

COMMITTEE OF THE WHOLE

Tuesday, November 16, 2021– 6:30 p.m.

Council Chambers – Olean Municipal Building

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

1. Roll Call

Alderman Crawford called the meeting to order at 6:30 p.m. and asked that the record show that all committee members were present.

2. Unfinished Business

None

3. New Referrals for Consideration

a. Request to place a sculpture in front of Arts Council building

Alderman Crawford explained that Mr. Wintermantel has already spoken with Ms. Kerper and Code Enforcement, and that this is allowed per the Form Based Code. He explained that ultimately, he just needs Council approval during a work session to proceed.

Alderman Robinson explained that everyone knows that he has been trying to bring murals to the City, and something else he wanted to see was sculptures. He explained that he spoke with Mr. Wintermantel who let him know that this was on the agenda, and he is definitely in favor. He explained that sculptures are something that beautify the City and attract people. Alderman Witte explained that she is also in favor of this. She explained that we have a long run with the City squirrels and people really like finding them all and taking pictures. She explained that another sculpture is very much welcome. She explained that everything that the Arts Council is doing for the community is wonderful, and anything they can do to beautify the City is amazing.

Alderman Crawford asked what the sculpture would entail, and Mr. Wintermantel provided a handout to the Council. He explained that it is proposed by Glenn Zwegardt, who is a world renowned sculptor with works going in all around the country. He explained that he is very eager to begin the project. The sculpture will be approximately 10 feet tall by 42 inches wide, and will basically be placed where a tree had died in front of the building. He explained that there will be a big show at the Arts Council in 2022 and the revealing will be tied together with this. He explained that the Arts Council is an arts destination space and with the arts venue

being put on the first floor of the bank building, it will make the whole block an arts destination place. He explained that Jeff Belt is very supportive of the plan, and as soon as it is approved it will be hauled in.

Alderman Witte asked if the sculpture will be cemented in where the tree was, and Mr. Wintermantel stated that it would be. He explained that Mr. Zwegardt has placed sculptures all over the country so he will do whatever it takes to install it. He explained that he thinks that this sculpture will very much fit in with the scale of the building. He explained that there is also a backer that wants to bring more sculptures into the downtown.

Mayor Aiello explained that he thinks that this is a fantastic idea. He explained that he really appreciates all that Mr. Wintermantel and the Arts Council is doing. He explained that this will really dress up the 100 block of West State Street.

Alderman Crawford asked if Mr. Ring has any concerns. Mr. Ring explained that he is sure that Ms. Kerper and Mr. Belt are doing their due diligence for this. He explained that we are planning to improve that block, but Ms. Kerper and Mr. Belt are both involved with that so he is sure that they have considered that as well.

A motion to approve the placement of a sculpture in the right-of-way in front of the Tri-County Arts Council building was made by Alderman Witte, seconded by Alderman Robinson. Voice vote, ayes all. Motion carried.

b. Civilian Review Board Work Session

Alderman Crawford explained that he worked with Alderman Panus and Alderman Robinson to come up with the third version of the draft, which has been posted on the City website and sent by the Mayor to the appropriate sources. He explained that he does want to provide some of that feedback. He explained that he forwarded the full emails with feedback to the entire Council. He explained that he has created a summary on the feedback on that version, and he would like to share this with the Council and the public and offer an opportunity for the Mayor and Police Chief to make comments as well. He explained that his goal is to do what we have to do, and go back and forth to work on this some more.

Alderman Crawford explained that no one said that this would be a quick, easy process. He explained that he doesn't think that anything can ever be perfect, but we want to get as close to right as possible. He explained that the Police Union's attorney provided some comments, as well as the City labor attorney and our own attorney. He explained that he tried to do a quick summary to give the Council some direction and thoughts.

Mayor Aiello explained that he thinks that what has been assembled here gives everyone an idea of the possible issues that we could have. He explained that it is important to look at the comments from the three attorneys so that we can put together a product that is what we want to see in the City and that is going to have less challenges in court. Chief Richardson explained that he agrees with the Mayor, that we need to see the Union and attorneys satisfied with this document.

