

WORK SESSION of the OLEAN COMMON COUNCIL

Tuesday, August 1, 2017 – 5:30 p.m.
Council Chambers – Olean Municipal Building

Present: Alderman Gonzalez, Witte, Andreano, Dougherty, Crawford, Smith, and George.
Others: Mayor William Aiello; Nicholas DiCerbo, Jr., City Attorney; Bob Bell, Fire Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

1. Roll Call

Alderman Gonzalez called the meeting to order at 5:30 p.m. and asked that the record show that all Aldermen were present.

2. 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 Gonzalez stated that this is a piece of legislation that has been discussed for a few months now. There has been a lot of talk in the community, and he wanted to present an opportunity for the public to comment on the proposed legislation.

3. Public Comment

Kelly Sweet of 311 Laurens Street stated that she had heard that properties would only be inspected when they are vacant, not when they are occupied. Alderman Andreano responded that properties will be inspected when there is a transfer of property, and Alderman Gonzalez added that the title transfer inspections will occur for all properties, both rental and owner occupied. Alderman Smith stated that the proposed hypothetical situation is that rental properties will be inspected every three years, regardless of occupancy.

Ms. Sweet replied that there are laws that address exterior issues on properties that we can use to ticket landlords. She urges the Council to give Codes the ability to enforce the laws currently on the books rather than creating this new law. She stated that no one is invited into her home to inspect it without a warrant.

Karen Callahan of 2075 Hillcrest Avenue stated that she has 17 units throughout the City. She stated that what bothers her, is that she takes good care of her units and makes sure that she follows all of the Codes and rules for rental properties. She doesn't understand why she would be inspected every three years for the rentals, but owner occupied homes are not inspected.

The neighbor could have no smoke detectors in their owner occupied homes, and if it catches on fire it could spread to her rentals. Owner occupied homes can have the same Code concerns as rentals. She stated that she also doesn't feel that it is fair to charge for each individual unit. She stated that there has to be a better way than to penalize all landlords for the actions of a few bad ones.

Alderman Gonzalez replied by stating that when someone operates a business, the business is inspected periodically and there are fees involved. A restaurant is inspected by the health department, but the health department doesn't inspect kitchens in private residences. The inspections are done because they are in the public's best interest.

Ms. Callahan questioned if, after an inspection is done and passed, if the tenant would be ticketed for removing necessary items such as smoke detectors. Alderman Gonzalez stated that it is up to the landlord to police their tenants. He stated also that the inspections are not to be done by surprise, and will rather be scheduled well in advance so that the landlord has ample time to inspect the dwelling prior to Code Enforcement entering it.

Alderman Crawford stated that unfortunately what concerns him is that there are people renting properties who cannot speak for themselves, and there are areas that are forgotten about. This legislation is what gets our foot in the door and allows us to address safety concerns. He stated that when the TSA increased safety inspections at airports, there was outrage by a lot of the public. However, this has made air traffic much safer. He feels that this is a necessary evil.

Alderman Dougherty added that we aren't just concerned with exterior issues such as accumulated garbage. There are furnaces in rentals that are property vented, and people who lay their heads in those apartments at night may not wake up in the morning.

Alderman Gonzalez stated that you can't just go after the bad landlords, and that you must be fair and impartial.

Alderman Dougherty stated that right now, in order to get a warrant to get into a rental property, the tenant must go in front of a judge and testify regarding the conditions of the property. A lot of tenants are gun shy and fear repercussions from their landlords for speaking against them. This new law would allow the City to get a warrant for a landlord's failure to comply with the requirements of a Certificate of Occupancy, so we will not need a tenant to appear before a judge to get into the dwelling.

Ms. Callahan questioned if properties would be inspected each time the property is rented, or if they will be inspected every three years. Alderman Gonzalez stated that the most practical and simplistic way to inspect would to be inspect each rental unit every three years, and there are

high turnover rates on tenants throughout the City. Ms. Callahan replied that she does like that aspect.

She continued in asking if the inspection fee would be per unit, or per building. Alderman Gonzalez replied that this is something that the Council has been mulling over. He stated that perhaps a scale that charges different fees would be something to consider.

James Gulnac of 601 West Sullivan Street stated that in many other municipalities, an inspection and the issuance of a Certificate of Occupancy is standard whenever there is an ownership change on a property. He was quite surprised when he found out that this is not a requirement in the City of Olean. He stated that a fair way to inspect properties and issue Certificates of Occupancy is to do it when there is a change of ownership. He stated that this is the process in towns that he has previously worked in, in both New Jersey and Maine, and it did a lot to clean up the City. He stated that this is a good first step. He had never gone into a closing until here in the City of Olean where there was not an inspection fee for a Certificate of Occupancy in the closing costs. He continued in stating that the next step, if the City wishes, is to begin inspections whenever there is a resident change.

Alderman Gonzalez stated that he feels that if you don't put forth effective, enforceable, meaningful legislation, you won't get anywhere. He stated that there are places so unkempt and filled with Code violations, but we can't get in to inspect. The properties will never sell. Mr. Gulnac responded by recommending that an inspection be done each time there is a new person in a rental unit. Alderman Gonzalez replied that we would be in some units twenty five times a year, and he believes that an inspection one time every three years would be appropriate.

Alderman Gonzalez continued in stating that the burden to schedule and initiate the inspections will be on the landlord. They will schedule with Code Enforcement or whoever the City designates as the inspection agent, and the inspections will in no way be a surprise.

