

WORK SESSION of the OLEAN COMMON COUNCIL

Wednesday, August 2, 2017 – 5:00 p.m.

Police Training Room – Olean Municipal Building

Present: Aldermen Gonzalez, Witte, Andreano, Dougherty, Crawford, Smith, and George.

Others: Tiffany Taylor, Managerial Confidential Administrative Secretary.

1. Roll Call

Alderman Gonzalez called the meeting to order at 5:00 p.m. and asked that the record show that all Council members 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 Witte stated that her concern is that we haven't heard much from the City Attorney or Code Enforcement regarding this ordinance. She stated that Kevin brought this great idea forward, but she wants to make sure that the City Attorney and Code Enforcement are 100% behind this and able to say that we can take these issues to court and not have them thrown out. Also, she stated that the more you write, the more chance there is for the other side's attorney to find a loophole. She would like to get their input. If we are going to do this, she wants to do it right.

Alderman Dougherty stated that the City Attorney helped him greatly with this legislation. He spoke extensively during the first discussion we had, and since then, the Council has been mulling tweaks such as costs and frequency.

Alderman Crawford stated that he met with Code Enforcement, and he believes that what he was offered by Mr. Jennings would be valuable to the rest of the Council. That way, the Council can understand what the current law does not allow them to do.

Alderman Andreano stated that she wants to know exactly what we are voting on. The Council all agree that we need this, but we need to get down to the language and know exactly what we are passing. She would also like to refer to Code Enforcement for advisement.

Alderman Gonzalez stated that he felt that it would be more helpful if the City Attorney, Code Enforcement, and the Mayor were present at this meeting to get down to the nuts and bolts, but for now, he feels the Council should tear the legislation apart and take it from there.

Alderman Witte stated that we can spend ten months looking at this, but she feels that we should hear from those that will be enforcing the legislation and taking those who do not comply to court. She also is concerned that questions at the previous night's public comment were all over the place. She questions if we are being clear enough. She is concerned with the legality going forward. We have spent a lot of time on this legislation, and she doesn't want it to be thrown out.

Alderman Dougherty stated that we are throwing out the entire current Chapter 12 in the Code and starting fresh. He stated that this is significantly similar to what other towns have in place. There is a section on inspections on property transfers, that goes along with the sewer inspection requirements that were passed last year. There is also a section on inspections on rental properties, which has been discussed in depth over the past couple of months.

Alderman George stated that this legislation has merit in the fact that it allows us to go in and inspect homes. He stated that we should keep it simple, and focus on one issue at a time. He stated that he would still like to see the math to see how much it will cost to add staff to the Code Enforcement Office for this purpose. He continued in stating that this is a need, and we have no option not to do something.

Alderman Crawford suggested creating a checklist of things we need to do before we move forward.

Alderman Gonzalez stated that there is a valid concern when there is an apartment building with multiple units and one shared furnace in one basement. He stated that it may be a reasonable concession not to charge \$50 per unit or \$50 for the whole building, but to charge on a scale.

Alderman Crawford stated that he feels that simplicity and a flat fee are a good thing.

Alderman Gonzalez stated that we have to consider that this legislation is pretty extensive and will be a significant change. He keeps hearing that we want to be thorough and we want the legislation to be legally watertight, but at the same time we want it to be simple. This doesn't make sense to him.

Alderman Witte stated that when the landlord registration requirement was enacted, it was like pulling teeth. The Council even agreed to withhold fees for that. She also feels that determining fees for multiple units can become complicated.

Alderman Dougherty stated that we aren't an insurance company. We aren't trying to bundle cars and we aren't trying to market these inspections or sell them as a product. We start getting too many variables, and it is hard to calculate numbers.

Alderman Gonzalez added that even if the inspections are \$50 per unit every three years, that breaks down to \$1.38 a month. How many properties are completely substandard and need to be shut down? He stated that he will gladly charge every rental \$1.38 a month if it means that we are ensuring safety and shutting down what needs to be. Look at all of the fees that the state charges residents in various ways, for things that do not directly benefit or affect them. This affects Olean, it affects every single neighborhood.

Alderman Andreano questioned if we could give Certificates of Occupancy for three units in one building but not a fourth. Alderman Gonzalez stated that he bets that there are a lot of properties in the City where all of the units but one are up to the minimum standards that they are considering. Alderman Andreano questioned if this should be a concern, that the one substandard unit could be affecting the safety of the others.

Alderman Crawford stated that he thinks that the \$50 fee every three years is just an arbitrary number that was thrown out there. We need to get solid numbers of employee costs, including benefits, as well as rental unit numbers so that we know how to formulate a fee structure.

Alderman Witte questioned the process if someone fails the inspection process. Are they fined, or are they given time to fix the issue? Alderman Dougherty stated that, according to what was previously presented, there is a fee of up to \$250 per day and then after 30 days, there is the possibility for imprisonment. That doesn't necessarily mean that a judge would impose the maximum penalty.

Alderman Gonzalez questioned if this fee is for noncompliance, and Alderman Dougherty stated that the penalties are for when a landlord is renting a property without a Certificate of Occupancy, whether he failed an inspection or failed to have an inspection. Alderman Smith stated that there is no fine for not fixing the property after it fails inspection or fails to be inspected, unless the landlord continues to rent the property. He continued in stating that this is a draft and we shouldn't be getting bogged down in the language, because this is not the end all be all. Alderman Dougherty added that the purpose of the fines is for those with a blatant disregard for the requirement.

