

## PUBLIC SAFETY

Tuesday, October 15, 2019 – 5:35 p.m.

Police Training Room – Olean Municipal Building

Present: Members: Chairman Andreano, Vice Chairman Gonzalez, Alderman Witte, Alderman Dougherty, Alderman Crawford, and Alderman Smith. Others: Mayor William Aiello; Nicholas DiCerbo, Jr., City Attorney; Bob Ring, Director of Public Works; Jeff Rowley, Police Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

### 1. Roll Call

Alderman Andreano called the meeting to order at 5:35 p.m. and asked that the record show that all committee members were present except Alderman George, who was excused.

### 2. Approval of Minutes of the Previous Committee Meetings (Tuesday, September 17, 2019 and Tuesday, October 1, 2019)

A motion to approve the minutes of the September 17, 2019 and October 1, 2019 committee meetings was made by Alderman Andreano, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried.

### 3. Unfinished Business

None

### 4. New Referrals for Consideration

- a. PL #75-19: (Andreano) To amend the City of Olean Code of Ordinances Chapter 14 to include Section 14-4, Tobacco- and Nicotine-free Policy for City of Olean Recreational Facilities.

Alderman Andreano presented draft legislation to the committee, and explained that it looks good, but she thinks that the committee needs to have some discussion regarding the violations.

Alderman Crawford asked about the procedure when the legislation passes out of committee, and if a public hearing is required. Ms. Taylor responded that only publication of the resolution is required, and not a public hearing.

Alderman Dougherty explained that he has been doing a lot of mulling over this topic, and he doesn't understand how vaping plays into it. He explained that if it is a littering issue, that he believes that the cartridges are difficult to remove. Alderman Andreano explained that she has seen cartridges on the ground, and that there is not enough research on vaping to know the

dangers of second hand vaping. Alderman Witte agreed that until there is more research, that they should err on the side of caution.

Alderman Andreano presented some statistics about smoking in New York State, and explained that while on average 14-16% of adults in New York State smoke, 26.7% of adults in Cattaraugus County do. She explained that the Health Department understands that it is because of the Seneca Nation Reservation, where people can get very cheap cigarettes. She also noted that it is amazing how young people are starting to use tobacco and nicotine products.

Alderman Crawford asked if the Council should consider a public hearing on this legislation, and asked if anyone has heard anything negative in response to this proposal. Alderman Andreano explained that she has not heard anything negative. Mayor Aiello explained that all of the call he's taken and people he's spoken with have felt very positively about this change. He noted that he has seen a lot of the pouches that are chewed all over the place now too. He feels that the timing is right and that the Council should include vaping and that changes can be made when research comes in. He explained that we are making a statement to our youth.

Alderman Andreano explained that people will still be able to use tobacco and nicotine products in vehicles in parking lots.

Alderman Witte suggested redoing the "Young Lungs At Play" signs while the new signs are being put up. Alderman Andreano noted that Reality Check will provide the new signs for the Tobacco- and Nicotine-free parks, but that the Council will need to decide if the City logo should be on the sign as well.

Alderman Gonzalez explained that he is in favor of this legislation and will support it, and that this gives law enforcement one more way to make pars a better place. Chief Rowley explained that this is a reason to stop and talk to someone. Alderman Gonzalez explained that his Libertarian side thinks that the government is going too far telling someone what they cannot do on public property, and that the Council would be overstepping if they passed this legislation for City streets. He agrees though that it should be done in parks. He explained that we don't know a whole lot about vaping, and he doesn't know if the Council should ban it. Alderman Andreano responded that if the Council can do things to discourage young kids, teenagers and high school kids to not being vaping, then they should do it. Alderman Gonzalez responded that Cattaraugus County and New York State are working hard to stop young kids from vaping.

Chief Rowley explained that this can be enforced, but that the Council needs to consider the priorities of the Police Department. He explained that this would be a non-custodial arrest, and Alderman Andreano responded that just putting the signs up will hopefully deter from the issue. She explained that it is not about making money or arresting people, it is about

prevention. Alderman Witte added that the signs will hopefully make parents feel like these parks are a safe place to take their kids.

