

## COMMITTEE OF THE WHOLE

Tuesday, August 17, 2021– 5:40 p.m.

Council Chambers – Olean Municipal Building

Present: Members: Alderman Crawford, Alderman Witte, Alderman Panus, Alderman Barnard, Alderman Robinson, and Alderman Anastasia (via Zoom). Others: Mayor William Aiello; Jack Hart, City Attorney; Ron Richardson, Police Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

### 1. Roll Call

Alderman Crawford called the meeting to order at 5:40 p.m. and asked that the record show that all Aldermen were present except Alderman Gonzalez, who was excused.

### 2. Unfinished Business

None

### 3. New Referrals for Consideration

#### a. Discussion – Murals

Alderman Robinson explained that he emailed the Mayor about this, and he wonders where we are in setting up a committee and if we even need a committee. He wonders if we have people in the City interested in doing a mural at a City location if we can allow it without creating a committee. Mayor Aiello explained that we do not need a committee. He explained that people can bring their ideas to the Council and that the Council can ultimately give the approval to move forward.

Alderman Crawford explained that he tends to agree with the Mayor. He explained that the feels that the Council, along with the Mayor, form a committee that is ultimately tasked with the upkeep of City parks and other areas. He explained that we should make it known that we are accepting applications or letters of interest for a design concept. He explained that obviously we want to see this done in a tasteful way. He explained that the Council is the body that makes decisions, and there should be a strategy and we should determine what we want to see.

Alderman Robinson asked if the starting point should be the south wall at the Stadium or the wall at Franchot Park, and Mayor Aiello agreed. Alderman Robinson explained that if he does a feeler and tries to get information, including having people send in information, he feels that there is still time to paint. He explained that it would be great if the tunnel could be done

before football begins. Mayor Aiello explained that the wall at Franchot Park is used so we will need to keep that in mind when we put a mural there.

Alderman Crawford explained that his suggestion is to work with the Mayor's office to get a press release put together to put on the City's website letting the public know that we are accepting applications or letters of interest. He thanked Alderman Robinson for bringing this forward and explained that he is really looking forward to seeing the options and ideas that are out there. Alderman Witte explained that she thinks that it would be great to see Olean High School students work on the wall at the stadium.

#### b. Civilian Review Board Work Session

Alderman Crawford explained that this is our preliminary kickoff on the Civilian Review Board process. He explained that he wants to be transparent and get information out to the community. He explained that one of the major takeaways from the Police Reform Committee that the Mayor and residents were on is that there is interest in creating a Civilian Review Board. He explained that there were two drafts presented to the Council. He explained that it was decided a couple weeks back that the Council creates law and policy for the City and it is a good time for them to take their resources and use their due diligence to get this done and try to move forward. He explained that the Council has received feedback from the City's labor attorney as well as the City Attorney. He explained that this will be on the agenda every two weeks during committees to work this process through.

Alderman Crawford explained that binders have been created for each Alderman to reference through this process. He explained that each of the Aldermen need to become an expert and well versed on this material as this will have a large impact on the City organization. He explained that the Council needs to do their homework and a lot of reading is involved. He explained that he has a bunch of questions, some that he hopes the City Attorney can help with. He explained that Alderman Robinson was on the Police Reinvention Board, as well as Mayor Aiello and Chief Richardson. He explained that he hopes to create a Police Review Board that is the best fit for the City of Olean. There are good draft proposals to reference. We need to have our questions answered and put forth the effort necessary to set up the City for success.

Alderman Crawford explained that a Civilian Oversight Board comes in many different forms and the ultimate goal is to investigate findings of internal affairs. He explained that they use the tools granted to them and in some instances, subpoena and impose discipline. He explained that he found three main models in his research: investigation focused, review focused, and the auditor or monitor model. He explained that there is a lot that goes into these and that the most common type is review focused.

Alderman Crawford asked Chief Richardson how complaints are currently logged in the department. Chief Richardson explained that anyone with a complaint can come to himself, a supervisor, the Mayor, or an Alderman. He explained that complaints are then looked into by himself or Captain Marsfelder or the officer in charge, depending on the severity of the complaint. Alderman Crawford asked what identifies who does the investigation. Chief Richardson explained that there is really not the policy and this is just the way that it has always been. He explained that if the complaint comes in on the afternoon crew, then the Sergeant investigates. He explained that whoever is above the officer starts the investigation and then it comes to him. He explained that once an investigation is started, he keeps the Mayor in the loop regarding the complaint.

Alderman Panus asked if there is a formal log of complaints, and Chief Richardson responded that there is not. Alderman Panus explained that everyone always talks about transparency, and he wonders if this is something that the public can come look into or if complaints will be kept confidential. Mr. Hart explained that he is not sure but he imagines that there are personnel lines out there. Alderman Crawford explained that this is a valid point and that you can't FOIL for a personnel file. Alderman Robinson explained that each state is different, and has their own policies and procedures regarding what can be presented to the public. He explained that we have to see what the State says. Mr. Hart explained that he will look into this and report back in two weeks.

