

PUBLIC SAFETY

Tuesday, October 17, 2017 – 6:25 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; Bob Ring, Director of Public Works; Jeff Rowley, Police Chief; Ed Jennings, Code Enforcement Supervisor, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

1. Roll Call

Alderman Gonzalez called the meeting to order at 6:25 p.m. and asked that the record show that all committee members were present.

2. Approval of Minutes of the Previous Committee Meeting (Tuesday, October 3, 2017)

A motion to approve the minutes of the October 3, 2017 meeting was made by Alderman Gonzalez, seconded by Alderman Andreano. 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.

Alderman Crawford stated that he sent out an email to the Aldermen. This can be complicated in many different ways, and he feels that we are going around in circles. He looked at the costs of a new employee based on information from the Auditor's office, and he tried to break down the costs based on an hourly rate. He stated that, with benefits and considering productivity, he estimates the cost to be \$59 and change per hour. He stated that inspections upon vacancy make the most sense, so he proposes a \$60 charge for the inspection, and if there is any turnover in a twelve month period, subsequent inspections would cost \$30 each.

He continued in stating that we cannot pick and choose who gets inspected. The whole concept is going to include a lot of trial and error. He is also looking at this conservatory from a budget standpoint. We can always adjust the fee structure down the road.

He stated that the amendment that was proposed at the last meeting was well written; however, it has the potential to have many issues. He would like to see consistency across the board.

Alderman Gonzalez questioned if the Certificate of Occupancy is good as long as an individual lives in the unit, and Alderman Dougherty stated that is correct. Alderman Dougherty questioned where the burden lies, and if we can ask for evidence that there wasn't a vacancy. Mr. DiCerbo replied that if Code Enforcement is at the unit and sees that there are different people living there, then we can write a ticket and let the court figure it out.

Alderman Andreano questioned if it is legal to ask for a list of tenants, and Mr. DiCerbo stated that he would have to look into it.

Mr. Jennings stated that he feels that it is a good idea for the owner and the occupant to be responsible.

Alderman Gonzalez stated that he just wants to know how Ed knows that there is a vacancy. Mr. DiCerbo replied that he doesn't. The teeth are in the penalty.

Alderman Gonzalez stated that he likes the idea behind this. His concern, is how do we know when there is a vacancy. To Mr. DiCerbo's point, it will figure itself out if we make the penalty as such. Mr. DiCerbo added that it is possible that the landlord and tenant can get fined.

Alderman Andreano expressed concern regarding fining the tenants when the landlord hasn't received a Certificate of Occupancy. Alderman Smith stated that ignorance is not an excuse. Mr. DiCerbo stated that there has to be some prosecutorial discretion in Code Enforcement. When a police officer pulls you over for speeding, you don't always get a ticket. This is the same idea.

Mr. DiCerbo continued in stating that you would not want to put a tenant's name on a Certificate of Occupancy, since it is possible to obtain the certificate before the unit is rented.

Alderman Smith stated that we need to stop looking at the "what ifs". There would be no businesses in America if everyone sat around and said "what if".

Alderman Crawford asked Mr. Jennings what the viability is of running the program on vacancy and having the landlord call to tell Code Enforcement that the unit is empty and needs to be inspected. Mr. Jennings replied that he thinks that it would be the perfect solution, if the office had the manpower to accomplish this. The landlord, most times, has notice when a tenant is leaving and is able to contact Code Enforcement to schedule something prior to a new tenant coming in.

Alderman Andreano questioned the turnaround on inspections, and Mr. Jennings stated if they have the manpower and a checklist, the turnaround wouldn't be bad. A temporary Certificate of Occupancy could always be issued, if necessary.

Alderman Gonzalez questioned, worst case scenario, if he anticipated inspections to be more than an hour. Mr. Jennings replied that a half an hour will be more than adequate, but some units will require revisits.

Mr. Jennings continued in stating that this is a work in progress, but a step in the right direction to get things back on track.