Alderman Smith explained that he understands the libertarian argument. He disagrees that New York State and the County can enforce these laws, as they have less tools than the City does, and they are great big entities with no people on the ground to enforce the laws. He explained that this may be one of those circumstances where it is better for government to help on a local level. He explained that he was very much against banning smoking in public places when it occurred some time ago, and not too long after he agreed that it is a great thing. He noted that he also agrees that if the City bans vaping as well as tobacco use, that we are setting the tone to show kids that it is not a good thing and it is not okay.

Alderman Smith asked if the legislation would need to specify that an officer can remove someone from an event or park, or if they can just do it. Chief Rowley explained that he doesn't see an issue simply asking someone to leave City property, and then if they return they would be trespassing. He noted that he wouldn't kick someone out who is following all of their requests otherwise. Alderman Crawford explained that he feels that removing someone from a park for a cigarette is excessive.

Chief Rowley explained that if someone is asked to put out their cigarette and they do, then it is all said and done. If they refuse, they can be arrested for obstructing governmental administration or disorderly conduct, and that normally his officers try to reason with a person and get them to leave. Most of the times they will comply, but there's always that one person who won't.

Mayor Aiello explained that his suggestion for the fine is \$25. Alderman Gonzalez asked what the fine for littering is, and Mayor Aiello responded that it is \$200. Chief Rowley explained that he suggests a minimum of \$50 for the first time offense, and Alderman Gonzalez noted that he thinks the higher the fine, the better. Mr. DiCerbo explained that it should be a flat fine, as increasing fines with offenses is difficult to track in the Court system. He noted that it should also be high enough to reflect the process of filing for a civil judgment, given the bail changes that are upcoming.

Alderman Crawford asked if cannabis is legalized, if this legislation would need to be amended. Mr. DiCerbo explained that it would need to be.

A motion to refer PL #75-19 to the Committee of the Whole November 12, 2019 was made by Alderman Andreano, seconded by Alderman Crawford. Voice vote, ayes all except Alderman Dougherty, who voted nay. Motion carried.

#### b. Bail and Reporting Reform

Chief Rowley explained that in addition to the Bail Reform Act going into place in January, there is another piece of legislation going into effect. He explained that currently, when someone is arrested, everything that is going to be used against the defense must be turned over prior to the trial. He explained that this time period is shrinking drastically to 15 days. He noted that he has been notified by the DA's office that he will have five days from the arrest to turn everything over to them. He explained that it's a lot of work and he would like to hire someone to do this reporting. He noted that the person does not necessarily need to be a police officer, but that they will not be just anybody, and will need to obtain substantial training.

Alderman Witte asked if this is another unfunded mandate that the taxpayers will need to pick up, and Chief Rowley responded that it is. He noted that every department in the State is in this same boat.

Alderman Andreano asked what would happen if the DA is unable to process the evidence in time, even if the City of Olean gave them everything in time. Chief Rowley responded that the case could be dismissed. Alderman Witte noted that it seems like so many things could go wrong.

Chief Rowley explained that the DA's office will have computer programs that this information can be uploaded into.

Alderman Witte asked what the motivation for this is, and Chief Rowley responded that it came with the Bail Reform Act, which prevents those, especially in New York City, from being bailed for a long period of time due to their inability to bail themselves out. Mr. DiCerbo agreed that this comes from the City. Chief Rowley added that people will be released immediately, even for burglary, resisting arrest, after getting arrested during a drug raid, and for DWI. He added that the court and Police Department will no longer be able to put out a warrant if someone doesn't pay their fines, and parole violations are changing.

Alderman Crawford thanked Chief Rowley for coming to the Council with this information, and Chief Rowley reminded the Council that this goes into effect January 1<sup>st</sup>.

Mayor Aiello noted that he will keep the Council updated.

## 5. Approval of Committee Reports

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

## 6. Adjournment

A motion to adjourn was made by Alderman Andreano, seconded by Alderman Witte. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:20 p.m.