Alderman Witte asked if there is a written follow up, and Chief Richardson explained that if it is a minor complaint there is not. He explained that we talk to them and don't put it in writing. He explained that if someone doesn't like the decision, then they go to the Mayor or the Council. Mayor Aiello explained that if he has a complaint in his office, he emails it to the Chief, He explained that if it is of a serious nature, and there are not many, then he asked for a report back and then there is documentation on the findings. He explained that as of right now when discipline is given out, we have to comply with the Collective Bargaining Agreement. Also, the officer is allowed to have union representation present if discussing a matter that may lead to discipline.

Mayor Aiello explained that discipline has to be progressive. We start with a verbal reprimand, then there is a verbal reprimand with a note put into their file, and it leads to time off or taking holiday or vacation time away. Chief Richardson explained that supervisors keep files themselves so it is documented, but there is no formal complaint form filled out.

Alderman Crawford explained that he has not experienced issues and that he has been fortunate. He asked how many complaints currently come in. He explained that he understands that there are some people that feel that they can't come to him with complaints. Chief Richardson explained that in a month there are sometimes no complaints, sometimes one or

two. He explained that there are not a lot. Alderman Robinson explained that people probably don't complain because they don't trust in reporting or exposing themselves to whatever situation happens afterwards. Chief Richardson stated that he disagrees.

Alderman Panus explained that he is concerned that we could come out of this and that people won't be happy when they are arrested and they will use this Police Review Board to try to throw a wrench in the mic. He asked what ways we can deal with this. Alderman Robinson explained that this was mentioned in meetings of the Police Reform Committee. He explained that if someone comes forward with a complaint it should be legitimate. If it is not, they will face consequences. Chief Richardson explained that if we take a formal complaint, we take a deposition and it is done under penalty of perjury.

Alderman Crawford explained that it may be reasonable to keep in mind, and he is not sure if it has to be spelled out in the policy, but that there should be wording that a false report can't be filed. Chief Richardson explained that this is a part of the penal law. He explained that if it turns into a criminal case, this is really what you have to do.

Alderman Robinson explained that when you talk about the Civilian Review Board, everyone always jumps to the investigative style. He explained that there are a lot of aspects to this in the proposal, but all three styles have been incorporated. He explained that all of this was already discussed and should be in the minutes of the Police Reform Committee. He explained that it seems that we are jumping the gun a bit.

Alderman Witte asked if we have ever heard back from the State on what we sent them, and Mayor Aiello responded that we haven't and we will not. He explained that they have said from the beginning that this is our plan, and we have to have a plan. He explained that this could be a crux for more laws to be established by legislators.

Alderman Crawford explained that this may seem redundant, but he wanted to do an introduction to the subject for the public and get the conversation started. He explained that he is not trying to waste anyone's time and he is trying to be transparent and get the conversation moving. He explained that we could go into the proposals line by line, and explained that this is some major undertaking and not something that we deal with every day. He explained that he does not see wrapping this up tonight. He also does not want to go too far without getting Alderman Gonzalez's opinion.

Alderman Crawford explained that the first item in the binder is a piece of legislation that come out of the Police Reform committee. Alderman Witte explained that the first portion states "officers and employees" and Alderman Panus noted that it goes on to clarify just police. Alderman Robinson explained that he thinks that this started out as the City of Olean altogether but then that was removed, and employees may need to be removed. Mayor Aiello explained

that he thinks that there was a very brief discussion regarding other employees. He explained that it was determined that it is a Police Oversight Committee, not a City of Olean Oversight Committee. Alderman Robinson explained that it may cover dispatchers, and Mayor Aiello explained that we may want to clarify this.

Alderman Crawford explained that he does not want to get into the weeds quite yet and as far as the Council's time together, we should be shoring up the meaning and methodologies used here. He explained that this draft states "determination of appropriate disciplinary actions" but the proposed committee will be making recommendations about discipline, not determining the appropriate discipline. Alderman Robinson explained that this is correct.

Alderman Crawford explained that based on the Union there was a process that a review board could make recommendations to the Chief or Mayor. Alderman Robinson explained that this is based on a disciplinary matrix in place. Mayor Aiello explained that now that we have mentioned the dispatchers, he wants to note that they are under a different Collective Bargaining Agreement so that is something that the Council will have to keep in mind. They have a discipline policy in their contract. He noted that part time workers are not under the union. Alderman Robinson explained that the wording utilizes the disciplinary matrix.

Alderman Crawford explained that the word "determination" should be changed to "recommendation" and Alderman Robinson explained that a lot of wording will need to be changed. Alderman Robinson explained that there is feedback from the labor attorney that pertains to this section, and he thinks that we should read his letter before looking at this. He also asked how we can discuss this without discussing the legal recommendations. Mayor Aiello explained that he has a call with the labor attorney tomorrow and personally, he thinks that it is time to move forward but he will hash this out tomorrow. Alderman Crawford explained that it is difficult to hash out some details if we can't reference recommendations by attorneys. Alderman Crawford noted that at each meeting we will keep a list of questions to get answered prior to the next meeting.

