

# COMMITTEE OF THE WHOLE MEETING MINUTES

*TUESDAY, JULY 28, 2020 – 6:30 p.m.*

## **COUNCIL CHAMBERS – OLEAN MUNICIPAL BUILDING**

IN ATTENDANCE WERE: ALDERMEN GONZALEZ, WITTE, PANUS, DOUGHERTY, CRAWFORD, AND ANASTASIA. OTHERS: MAYOR WILLIAM AIELLO; LENS MARTIAL, CITY CLERK; NICHOLAS DICERBO, JR., CITY ATTORNEY; FRED SARADIN, CITY AUDITOR; BOB RING, DIRECTOR OF PUBLIC WORKS, AND TIFFANY TAYLOR, MANAGERIAL CONFIDENTIAL ADMINISTRATIVE SECRETARY.

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

### 1. Finance & Bills

A motion to approve Finance & Bills was made by Alderman Crawford, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried. Referred to Regular Meeting for Resolution.

### 2. Discussion – Diversity, Equity and Inclusion Task Force

Alderman Gonzalez explained that he sent out an email to the Council regarding ideas that he had. Mayor Aiello explained that in continuing on with this effort to get a committee or a couple of committees together, He explained that he gave the Council some ideas, and he feels that the police review committee should be separate from the other committee because on this committee, people are going to have to have some sort of idea on how police work, including policies and procedures. The will need to have a neutral eye so he recommends a small committee. He and Chief Rowley have looked at other cities that have these review boards, and some of these people have gone through the Civilian Police Academy so they have an idea of how it works. The Council may want to require this for the committee.

Mayor Aiello continued that he suggests that at least himself, Chief Rowley, and two aldermen are put onto a committee to set the criteria on how people will be appointed to this police review committee. Alderman Gonzalez explained that he feels that it should be made up of community members to review policies and review complaints about misconduct. Mayor Aiello explained that to accomplish this we would have to establish a steering committee to help establish the committee, basically establishing the criteria for becoming a member. He explained that those on the committee should have some sort of background in or knowledge on police work, and asks if there should be a background test or drug testing. He explained that the steering committee would lay out all of this, and that there is a lot of guidance out there on this that would help determine requirements.

Alderman Crawford asked if he is suggesting forming a committee to form a committee. Alderman Gonzalez responded that is how a lot of professional committees work. Alderman Crawford asked if the committee is a short term committee or ongoing, and Mayor Aiello explained that members will serve a term, and it is up to the steering committee to determine how long the term will be, in addition to the criteria to becoming a member.

Alderman Witte explained that she really thinks that we are spending a lot of time on this for a committee to appoint a committee, but she is more concerned about community members. The whole point was to address an issue that people were showing up to town halls about, and she thinks that we are getting away with that. She explained that she feels that the stakeholders of the community are the people, so she hopes that we don't get away from what we started with in this whole conversation. She feels that we are getting into a different lane now and we don't want to lose the flavor of what we are trying to do.

Alderman Gonzalez explained that he doesn't want this to be lip service. He explained that in his experience, when you hastily throw something together and see if it works, you usually end up with a mess. He urges the City to move cautiously when doing this because we want to do it right. He doesn't want to get into the weeds with this, but look at the COVID-related policies. We make things up as we go along, and sometimes it works and sometimes it doesn't.

Alderman Crawford explained that we, as the Council, are that committee. We are the lawmaking body that has the power to form the committee, and to bring in expert witnesses to advise who should be on the police reform committee. He explained that other municipalities are doing this, but they aren't taking it to such great lengths. He explained that we need to reach out to the Police Department and community members to determine what this needs to look like.

Alderman Witte explained that she feels that we need police officers on the committee. They are the central spoke of the wheel, and they need to be there to share ideas with us. Alderman Dougherty responded that he doesn't know, for ethical reasons, if we want someone who is on the streets everyday as an officer to be on the committee where they could become the topic of what is brought up to the police reform committee. He explained that perhaps a captain would be better for the committee. He noted that this whole topic is digressing because of how we pick the people and members of the committee. The first topic is rules and structures of the committee.

Alderman Anastasia explained that if this committee will be making changes to the Police Department that we should have someone from the union on the committee to avoid issues. Alderman Crawford explained that he feels that is a valid point, and that is why this committee is here to make decisions.

Alderman Witte explained that we should keep it simple. We should put a committee together, and if we find something else or if people on the committee don't have the knowledge they need, we reach out to someone who does. We don't want to do this haphazardly, but we have to do it. She

added that she thinks that the community members that are included should be the ones who showed up and showed interest all along.