Alderman Smith questioned if Mr. Jennings would rather see inspections based on vacancy or cyclical. He questioned which is easier. Mr. Jennings replied that it would be best to do this upon vacancy. He would rather not walk into a house when people are living there.

Alderman Andreano questioned if the fine schedule for the landlord and the tenant are the same, and Mr. DiCerbo replied that it is up to the Council to decide.

Alderman Smith stated that he sees the cyclical method is easier, and more reliable to enforce. Not everyone will view this as an invasion of privacy. If he were a tenant, he would feel as if the City is looking out for him. He feels that the invasion of privacy idea is overblown. Alderman Gonzalez agreed.

Alderman Gonzalez questioned what everyone's motivation is behind this legislation. HE stated that his is shutting down the grossly substandard housing in the City. Alderman George agreed. Alderman Gonzalez stated of all of the ways that we can do this, we need to decide what impacts this goal.

Alderman Smith stated that we need to make renting blighted properties unprofitable, and the only way to do this, is to not allow landlords to rent them. Again, he feels that upon vacancy is too difficult, and we should inspect every three years. If a unit fails, then it could be inspected every year, for a certain period of time. Alderman Dougherty added that we need quantifiable numbers, and we don't get that with vacancy.

At this time in the meeting, Alderman Smith left for a personal engagement.

Alderman George questioned how Hornell can pull off inspections upon vacancy, but we think we can't. Alderman Gonzalez stated that he likes what Alderman Crawford brought forward. He feels that we are closer today than where we were yesterday.

Alderman Andreano stated that, if we can get Alderman Crawford's idea into writing, then we could be ready to vote.

Alderman Gonzalez stated that we could go with what Alderman Crawford proposed, except move from upon vacancy to cyclical. Mr. Jennings stated that, if we go into occupied homes and they fail, we are displacing tenants. Alderman George stated that he is more in favor of upon vacancy. He feels that this is the right way to start.

Alderman Gonzalez questioned how Hornell keeps track of vacancies. Alderman Witte responded that they don't, as it is the responsibility of the landlords. Mr. DiCerbo stated that the Police Department does not stand over your shoulder when you are speeding, but it is still your responsibility to obey the speed limit.

Alderman Witte stated that the inspection in Hornell have been years in the process, but it now works very well.

Mr. DiCerbo stated that you can choose not to fine tenants. Alderman Crawford questioned if Hornell fines tenants, and Mr. DiCerbo replied that they do not. It was the general consensus of the Council not to fine tenants.

Alderman Witte questioned if we would still offer the inspection exemptions, and Mr. DiCerbo replied that we would not. It was a good idea, and an attempt to meet in the middle of the road, but at this time we would not be. We would not, however, inspect state owned properties, such as nursing homes and housing court properties, as they are inspected regularly anyways. Alderman Dougherty replied that we would not be able to enforce a fine with them anyways. Alderman George stated that we are not handling codes on this property anyways.

Alderman Crawford stated that we need to try this. He feels that this is going to make an impact. No system is perfect. When those who don't abide are caught, the residence will be shut down and they will be fined. This is stronger than what we currently have on board.

A motion to amend the legislation to include no tenant liability, inspections upon vacancy and a \$60 inspection fee with \$30 for subsequent inspections (for changes of vacancy) in a twelve month period, was made by Alderman Crawford, seconded by Alderman George. Voice vote, ayes all. Motion carried.

Alderman Gonzalez questioned if this is financially sustainable. He questioned why we would expose ourselves to underfunding. Alderman Andreano stated that she feels that the lesser fee for subsequent inspections in a twelve month period shows good faith to landlords who have good properties, who have a high turnover of tenants. Alderman George stated that he is not really comfortable either way. We don't know what this will be to fund and won't know until we get it started.

Alderman Andreano stated that she wants to make sure that the fees collected can be used to fund the position, and Alderman Witte stated that we can designate the fees to go to a certain line item.

A motion to postpone PL #25-17 to the next Public Safety committee meeting was made by Alderman Gonzalez, seconded by Alderman Andreano. 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 Andreano. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 7:15 p.m.