Alderman Dougherty stated that he tries to do once a year inspections on his rentals. Some of his tenants could be there for ten years, and he does not expect these tenants to be up on the building code, so he goes in every year to check and make sure everything is still up to par. He doesn't think his tenants will bat an eye at the City inspection because it is already something he does for them as a landlord.

Alderman Gonzalez replied in stating that Alderman Dougherty makes a good point, and added that we could require landlords or their agent to be present during the inspection.

Ms. Callahan stated that although Kevin's idea isn't a bad one, some landlords own eighty to one hundred or more properties and they cannot possibly inspect each unit once a year.

Alderman Gonzalez stated that he is a pretty careful driver, but he still needs to pay for car insurance. Alderman Smith stated that the law doesn't allow us to target bad landlords, like we can't require just bad drivers to have car insurance.

Patricia Gulnac, an agent of Southern Tier Agency, stated that she thinks what we need to do is take a step back and look at how this law could protect landlords. She stated that landlords need to look for quality tenants who will stay there. To say that you can't afford to fix up a unit because people won't be able to afford it is not fair to anyone. Everyone deserves to be in a safe unit. Perhaps slumlords will change their ways to keep better tenants. She stated that this legislation could also allow landlords to raise rents on units that are priced way too low. She hopes that we can move forward with this legislation.

Alderman George stated that every piece of public comment that we have received tonight has mirrored comments made on the Council. He stated that he does not get great feelings thinking of doing blanket inspections, but taking a step back, he could see a middle ground, such as doing inspections with changes of tenants. He hasn't decided either way yet, but he is taking all input into consideration. He is proud of the Council and people that showed up at this meeting.

Mr. Gulnac stated that an effective tool for municipalities is looking at property maintenance concerns on the exterior of homes. He stated that a City Council with a robust maintenance ordinance, with a robust judge that would automatically fine when an offender is five minutes late for court, cleaned up a City in six months. He stated that if we take money out of peoples pockets for their own stupidity, it can smarten them up.

Alderman Witte stated that there are some things that the Council still needs to weigh out. She stated that there are problems with the County, as a lot of "bad" landlords are being given checks from the County for rentals that would not pass this inspection process or gain Certificates of Occupancy. She doesn't understand why the County would pay rent through DSS and Section 8 when there are houses with no hot water tanks, no working toilets, and no front doors, among other things. She would like to see what other counties do with DSS and Section 8. She stated that there is a place for inspections, but we need to decide if it should be done every three years, or when there is a change of occupancy.

Ms. Callahan questioned if scales could be used for inspection ratings. Alderman Gonzalez replied that he feels that that could leave things open to interpretation. The inspections could be manipulated and influenced. This is really a pass or fail inspection. Alderman Dougherty stated that we are looking at minimum standards.

Claudia Attard, a local realtor and property manager, suggested using a committee to compile the checklist for inspection that includes realtors and tenants input so that the end result is fair. She also believes that there should be an additional fee for a reinspection if an inspection is

failed. Landlords collect money from bad rentals, and buy bad houses on foreclosure with cash, that she can't even see animals living in.

Alderman Andreano stated that Section 8 evaluates homes and passes bad homes with large Code and safety issues, paying top dollar for the rental. She doesn't feel homes should be passed that don't meet minimal standards, and should in fact meet more than minimum standards. Alderman Gonzalez stated that we are trying to raise the bar, not lower it.

Ms. Gulnac stated that when you deem a unit unfit for living, it is taken off of the rental market. The landlords that are the issue still have hundreds of other units to rent. She showed a home where the downstairs had a tenant, but the upstairs contained health issues. One tenant's safety issues can affect the health and quality of life of other tenants.

Alderman Gonzalez stated that abandoned houses are a growing problem.

Mr. Gulnac stated that the City should make sure that the legislation is reviewed with the City Attorney to make sure that all issues are dealt with legally.

To close out, Alderman Andreano stated that she appreciated everyone coming. She feels that although the Council may disagree on how to get to the point of inspections, they all agree that they need to get there. She feels it is time to hit the bricks and get something in writing.

Alderman Crawford stated that, at the end of the day, we need to realize what this legislation is meant to do. We want to raise the bar on housing in Olean, and give a voice to those who can't speak for themselves. He stressed that this is not meant to be a revenue generator. He feels municipalities should break even, and any money that is made by these inspections should only cover the costs to hire one or two people to perform them. He stated that, additionally, research shows that these types of programs work.

Alderman Smith stated that he is surprised to hear landlords say that they are surprised how lax the landlord and rental laws are in the City versus other cities and towns. This discussion has come up because Olean has a problem with blight. It is not because Code Enforcement is short staffed, as it takes years for blight to get to where it is. We could hire 100 more Code Enforcement officers, but that won't do anything for the City if we do not change the law.

Alderman George stated that not doing this is not an option. He feels more confident that this is helping the blight in Olean. We need to make things better if we want our kids to stay here.

Mayor Aiello thanked everyone for coming. He stated that there is a saying, that it takes a village to raise a child. He believes that like this, it takes a City to fight blight. He commends the Council for taking this on. The process for inspections will not be as painful as people think. Fees are a part of doing business. We have to keep taxes within the tax cap, and because of this

we haven't raised taxes very much at all in the past few years, and we do not want to raise taxes of all citizens to cover this cost. He stated that he is hopeful that we can come to some resolve. We will never get the City back to where it used to be, but the inspections can help us get pretty close.

4. Adjournment

The work session adjourned at approximately 6:40 p.m.