

## **PUBLIC SAFETY**

Wednesday, May 24, 2017 – 5:00 p.m.

Police Training Room – Olean Municipal Building

Present: Members: Chairman Gonzalez, Vice Chairman Andreano, Alderman Witte, Alderman Dougherty, Alderman Crawford, Alderman Smith, and Alderman George. Others: Nicholas DiCerbo, Jr., City Attorney and 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 committee members were present.

### 2. Approval of Minutes of the Previous Committee Meeting (Tuesday, May 16, 2017)

A motion to approve the minutes of the Tuesday, May 16, 2017 committee meeting was made by Alderman Gonzalez, seconded by Alderman Smith. 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.

Mr. DiCerbo stated that this started last year, when Alderman Dougherty approached him with a desire to look at the current landlord registration and property maintenance code issues. What is presented sort of goes along with the Sewer Use Ordinance that was passed last year. He went through the current code and expanded on what is currently there.

He stated that the second article has two purposes. The first is to ensure that we are complying with the Sewer Use Ordinance and required inspections when properties transfer, and the second objective is to require a Certificate of Occupancy when a house is bought. This is much like what is done in other municipalities, and is in no way a major home inspection. It only ensures that the home complies with the most basic code, property maintenance, and sewer use ordinance requirements.

He continued in stating that the third article he anticipates will be the biggest, most controversial, and he expects the most resistance on this article based on historical feedback from landlords. The third article requires inspections on rental properties to ensure that they

comply with the most basic code enforcement requirements. How the houses and units are inspected, as well as the frequency, is up to the Council.

The proposed draft is based on the ordinances of municipalities similar in size to Olean. The municipalities researched have similar inspection schemes to that proposed to deal with the rental stock in their towns and cities. They want to ensure that rental properties are at least up to minimum code. The inspections also aid with the blight issues that are commonly being faced.

Alderman Crawford questioned if the proposed legislation addresses penalties, and Alderman Dougherty stated that it does. Alderman Gonzalez stated that, upon first glance, there are areas within the ordinance where the Council can discuss appropriate time frames, fees, penalties, etc. and fill in the blanks.

Alderman Smith questioned why the current law is so ineffective. Alderman Witte replied that we ticket people, but people refuse certified letters or aren't located within the City. If they end up going to court, they are given a slap on the wrist and another chance.

Mr. DiCerbo stated that when someone moves into a property without a Certificate of Occupancy, this ordinance makes it the tenant's responsibility as well as the landlord. The tenant can be ticketed as well.

Alderman Andreano expressed concern for vulnerable tenants who could end up on the streets and owing fines due to this. Mr. DiCerbo replied that we need to change the culture of rentals in the City.

Mr. DiCerbo stated that, hypothetically, if a landlord doesn't get an inspection done and rents a unit, when we become aware we prosecute the landlord and the tenant. Tenants may get squeezed, but they may be given an ACD in which they are not fined as long as they don't break the same law again in twelve months. After twelve months, the case is dismissed and in the meantime the tenant has been educated as to what they are deserving of in a rental property. Landlords will be given notices of the law, and ignorance is not an excuse.

Alderman George stated that he feels that this legislation fills in gaps in the current policy and without it, there really isn't a way to correct issues long term.

Alderman Smith questioned why nobody is accountable. He stated that it seems that a certain group gets off the hook. The streets of Olean are not filled with victims; the streets are filled with residents and landlords that need to be accountable.

Alderman Witte stated that she feels that this will need to be done on a case by case basis. For example, in previous discussions with Hornell, we found that they have a housing judge come from outside the area so that there are no connections with landlords and no favoritism.

Alderman Smith stated that he knows that the first year will be full of bumps and issues, but once landlords realize it's not all wine and roses, they will get their properties fixed up to comply. Alderman Gonzalez added that once tenants are in court, word will spread and people will start asking for the Certificate of Occupancy when they are looking at apartments.

Alderman Crawford stated that there is no perfect solution, but this is a vast improvement over our current situation. We need to fix the accountability issues with landlords.

Mr. DiCerbo stated that this will need to be phased in to an extent. The transactions for sales of property would trigger an inspection, and some municipalities have done it enough that attorneys are familiar with the requirement and include it in the list of closing costs. The other part of the legislation, regarding rental properties, is not meant to punish good landlords. However, we can't give any landlord preferential treatment.

Alderman Gonzalez stated that it is important to know what we are looking at. The inspections are not super involved. Mr. DiCerbo stated that it encompasses the basics of the property maintenance code.

Alderman Smith asked what happens if the property does not get the Certificate of Occupancy. Mr. DiCerbo replied that they will have an opportunity to make necessary repairs and have the property reinspected. In the presented model, the first reinspection is included with the cost of the original inspection; each reinspection after the first would create an additional cost for the property owner. No one is able to reside at the property until the Certificate of Occupancy is obtained. He stated that some municipalities will issue a conditional Certificate of Occupancy (for instance, if the furnace is not working but it is July and the landlord has plans to fix it), and that is something we can consider.

