lease.

Ms. Sader stated that she had a tenant use a stove for heat, as they felt that the 74 degrees that their unit was heated to was not enough. HUD is making the tenant replace the stove, as it was damaged during this occurrence. She questioned if this legislation would allow landlords to take tenants to court and hold them responsible. Mr. DiCerbo replied that it would allow Code Enforcement to issue the tenant a ticket, but the landlord would need to take the tenant to Civil Court in order to recuperate funds.

Chris Stanley of Buffalo Street commended the Council for the hard work that they put in to produce this legislation. He stated that he had not gone to many City Council meetings prior to the introduction of this legislation. He stated that he doesn't feel that the Council should have

waited until the final draft was produced to hold a public hearing; however, he does not feel that there are any major problems.

Mr. Stanley continued in stating that there are grammatical issues that have been presented to Mr. DiCerbo, as well as issues with misspellings and contradictions. He feels that the Council should ensure that these issues are corrected prior to the adoption of the legislation. He added that he feels that certain definitions should be cleaned up.

He continued in stating that he feel that the bill almost begs landlords to not report changes in tenancy, and he questions who will be responsible for chasing landlords down. He wants to make sure that this legislation has some teeth. He recommends requiring that landlords submit a list of their units and tenants each month if they own more than a certain number of properties. He stated that if a landlord with a lot of properties is concerned with the inspection cost, then they may cut corners to avoid inspections. He doesn't want to see this look like a good idea on paper, but not work out.

Mr. Stanley stated that his one issue is from the owner occupant side. If a low income owner occupant goes to sell their home and it does not comply with the checklist, and doesn't have the funds to bring the home up to Code, then it is possible that homes won't get sold. He feels that the Council should revise the legislation to focus on visible blight issues for the sale and purchase of property, as well as consider the potential impact on low income homeowners.

Thomas Smith of Washington Street stated that he hasn't been to meetings regarding this topic, but he has been reading the stories in the newspaper. He stated that he has read that the inspection is to be a simple basic housing inspection. Alderman Gonzalez confirmed that it is a minimum safety inspection. Mr. Smith stated that this sounds like a "Housing Quality Standards Inspection" that some social service agencies perform. He questioned how this is going to solve the blight problem in Olean. Alderman Gonzalez questioned how raising the standard of what people put in their properties doesn't improve the situation with rundown properties in the City. We are trying to force people to take care of their properties, or we are shutting them down.

Mr. Smith stated that he has had Section 8 inspections on his properties, and they are much more in depth than what the Council is explaining. He stated that properties that look bad aren't being funded by Section 8. He stated that, if you receive funding from Section 8, you cannot move into a unit unless it passes inspection. He stated that the City should take into consideration other agencies inspections, as it would save us quite a bit of time and money.

He continued in stating that he has turned over 34 apartments in the past year, 21 of which he would have been charged \$60, and the other 13 he would have been charged \$30. It would cost him \$1,650 extra this year for these inspections. If the City considered inspections that are already performed by other agencies, the cost would be cut down substantially. He feels that this would allow the City to address more of what we are trying to accomplish.

Alfred Eade of 230 North Second Street stated that he feels that the inspection fee is a tad high, but he is willing to pay the fee if it will be going towards adding Code Enforcement personnel. He is in favor of the inspections, and feels that we need to start somewhere. He would like some assurance that the Council will come back in a year and revisit this legislation if it passes. He stated that a lot of landlords take HUD, and they are not all bad landlords. He questions if we can send notices of Code violations to HUD, so that they won't allow their clients to rent a property that has issues. This will cut off monies to problem landlords.

Alderman George responded that we are fully aware that we will need to keep our ears open if this legislation passes with the public and Code Enforcement moving forward. We are taking a leap to try to do something good and right. Alderman Gonzalez added that we are always listening to feedback from the public and City departments. Moving forward, we will listen to concerns and if we feel that something isn't working, we will fix it. We can't put a definite timeline on the review of the legislation, but if it is not working, we will address the issues.

Mr. Eade questioned if the Code Enforcement personnel have to be from the City due to the Collective Bargaining Agreement, and Alderman Gonzalez replied that Code Enforcement personnel do not need to be firemen. The decision is left to the Mayor, Fire Chief, and Code Enforcement.

Kelly Sweet of Laurens Street questioned if, procedurally, the Council would republish notice of the legislation if changes were made following tonight's meeting. Alderman Gonzalez assured her that we would. She stated that she feels that the Council should make sure that everything is dotted and crossed prior to the adoption. She doesn't want to see something this controversial have an "oops".

