

## **PUBLIC SAFETY**

Tuesday, June 20, 2017 – 6:00 p.m.

Police Training Room – Olean Municipal Building

Present: Members: Chairman Gonzalez, Vice Chairman Andreano, Alderman Witte, Alderman Dougherty, Alderman Smith, and Alderman George. Others: Mayor William Aiello; Nicholas DiCerbo, Jr., City Attorney; Bob Bell, Fire Chief; Jeff Rowley, Police Chief; Ed Jennings, Code Enforcement Supervisor, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

### 1. Roll Call

Alderman Gonzalez called the meeting to order at 6:00 p.m. and asked that the record show that all committee members were present.

### 2. Approval of Minutes of the Previous Committee Meeting (Tuesday, June 6, 2017)

A motion to approve the minutes of the Tuesday, June 6, 2017 meeting minutes was made by Alderman Gonzalez, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.

### 3. Unfinished Business

- a. PL #25-17: (Dougherty) 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.

Alderman Dougherty stated that when we left this at the last meeting, each of the Aldermen was going to decide what they felt was best in terms of frequency of inspection as well as what inspection fees we should charge.

Alderman Andreano stated that she put together a rubric to be as nondiscriminatory as possible. She did not want to use the long list of details that were on the inspection list presented a few meetings ago. She stated that there is different criteria for Codes to look at, and then numbers are added up to decide what rating the rental unit has (A through D). Then, in turn, the house is inspected in a frequency based on what rating the home got (the higher the rating, the less frequent the inspection). There would still be inspections in the meantime if a complaint is received.

She continued in stating that she has concerns that, if a house passes inspection and then at a later date the furnace malfunctions and there is a fire, that we can be found to be negligent. Mr. DiCerbo stated that we are not negligent in this sort of case. Alderman Gonzalez compared

it to a car passing inspection, and then being in an accident because brakes fail. New York State is not negligent because they required inspection and set the criteria that aided the car pass inspection. Mayor Aiello stated that we aren't taking things apart to inspect piece by piece. He stated that anyone can sue anyone else for anything, but that doesn't mean they are liable.

Alderman Witte stated that she agrees with Alderman Andreano's rubric system. The biggest complaint that she gets is that a few bad apples are creating a hassle for everyone.

Alderman Gonzalez stated that his only concern is that we are creating a system where we can be manipulated. If we determine that a unit has an "A" rating, then the landlord doesn't have to touch the unit for 8 or 9 years until it comes time for inspection again. He stated that he recommends an inspection every three years with a \$25 cost. This is simple and fair across the board.

Alderman Andreano replied that there is no incentive to be a good landlord. Alderman Gonzalez replied that the incentive is that they are able to rent out the property and they are not shut down. Also, people with the best properties can charge the most for rent.

Alderman Smith stated that he sees pros and cons with each system. He stated that the grading system forces Code Enforcement to make judgment calls. Alderman Gonzalez added that there is always going to be a middle ground, and we need something that is black and white.

Alderman Andreano stated that she feels that an across the board system is not fair for good landlords. Alderman Smith replied that he has a lot of inspections and audits as a business, and the annual inspections that he receives are just a part of doing business. \$25 for an inspection every three years is a very minimal cost to some of the inspection fees he needs to pay.

Alderman Gonzalez added that we are not trying to facilitate landlords. We are here to ensure that Olean is a safe place to live.

Alderman Witte questioned if we would stagger inspections so that they aren't all done in the same year, and Alderman Gonzalez replied that we would.

Alderman Gonzalez stated that it is hard to wrap his head around this, because he doesn't know how we are going to pull this off.

Alderman Dougherty stated that as a "kick off", we could provide an incentive to schedule an inspection in a reasonable amount of time. Mr. DiCerbo stated that like a doctor, you can call and make an appointment and get on the list. Even if the appointment is months out, as long as you're on the list you're okay. Alderman Gonzalez stated that we need to look at staffing and see how many people we need and what sort of hours they should work.