Alderman Crawford explained that he will publically address some of the feedback that the Council received, and then he would ask that Alderman Panus and Alderman Robinson sit down with him to continue working on this. He explained that the Police Union suggested that there only be review for legitimate complaints and not every internal matter, which he feels is just cleaning up language because he thinks that this has always been the intention. He explained that it was not the intention that every single internal discipline matter would be subject to Civilian Review Board review. He explained that they also recommended that there should be no wording that limits the Mayor's power to appoint anyone that he or she pleases. He explained that the policy should not state that members should be diverse and inclusive and that they should not be employees. He explained that they feel that this curtails the Mayor's power to appoint, and would require a referendum.

Alderman Crawford explained that the Police Union feels that there should be more specific training criteria. He explained that they feel that the budget should be a maximum, not a minimum. He explained that the Council thought of giving a budget in case things need to be printed or for other office materials. He explained that the labor attorney provided some good feedback that the City has a budget process outside of the creation of this entity and that establishes what the budget is. He explained that they also feel that the ability of the Civilian Review Board to hire legal counsel or independent investigators should be eliminated because it would be a waste of money and may create issues of discipline. Finally, they feel that there should be a more in-depth conflict of interest section in the policy.

Alderman Crawford explained that the City's labor attorney would like to see the wording of the policy cleaned up in some areas. He explained that according to the labor attorney, the Mayor has the power to appoint and the Council has the power to confirm. Alderman Crawford explained that he thought that there was criteria for another board that the member could not be a City employee, but he will have to look into that. He explained that the labor attorney agreed that funding is under the budget process, outside of the creation of this board. He explained that the labor attorney also addressed that an investigation should not hold up a disciplinary action. He explained that there are concerns that the Civilian Review Board would slow down the disciplinary process, and that is something that we can look at.

Alderman Crawford explained that the City Attorney agrees that there are concerns about using the correct wording. He explained that when there is a law, we have to be careful using general terms that we take for granted. He explained that "should" is difficult to be defined, and there needs to be some wording cleanup. HE explained that the dismissal of board members was also addressed, and he explained that this should come down to the Mayor as he believes that this is the process for other boards. Alderman Crawford asked if the Mayor can remove a member from a board, and Mr. Hart explained that he is unsure about Zoning or Planning, but he knows that the Mayor can remove a member of the URA. Alderman Crawford explained that he would be interested to see about the Planning and Zoning Boards, because he feels that these are more comparable to the Civilian Review Board than the URA. He explained that if the Mayor has the same inherent powers, then he doesn't see any reason to change that.

Alderman Crawford explained that the City Attorney agrees that the Civilian Review Board should not be acting on every internal investigation. He explained that the Board should be focused on improving the relationship between the community and the Police as well as making recommendations regarding discipline when civilian complaints are made. He explained that the City Attorney commented that the Civilian Review Board should not be allowed a retrial procedure and should not impede the Police Chief's authority.

Alderman Robinson explained that when it comes to the wording he feels that we should have the City Attorney sit down and look at the policy word for ford to determine how to have this written as a legal document. He explained that in terms of training, a majority of the Civilian Review Boards that were looked at did not list or state any more detail on training in the policy, so he is not sure why details are constantly being asked for. He explained that as far as the Civilian Review Board impeding the Chief, he explained that this has been mentioned numerous times and it is not the case. He asked if there is a time limit for the Chief to render a decision on, and Chief Richardson explained that the Collective Bargaining Agreement gives him 180 days. Alderman Robinson explained that this is quite a bit of time. He explained that a lot of the comments are repetitious and he feels that they are biased. He explained that a lot of the information for this policy was taken from four cities of the exact same size as Olean that have had this as a part of their legislation for as long as since the 1980's. He explained that this can be done.

Alderman Witte explained that reading through this, she sees that we have spent a lot of time on who is on the board, how they are appointed, and how they are replaced if they leave. She explained that she does not feel that this is going to change much. She explained that the Police Chief will do the investigation, it will go to the Mayor, then back to the Police Chief. She explained that she feels that the Oversight Committee would basically be a pass through. She asked if people aren't coming forward or if they don't feel comfortable coming forward to make

a complaint, then where the Review Board comes in. Alderman Robinson explained that the section where it states complaints go to the Police Chief needs to be rewritten. He explained that they should come in through the City website, a board member, or the Police Chief.