Alderman Witte stated that a landlord could walk away from a building that doesn't pass inspections, we could go from a two apartment building to an empty structure. Alderman Dougherty replied by stating that blight is not defined just by empty buildings.

Alderman Witte questioned if Code Enforcement could deal with exterior blight issues such as peeling paint, excessive garbage collection, and the like while they are responding to complaint calls. Ms. Taylor responded that Code Enforcement often calls in with issues that are not complaint based, but rather found while they are traveling through the City.

After some discussion regarding Code Enforcement and current staffing levels, Alderman Smith stated that blight is not caused by Code Enforcement staffing issues. Alderman Andreano stated that she spent a whole day with people in her ward with Code issues that are not blight related. She stated that Codes deals with more than blight and we have to keep that in mind.

Alderman Witte questioned if, after this is passed, the City or the County would do DSS and Section 8 inspections. Alderman Andreano replied that it seems that we would still do inspections on the rentals, in addition to the County inspections. Alderman Gonzalez stated that he would love to complain and lobby the County to do better inspections, but we can't control them. We can only control what we do.

Alderman Dougherty stated that this inspection would prevent anyone from living in a house, regardless of whether or not it passes the County inspection.

Alderman Gonzalez stated that the City has three elected officials on the County legislature that should be addressing this. Alderman Andreano stated that she had contacted one regarding a blight issue, who in turn contacted Section 8. If you call them they will do what they can do.

Alderman Crawford questioned what we need to accomplish before we pass this legislation. He asked what we need to figure out.

Alderman Gonzalez stated that this is for all rentals, as well as for all title transfers. Alderman Dougherty added that the City Attorney is working on the final draft except for fees, frequency, and penalties.

Alderman Andreano stated that she feels that it should be up to Code Enforcement to determine the checklist for inspections, as they are the experts in this area.

Alderman Smith stated that there was discussion the previous evening regarding a fee schedule to decrease the fee when there are more units in a dwelling. He stated that he has gone back and forth on this issue, and he feels that the Council needs to approach it cautiously. He stated that if a landlord charges \$500 per unit, the inspection cost equates to 2/10 of 1% of the gross income on the unit. He doesn't see why someone who owns one unit should be penalized and pay the full price, when those who own multiple units get a "discount".

Alderman Gonzalez added that he feels that the "bulk discount" could backfire. He thinks that we could all agree that we would like to see fewer multiunit rental properties, and he feels this discount will encourage landlords to break up a one family house into a four unit apartment building. Alderman Smith stated that it really could be opening Pandora's Box. In addition, a landlord with twelve units in a building receives twelve different rent checks. We need to approach this cautiously.

Alderman Witte stated that when the Landlord Registry took effect, it seemed that a lot of the landlords with large multiunit properties live out of town, and they have many units in many different municipalities. After listening to Nate, it is clear that this is a business that they chose to be in. Alderman Smith stated if a landlord does get a discount, he feels it should be nominal. Alderman Andreano stated that she feels there should be no discount, and Alderman George stated that it is just more to keep track of.

Alderman Dougherty stated that the cost we are looking at is \$1.38 a month. He would gladly pay \$5 a month to ensure that his units are safe. He feels that these inspections can level the playing field.

Alderman Smith stated that landlords have approached him stating that they are glad that we are doing this. It helps prevent bad landlords from allowing their slum properties to decrease others property values.

Alderman Crawford summarized the list of needed information as a necessary discussion with Code Enforcement and the City Attorney, numbers of how much a Code Enforcement officer will cost to complete these inspections, we need to find out why we aren't able to remedy exterior issues on properties, and is Code Enforcement comfortable with the checklist provided for the inspection.

Alderman Witte recommended hiring two part time workers rather than one full time so that we don't have to pay benefits. Alderman Crawford replied that he understands that there is a certification process for Code Enforcement, and the fear is that we will pay for two part time workers to get certified, only to leave the City to work elsewhere when a full time position becomes available.

Alderman Andreano reiterated that she would like to have Code Enforcement here to communicate what they want to see in this legislation, as well as what is and isn't legal, and what is and isn't ideal for the City.

Alderman Crawford stated that he will send the list out so that all are aware with what we need to take the next step. Alderman Gonzalez stated that we need to force their hands. We can wait, or we can sit down with Codes, the Mayor and the City Attorney and make this happen.

Alderman Crawford stated that he thinks that there is merit in the comments made last week, that people think we are backing off on this legislation. He has people telling him not to lose what we are trying to do. Alderman Gonzalez stated that he feels that the key to making this successful long term is to make it effective enough that it has teeth and can be enforced.

Alderman Smith stated that one issue that was brought to his attention is that this legislation could create vacant homes. He questioned what is better, homes with meth labs or vacant homes. Maybe an unoccupied home isn't the worst thing.

There was brief discussion regarding City-owned vacant properties throughout the City, and what plans are to remedy issues with those.

3. Adjournment

A motion to adjourn was made by Alderman Gonzalez, seconded by Alderman Andreano. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:15 p.m.