Alderman Crawford explained that under this proposal there are nine staggered members. He explained that he personally feels that simpler is better and he is unsure why there are staggered terms. Alderman Robinson explained that this is because if everyone starts the same time they will end at the same time, and this way they will not. He explained that the term length difference is for the first term only. Alderman Crawford responded that he understands.

Alderman Crawford explained that the committee members would be appointed by the Aldermen and the Mayor. He asked if current committees are all Mayoral appointment with Council approval, and Mayor Aiello responded that most are. He explained though that most recommendations for boards come from the Aldermen. Alderman Witte explained that in the

past we have talked about trying to make boards smaller, and this one seems large with 16 people. She explained that she feels we should shrink it down a little. Alderman Crawford explained that his concern is that it is really difficult to find people to attend meetings and contribute their time like that. He asked why it would be such a large board, and Alderman Panus asked if alternates have to attend all meetings. Alderman Robinson explained that he would have to look into the details on this. Alderman Panus explained that he can understand that if the committee is only called when they are needed that they could go months or even years without meeting.

Alderman Barnard asked why we feel the Aldermen should make the appointment. Alderman Robinson explained that there were numerous discussions on how to determine who to appoint, and he explained that we want the most effective people on this committee. He explained that this was based on a plan taken from New York City and other cities. He explained that they determined that each Alderman should select two people and the Mayor should select two people.

Alderman Panus asked about vacancies, and Alderman Robinson explained that the Board would choose a replacement if there was a vacancy midterm. Alderman Panus asked why we are comparing Olean to New York City, and Alderman Robinson explained that this was a question brought up in the Reform Committee. He explained that there are also smaller cities with Civilian Review Boards, each structured differently. He explained that we want to tailor this to Olean's needs.

Mr. Hart explained that the Charter states that the Mayor makes all appointments within the City, so there may need to be a Charter change if we are going in this direction for this board. Alderman Crawford explained that when we have talked about Charter changes, it has been a foggy area and he understands that there are different ways to do them. He explained that he believes with the creation of this board, he feels that it requires a Charter revision that is possibly passed by the Council and does not require a referendum. Mr. Hart explained that the idea behind the Charter is that there is a strong Mayor setup in the City.

Alderman Witte asked what qualifies a marginalized community. She asked if this is just minority, or how people qualify. Alderman Robinson explained that the goal is to try to get people on this board that would be most effective. He explained that what they feared would happen would be that doctors, lawyers, and PhD's would be on the board but they are not affected. He feels that it was the idea to get people under the umbrella to avoid getting all of these professionals into a position. He explained that between Alderman Crawford and himself, he would be most marginalized.

Alderman Anastasia suggested that there be wording in the paragraph to ensure that everyone who would come onto the board would be held to a certain standard. Alderman Witte explained that she feels that this wording restricts people from being on the board. Alderman Robinson explained that he knows her ward and Alderman Gonzalez's ward, and he knows demographics and that it is expected that more professionals would come from those wards, He explained that the object is to get as many marginalized people as possible and if not, try to get who we can for volunteers.

Alderman Witte explained that she sees where they are coming from. She explained that Mayor Aiello is a former police officer, and the community thinks that he wants to get people on the committee that are sympathetic to police. Alderman Crawford explained that he is maybe open to it, maybe not, but it would be beneficial to see the wording changed to "should" instead of "shall". Alderman Witte explained that this is a little broader, and Alderman Crawford explained that it allows for some flexibility.

Alderman Anastasia explained that it would be better to have a committee of the Council and have applicants request to be on the board and the group make recommendations. He asked what if he can only find one person in his ward. He explained that this way the Aldermen would not be blamed for showing favoritism. Alderman Robinson explained that the letter from the union lawyer makes it seem that some of the wording depends on the type of committee that we are creating.

Mayor Aiello explained that he feels that this is discriminatory. He explained that this is a small community and it is going to be tough. He explained that they are questioning the integrity of a lot of people, including his own. Alderman Anastasia explained that he does not feel that the Mayor should be excluded from making appointments just because he used to be a police officer. Alderman Robinson explained that this is why we are here instead of just passing the legislation, so that we can go through and make finishing touches on it. Alderman Crawford explained that this is why we are having this work session too, to bring up these valid points and good questions. He explained that we will have a lot to think about. He appreciates the fact that we are trying to distribute the appointments and some of the responsibility. He understands that we have a strong Mayoral form of government. He wants Mr. Hart's opinion on what it would take to change the Charter or even if we want to circumvent that. He asked if we really want to take on changing the form of government in the City.

Alderman Robinson explained that there are quite a few things to come back to. Alderman Crawford explained that the Mayor will speak with the labor attorney regarding his opinion, and Mr. Hart will give us some follow ups on the Charter and whether investigations would be FOIL-able. Alderman Witte explained that the Council should all take the time to read over everything.

4. Approval of Committee Reports

None

5. Adjournment

A motion to adjourn was made by Alderman Crawford, seconded by Alderman Robinson. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 7:00 p.m.