_____ stated that she has many tenants who do not want people to know where they are living, and she does not feel that landlords should be required to provide a list of their tenants to the City.

Josh Anderson of 6 Barnside Lane stated that a big part of the blight problem in the City is the exterior of homes. This legislation does not address single family homes that have blight issues unless they are bought or sold. He feels that there should be a City-wide lead inspection, and dilapidated houses should have a new coat of paint applied.

He continued in stating that there is a section in the legislation that states that the owners of the property are responsible for garbage, and he thought it was the tenant's responsibility. Alderman Gonzalez replied that the owners are responsible, and it is up to the owner to do business with the tenant to transfer the responsibility in a lease.

Mr. Anderson stated that the \$60 and \$30 fees for inspections should be a flat rate per dwelling, which would make it easier to budget and hire someone without passing any of the financial responsibility to taxpayers. He questioned if inspections could occur after hours and on

weekends, as a lot of landlords also have full time jobs. Alderman Gonzalez responded that this is something that the Mayor, Fire Chief and Code Enforcement will consider when they execute this law.

Mr. Hessney stated that he echoes Mr. Stanley's comments, that he commends the Council for the whole procedure. It is his understanding that this is how democracy is supposed to work. He also commends the Olean Times Herald for their excellent coverage of this, and he thanked the Council and press for going above and beyond.

He stated that his concerns are regarding inspections upon the sale of a home. He stated that he will live in his house until he dies, and when he dies the home will be a problem for his children. He feels that bringing the house up to Code will cost him all of his savings. He stated that there are many people with properties that are more than 100 years old, many with lead problems. He is not sure what the Code demands would be, but he sees this as a real problem going forward. The problem is especially for older people like himself in the community. He hopes that the Council would look at the cost of asbestos abatement moving forward.

He continued in stating that inspecting upon each vacancy seems onerous, if we consider the high turnover of rental properties. He recommended inspections and fees if there are more than a certain number of units in one building. He stated that the Council and the City need to consider a balance between safety, the need for housing and affordability of housing.

Alderman Dougherty stated that if a home does not pass the inspection and earn a Certificate of Occupancy, it will not hold up the sale of the property.

Marcia Nandillon of 214 South Clinton Street stated that she has been traveling with Community Action and has heard of the Rural Revitalization Corporation and the Land Bank. There is a lot of money out there on both State and Federal levels. She doesn't agree with the idea of knocking down houses when there is money out there to rehabilitate them. She will be bringing funding options to the City so that we can look into different programs that could aide with our blight issues.

Sarah Meyer stated that she owns a property on Irving Street, and she lives in Smethport. She questioned what the point of being at the hearing is, when it seems that the legislation is already a done deal. She doesn't want to be a landlord anymore, but she cannot sell her property. She questions how we can revitalize Olean when we are making owning property more burdensome. She questions why we are making more obstacles for people who want to own homes and rentals. She feels that we are shooting ourselves in the foot.

Ms. Meyer continued in questioning how we can adopt legislation when we do not have the criteria by which properties will be inspected. More laws will not take care of the problem. We need to deal with the problem individuals, not landlords as a whole. We should hire more Code Enforcement officers to enforce the laws currently on the books.

She stated that she feels that the frequency and cost of inspections are unreasonable. Taxes are already high. She can't get high end tenants for her high end apartments. She moved out of New York State to get away from this, but she is still stuck here.

Ms. Faulkner stated that when people think of lead, they think of abatement. What really needs to be looked at, rather, is stabilization.

Kevin Bartholomew of 737 Bishop Street stated that what he sees, for the most part, he likes. He feels that the legislation addresses blight, but not slumlords. He has heard stories of landlords who rent through Social Services, and when they have to evict a tenant, they find that the tenant has destroyed the apartment. He feels that tenants are not held accountable, and they should be.

He continued in stating that this is what should have happened when the Landlord Registration was adopted several years ago. We need to hold the right people accountable. Many people have outstanding rentals, and feel that they are being punished because of issues with bad rentals.

Dale Anderson of Henley Street questions why we are re inspecting at each change of tenancy if a unit was just inspected. He feels that there should be a flat fee for inspections, and the inspections should be done every two years or so. Alderman Gonzalez replied that this was originally considered, whether to do an inspection annually, every two years, or every three years. Through discussion and looking at what other communities do, the Council settled on what would be more effective.

Alderman Gonzalez continued that there were also privacy concerns, with the notion that the City would be doing inspections when tenants are in a home, among their personal property. He can understand this concern to a degree.