Alderman Dougherty explained that it is the same as when people reach out to the Mayor for vacancies in each ward. He does like the idea of having everyone who sits on this committee to have trained. We train zoning and planning, and we can have this committee trained as well. Alderman Panus added that he thinks that the number of community members should be the same as the number of Aldermen, City staff and City officials.

Mayor Aiello recommended the Chief of Police, a retired officer, union representation, two aldermen and then two community members. Alderman Crawford asked if the committee should include the Council President instead of two Aldermen, as there should be an odd number of people on the committee.

Alderman Gonzalez asked if the union representation needs to be a part of this idea, and Alderman Witte responded that she doesn't think that we can go anywhere without it. Alderman Gonzalez asked if then the retired officer goes, or maybe going down to one Alderman. He noted that it doesn't necessarily need to be the Council President, either. Alderman Crawford explained that it could be the chair of the Public Safety committee, and Alderman Witte added that it could change every year, Alderman Panus explained that whoever the Council representation is, they should bring the results of committee discussions back to the entire Council.

Alderman Dougherty explained that if you have too many on the committee, it is hard to have a quorum. Alderman Crawford explained that he doesn't know if it has to be exactly the same. Alderman Gonzalez recommended the Mayor, Chief, a retired or current officer, and a union representative. Mayor Aiello explained that if we are talking public safety, we are talking three unions: one for police patrol, one for police command, and one for the fire department. Alderman Crawford asked for a recommendation, and Mayor Aiello explained that he thinks that we are getting way off track. He explained that this committee is going to be to satisfy the Governor's mandates. He explained that if it turns into a police review committee, that we don't want the Police Chief or himself on there, and that we want members of the community who can take a look at misconduct and policies and then make recommendations.

Mayor Aiello explained that the second part of the email that he sent to the Council is what the Council has wanted to form right from the start, which is an equity and inclusion committee. He explained that this would be chaired by the Council, and would make recommendations for everything covered by the entire City family. He explained that it is his vision to have two separate boards, as he thinks that there would be a lot of conflicts with one. He explained that his thought about a steering committee is to determine how you would become a part of the police review board, but we can take ideas from others and go from there.

Alderman Crawford explained that the Mayor is probably more in tuned to what is going on than the Council, and asked if such a board usually doesn't involve the Police Chief. Mayor Aiello

explained that a board would include a member of the department, and he wants to make sure that this board includes a member of the Police Department to guide the other members on laws and things like that. Alderman Dougherty explained that the Governor's order also requires that we review policies, and he suggested that a member of the community who is an attorney be considered who would understand policies, legal terms and reasoning. Mayor Aiello explained that it would also be pertinent to have someone from one of the unions or a union representative on this committee as well, since we have the union contracts to deal with.

Alderman Gonzalez asked if there is a president of the union, and Mayor Aiello explained that there are two police unions governed by Council 82, and there is one union representative that comes from Council 82. Alderman Gonzalez asked if there is local representation, and Mayor Aiello explained that there is a president of each. He explained that the one representative that would be for both the command and patrol unions is the Council 82 representative. He explained that he is not sure if the Fire Department should have a role here or not, and these are all questions that we need to answer.

Alderman Panus explained that we need someone who understands and is involved with the unions enough on the board. He explained that there is essentially a management and patrol unit, and this would affect them both. Alderman Gonzalez asked if union representation should be from both sides of the bargaining unit table, and Alderman Panus asked if there should just be one who understands how things that are discussed in that committee affect both. Alderman Witte suggested letting the unions choose the person, and Alderman Dougherty explained that if the Council creates a committee that involves anyone outside of the Council, it is up to the Mayor to appoint the members. He explained that he can have a steering committee, but it is up to him to appoint who is on the committee. He explained that it seems like we have a good handle on this, so let's set parameters.

Mayor Aiello explained that the Council should set parameters on how you get appointed, and Alderman Gonzalez explained that we should set up a framework for each committee. He explained that there are seven Council members. He feels that there should be some kind of union representation on the police committee, as well as the Public Safety committee chair or other Council representation. Alderman Dougherty asked if we want to include a legal representative, and Alderman Crawford asked if we could ask the City Attorney to advise on this. Mr. DiCerbo explained that he can provide advice, but that he shouldn't be on the committee.