Alderman Crawford asked what the frequency of inspection would be. Mr. DiCerbo replied that it is up to the Council to decide, but the model he has presented has the following (for rental properties):

1 and 2 family: every two years;

3 family: every year; and

4+ family: whenever there is a new tenant, prior to the tenant taking occupancy of the apartment.

Alderman George stated that he is concerned with the increased workload from a Code Enforcement perspective. Mr. DiCerbo replied that the issue would need to be addressed, in terms of how to provide additional staff and how to pay for this program.

Alderman Smith questioned how much additional staff is anticipated, and Alderman Dougherty replied that he anticipates two people would be able to handle the additional workload. However, this would be in addition to the additional help that Code Enforcement currently already needs.

Alderman Crawford questioned the potential revenue that could offset the potential additional expenses. Alderman Dougherty stated that if we estimate 300-400 units, we could see a potential revenue of \$15,000-\$20,000 just for inspections of the rental properties. Alderman Witte added that this does not include fines for any code violations that are found. She mentioned that she would like to see the money from the inspections go into a special fund for Code Enforcement, and not back into the General Fund.

Mr. DiCerbo added that there were approximately 600 property transfers last year in the City. This would provide \$30,000 in revenues if the inspection cost is \$50. Alderman Gonzalez questioned what we charge now to countersign deeds, and Mr. DiCerbo replied that we charge nothing. Allegany currently charges \$50.

Alderman Andreano questioned if this means that everyone who is buying a house in the City will need an inspection, and Mr. DiCerbo replied that yes, it does. She asked if this will hold up closings. Mr. DiCerbo replied that it shouldn't. Attorneys have been dealing with the same process in Allegany since 1983, and in the 17 years he has practiced law, he has only seen one or two closings held up because of the inspection process. Alderman Witte questioned if the homebuyer will still need an additional inspection if the City completes these inspections, and Mr. DiCerbo replied that they probably will. The inspection that the City is doing is only to ensure code enforcement compliance, while a home inspection that is required by a finance company is much more in depth.

Alderman Witte stated that the \$50 fee is just a part of doing business. Alderman Gonzalez stated that people say that the City is driving them away because of another tax and another fee, but he feels that this is for a good purpose. Alderman Dougherty stated that this is not for the purpose of the revenue, but to ensure the safety of properties in the City, especially rental dwellings.

Mr. DiCerbo stated that the Council should take the time to read over the proposed legislation before moving forward. He sampled thirty or so cities similar in size to the City to see what their inspection process and fee schedules looked like before coming up with the proposed legislation presented.

Alderman Gonzalez stated that we need to get rental numbers from Mr. Jennings in order to determine what we can afford in terms of additional help, if this legislation passes.

Alderman Crawford stated that, logistically speaking, it may make sense to do everything the same across the board. Mr. DiCerbo stated that there are a lot of different ways to do these inspections. Alderman Smith proposed inspecting each rental dwelling that is 1 to 3 family once a year, while inspecting 4+ family rental dwellings every six months.

Alderman Witte mentioned that, after doing a couple of years of inspections, the inspectors will know what properties they need to pay attention to. Alderman Dougherty added that we will still do complaint driven inspections as well.

Mr. DiCerbo stated that when some Cities started these inspections twenty or so years ago they were very frequent. Because of the groundwork that they laid, though, they see fewer and fewer issues each year.

Alderman Smith stated that it will be a part of the tenant's responsibility to ensure that the landlord has a Certificate of Occupancy. Mr. DiCerbo stated that there is currently a Facebook group listing "bad renters", and we may see in the future a group of "bad landlords". Alderman Crawford questioned if we could put a list on the City's website of what properties have a Certificate of Occupancy, and Mr. DiCerbo stated that we could.

Mr. DiCerbo stated that there would be provisions to get a warrant if the landlord does not allow for an inspection. We also have the options of charging fees if the landlord is late or a no show.

Alderman Gonzalez stated that one of the biggest complaints that they get as Aldermen is about the blight in the City. We may be afraid of the pushback on this legislation because of the vocal minority, but as Aldermen, we have to determine what is right and best for the City.

Alderman Witte stated that the bad landlords are bad because they aren't held accountable. Mr. DiCerbo stated that when the guy next door's behavior is impacting your quality of life, you have to do something.

Mr. DiCerbo stated that he looked into the idea of Housing Court, but he found that it would involve significant costs in starting it up. He has confidence in the current City judges that they will be fair and impartial. He feels that we should give them a chance at this enforcement, and see how it goes. Alderman Smith asked if the teeth in the legislation is going to court or not getting the Certificate of Occupancy. Mr. DiCerbo replied that we are essentially "shutting down" their business when we won't give them a Certificate of Occupancy, hindering their ability to operate as a landlord. This will hurt them financially.

Alderman Crawford stated that he is concerned that a few bad landlords with a large amount of rental dwellings will not be in compliance, causing a massive amount of evictions. Mr. DiCerbo replied that is where we need to determine the implications of the legislation and phase it in.

A motion to postpone PL #25-17 to the next Public Safety committee meeting was made by Alderman Gonzalez, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.

4. New Referrals for Consideration

None

5. Approval of Committee Reports

None

6. Adjournment

A motion to adjourn was made by Alderman Gonzalez, seconded by Alderman George. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:25 p.m.