Alderman Crawford explained that the idea is that there should be a uniform complaint process and policy. He explained that the idea was that from a governance standpoint, we want complaints coming in through a third party. He explained that it is the same as FOIA requests coming to the City Clerk and then being distributed. He explained that once the complaint is received it would be sent to the Civilian Review Board members, the Police Chief, and the Mayor. He explained that from that point the Chief will do his or her investigation and the Mayor will get involved as needed. He explained that it is about increasing transparency and oversight. He explained that he is not sure if this collectively belongs within the confines of the creation of this board, or if there is a uniform complaint process.

Mayor Aiello explained that he feels that there is a process of how things will be reported. He explained that once the complaint is received, that is where tracking starts. Alderman Crawford explained that we are receiving a lot of feedback, and good feedback as well. He explained that he is hoping after the next revision we will be comfortable to pass this off to Mr. Hart and the labor attorney to put it into legal terms, as well as correct wording and grammar. He explained that the focus is to try to clean up the structure and these questions, where possible. He explained that we don't want to pass something that will put the City into hot water. He explained that a lot of what we are looking at and relying on has already been passed in other cities. Mayor Aiello asked what cities were looked at, and Alderman Robinson explained that he will get a list to the Council.

- c. PL #76-21: (Crawford) To enact a local ordinance pursuant to the City of Olean Charter Section 2.044 (a) to equalize the Council Salary from \$3,500, as set in 1991, to \$5,500, effective January 1, 2023.

Alderman Crawford explained that this runs hand in hand with PL #77-21. He explained that these two things came up a couple of years ago when the City was gaining, but he doesn't think that the financial stability was there yet. He explained that it has been 30 years since the Council's rates were established. He explained that we have to look at how to encourage people to step up and run for office to serve their communities, and we need to make sure that people are compensated for that. He explained that our pay is very low compared to other municipalities. He explained that this does not impact this year's budget and does not take effect until January 2023. He explained that even those who were just elected and will be sworn in January 2022 will be able to receive this increase. He explained that due to the timing of our fiscal year as well as elected terms, it will take up to four years to completely implement this and put it into effect. He explained that this is equal to 1.5% of compounded adjustment

over time, and the premise is to get qualified candidates to run. He noted that if we paced this with inflation, the number would be around \$7,300. He is asking the Council to consider this and feels that we should not wait another 30 years to look at it.

Alderman Witte explained that she is comfortable with this, and she thinks that the Mayor's salary should be increased at the same time. She explained that we don't get candidates coming out that have a job, and we only attract people that are retired or semi-retired. She explained that if we want competitive races, we need to compensate people. She explained that she would suggest adding an increase to the Mayor's salary to these two PL's.

Alderman Gonzalez explained that he agrees that the Mayor's salary should be addressed in the incoming months or next year. He explained that it is a tough ask to have a professional in the prime of their career to come to a Council meeting and get beat up twice a month. He explained that this will put us in line with Bradford, Salamanca, and Jamestown. Alderman Robinson agreed that he wants to see the mayoral increase, and he agrees with this. He explained that this is long overdue.

Alderman Anastasia explained that he is not doing this for the salary, but to help his constituents. He explained that as far as the Mayor's salary, he thinks that there should be a public referendum. He explained that \$50,000 is probably more than what 90% of the people in the City make. He explained that we could also look at a City Manager instead of a full-time Mayor. He explained that we should ask residents what type of government they want to see in their City.

A motion to approve PL #76-21 was made by Alderman Crawford, seconded by Alderman Gonzalez. Voice vote, ayes all. Motion carried. Referred to City Attorney for Resolution.

- d. PL #77-21: (Crawford) To enact a local ordinance pursuant to the City of Olean Charter Section 2.044 (b) to equalize the Council President's stipend from \$500, as set in 1991, to \$1,000, effective January 1, 2023.

A motion to approve PL #77-21 was made by Alderman Crawford, seconded by Alderman Gonzalez. Voice vote, ayes all. Motion carried. Referred to City Attorney for Resolution.

4. Approval of Committee Reports

A motion to approve committee reports was made by Alderman Crawford, seconded by Alderman Witte. Voice vote, ayes all. Motion carried.

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 7:10 p.m.