Mr. Anderson responded in stating that he has quite a few units, and as an owner, it is easier to schedule every two years and get inspections done all at once, rather than with each vacancy. He questioned how landlords would pay the fee. He added that he does not see a reason to do inspections more than once every two years. Alderman Gonzalez responded that the Council did consider inspections on a regular interval, rather than with vacancies. The Council came to the consensus that it was not the optimal way to proceed. Alderman Dougherty added that other municipalities do their inspections based on vacancy. This would prevent the City from infringing on the privacy rights of a tenant. Also, we are basing our legislation off of law that has been vetted through the New York State Courts.

Alderman Crawford added that a unit that is vacant provides the best opportunity for an inspection. If there are no issues, the inspection will be a quick in and out thing.

Mr. Anderson questioned if the landlord or their agent has to be present, or if a tenant can be present for the inspection. Alderman Gonzalez replied that a landlord or their agent must be present. The tenant cannot be the present, responsible party for the inspection. Mr. Anderson

questioned if an inspection can be done when a tenant hasn't been chosen for a rental, and Alderman Gonzalez stated that it could.

Ann Anderson of Henley Street questioned if the Council really knows how many people will be moving in and out of rentals. She questioned if the City can really handle these inspections. She has a friend who works for the gas company, who sees the turnover of occupants in rental units. She feels that there is no way to keep up with this. Ms. Anderson stated that the Council really needs to look into this, and make sure they have laid the proper groundwork. This is a difficult business.

Mr. Stanley stated that his Citizens Action Network Group is trying to bring more affordable housing to the community. They are working to find ways to handle situations when tenants trash rentals. He invites landlords who have any ideas to bring them to the Group.

Alderman Crawford stated that he would like to know what recourse landlords have with tenants. It seems that this is a recurring theme. This law doesn't address this issue, but it will be looked at down the road.

Mr. Kennedy stated that the water bills for a rental should fall on the tenant. In Salamanca, in order for water to be turned on in a tenant's name, they must put down a security deposit or a homeowner must sign a paper that they will be responsible for the bill if it isn't paid.

Mr. Smith questioned if residents who may sell their homes should have to worry about the inspections, and wondered if they will have to be worried about lead abatement. If a property is owned for a long time by a resident, does it need to be up to Code? Mr. Hessney stated that many of the properties in the City are very old, and very likely won't be up to Code if and when they are sold. He knows that mostly landlords are concerned about this legislation, but he is also worried about homeowners who will someday need to sell. Mr. Jennings stated that older homes are under a separate Code, for existing buildings and structures. He is more concerned with obvious safety issues.

Mr. Smith questioned if the proposed checklist came from the Council. Mr. Jennings stated that draft is not final. Mr. Smith stated that the information on the legislation is completely different from the draft checklist that he was provided. The legislation is much stricter, while the checklist is generalized. He feels that property owners should be concerned with the checklist.

Alderman Gonzalez stated that the checklist will be finalized well in advance of the effective date of the legislation (June 1, 2018). Mr. Smith replied that he feels it should have been available for this meeting.

Mr. Anderson stated that the City no longer turns water bills off for landlords, which took no time at all. These inspections seem thorough and time consuming. He questions if we can handle the inspections. Alderman Gonzalez replied that it is difficult to predict. We did consider the

potential volume of inspections. We will be diligent and we will adapt. Mr. Anderson stated that he is concerned that he will be losing profit because of the time taken for inspections. He thinks that this will cost a lot of money for landlords.

Karen Callahan stated that it baffles her, that she has some nice units that could possibly require an additional inspection after six months. She feels that this is a waste of the City's time and landlord's money. She shows houses as a realtor, and wonders if the inspection will still be required for a cash sale. Alderman Gonzalez stated that inspections will be required for all title transfers.

Alex Stakel stated that a lot of landlords collect money from Social Services for their rentals. He stated that the program is not supposed to pay rent for apartments that don't meet Code. It is very obvious that a lot of units paid for by Social Services do not meet Code. If a landlord is accepting government money, then they should follow government rules.

Mr. DeGiglio questioned if the issue will be voted on tonight, and Alderman Gonzalez stated that it will be voted on, tentatively, in one week. Mr. DeGiglio questioned if the inspection fee could be turned over to the tenant, and Alderman Gonzalez replied that a landlord can contract anything that they want with their tenants. Mr. DiCerbo stated that a lot of landlords have an application fee that covers the cost of inspection. The City does not mandate this, and it is up to the landlord.

Absent additional comment, the hearing closed at approximately 7:30 p.m.