Alderman Smith stated that other cities have this inspection process. He stated that it doesn't work well in Bradford because so many houses need fixing up that owners let them go back to taxes and walk away from them. Alderman Gonzalez replied that if someone is willing to walk away from a home because they are not willing to bring it up to minimum living standards or because of a \$25 fee, that someone else who will fix it up and will pay the fee will pick up the home and rent it out for income.

Alderman Smith questioned why the current system is not working. Mr. DiCerbo replied that we do not have the authority to enter a home. Currently, we need probably cause that there is a situation in the home before we can enter it. Under the proposed system, we would be able to get an administrative warrant to get in the home simply because an inspection is not performed as required. The current system does not give us the tools to get into homes to do inspections.

Alderman Andreano questioned what we do when homes are not suitable for habitation, and Mr. Jennings replied that we post them. Mr. DiCerbo added that the landlord and tenant are both entitled to due process. She asked what the law does for abandoned properties, and Mr. DiCerbo makes it so that they cannot be occupied until it is brought up to minimum standards, whether someone buys a property to live in it, or if someone tries to rent it out.

Alderman Smith questioned if this helps with homes that are owned by a far-away shell LLC. Mr. DiCerbo stated that these homes will still need to be inspected if they are rentals, and the current code requires that they have a local agent.

Alderman Smith continued in asked if Mr. Jennings felt that this proposed legislation is useful. He replied that manpower is his biggest issue; however, he needs a way to get into homes, and some tenants are afraid to talk to Codes. This will solve that issue. Alderman Smith asked if he felt that the grading and rubric were a good idea, and Mr. Jennings replied that he will have to look into it. Mr. DiCerbo added that the complaint based system will also continue.

Alderman Smith asked if, when we receive a complaint, if an occupant or landlord won't let us in, then we can't get in? Mr. DiCerbo replied that is correct. Alderman Smith stated that it seems that the complaint system has a lot less power than the proposed inspection system.

Alderman George questioned if there is an intermediate step between the complaint system and inspections of every rental property. Mr. DiCerbo replied that he has not seen one.

Mr. DiCerbo stated that a lot of municipalities do the inspections based on vacancy, and he feels that this is the ideal way to implement.

Alderman Dougherty stated that he knows that we are worried about funding this. HE stated that in the past we had three to four full time Code Enforcement Officers, and we can refill the positions that are still budgeted for. Alderman Gonzalez stated that he does expect there to be a gap when we first increase staffing levels, but over time, this could be self sustaining. He reminded that we are not in this to make money. We only want to make neighborhoods and rentals better.

Mayor Aiello stated that they have the inspection requirement in Allegany, and you don't see many houses, if any, abandoned because of the requirement and fee. He stated that he has received feedback from many landlords that this is a good idea and does not create an issue for them.

Alderman Gonzalez stated that the next step is for the committee to consider a set interval (for example, every three years) versus a grading system.

Mayor Aiello stated that he likes the thought of having volunteers start off the inspections, with, say the first 100 or 1000 inspections being free.

A motion to postpone PL #25-17 was made by Alderman Gonzalez, seconded by Alderman Andreano. Voice vote, ayes all. Motion carried.

#### 4. New Referrals for Consideration

##### a. Discussion - STOP Signs, Fifth Avenue; Division / Alder (Witte)

Alderman Witte stated that she has had a few constituents comment that there is no STOP sign on the end of Fifth Avenue where it meets Prospect Avenue, and there are also places on Division where it seems that there should be signs, but there are not. She will be discussing these issues with DPW to see if signs should be there and they are just missing, and then discuss with Chief Rowley and the Police Department to see if new signs should be put into the Code. She will bring this back to Committee at a later date.

#### 5. Approval of Committee Reports

None

#### 6. Adjournment

A motion to adjourn was made by Alderman Gonzalez, seconded by Alderman Witte. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:45 p.m.