Alderman Crawford asked if the Mayor should not sit on the committee, and the Mayor responded that it is up to the Council. Alderman Witte explained that she feels there should be three community members, and maybe two council members as we are the ones that set the policies. Alderman Crawford explained that for the community members, similar to an interview, they should submit a resume showing interest to go through the Mayor, and then the Council can confirm the appointments. Alderman Gonzalez explained that it seems like a good way to go about it.

Alderman Crawford asked, in Mr. DiCerbo's understanding of what the obligations are to put together a committee, if the Council is on the right track. Mr. DiCerbo explained that he feels that we are but it is still fluid, and he thinks that we are following in the spirit of the Executive Order which could change as this committee is being assembled. Alderman Gonzalez explained that this is a start but he is not married to this exact structure.

Alderman Panus explained that overall, this could revolve around who wants to be on the committee. He explained that it should be made up of people who want to be on the committee so it lives and continues to grow, otherwise they just won't show up. Alderman Witte explained that these folks will have a time commitment, and we don't want them to not show up half the time.

Alderman Dougherty explained that we have the framework, and asked what the committee will be doing. Alderman Gonzalez explained that it is kind of a fluid requirement. Alderman Dougherty asked if we are replicating the Governor's requirements exactly, or if we are going to add things or tweak them to fit our committee. Alderman Gonzalez explained that it is a valid point, and he is not sure of the answer to that. Alderman Crawford explained that he would always be open to some feedback from the community on just that rough outline. He noted that this may need to be a community driven thing. He explained that whether you like it or not, the Governor has connected next year's funding to putting this forward.

Alderman Gonzalez explained that this is a good point and that maybe the committee should consist of union representation, the Police Chief, an alderman, and five community members. Alderman Witte suggested that the Mayor be an "at large" member that really doesn't count, and Alderman Gonzalez responded that he could act as an advisor.

Alderman Gonzalez asked if we have a rough outline for the equity and inclusion committee. He explained that he knows that we did a lot of talking last week about finding a specialist or officer. The Council also discussed an HR position and while he feels that it is a good idea, he doesn't feel that this is what we are trying to accomplish. He explained that there should be an HR person working for the City, but that doesn't help the Council now with these committees, He explained that he thinks that an equity and inclusion committee should be chaired by someone with experience.

Alderman Dougherty asked what the committee would be doing, and explained that he has never worked for a large corporation so he is not familiar with this type of committee or officer. Alderman Crawford explained that his understanding is that an equity and inclusion committee would be a standing subcommittee of the City Council that would look at the City's internal policies. For example, we say that the City is an Equal Opportunity Employer, but are we really following the law and looking to pull from a diverse candidate pool when we hire? Alderman Gonzalez asked if this would be similar to the Audit and Compliance Committee, and Alderman Crawford responded that it would be.

Alderman Gonzalez explained that he feels that this is the direction that we need to go in, and he thinks that we need to figure out who is going to be on the committee and how many members there should be, as long as there is a clear mission. Alderman Crawford explained that this committee should be working with the Mayor's office to identify risks and opportunities. He recommended that two council members and three citizens with backgrounds in this area should be appointed to this committee to take a look at the City's policies and organization, which is the same number as what is on the Audit and Compliance Committee. He explained that five people get more work done, he feels, but the committee could include seven, nine, or any number of people,. He explained that this is not a voting, lawmaking body but only a committee to draft policies and make recommendations to the Mayor and Council.

Alderman Gonzalez asked how many times the Audit and Compliance committee met when there was an issue, and they would come back to present to the Council at a committee meeting. Alderman Dougherty explained that the police reform committee should look at incidents within the department and policies, while the diversity committee would look at City policies as a whole. He explained that he wants to make sure that we are all on the same page because this has been convoluted from the beginning.

Alderman Witte explained that we need to work on diversity and equality. Alderman Gonzalez asked if she is advocating that one of the community members that we appoint should have a background in this, and Alderman Witte responded that they should. She noted that several people that she has spoken to regarding this actually have training in diversity and equality. She explained that this shouldn't be a job where you just want to get paid, but rather something that you want to do.

Alderman Gonzalez asked how we select members, and Alderman Dougherty explained that we have breached that. He asked what powers do these committees have, and what will be policies and procedures which guide what they can and can't do. He asked what the framework is that guides them. Alderman Witte explained that this may be something that the committees should come up with, not just a mission statement but a structure and what their goals are. She explained that you can't just write down ten things and tell that that's what they are going to do. Alderman Dougherty disagreed and explained that he doesn't think that the committees should be able to create their own rules. Alderman Witte explained that they know what the purpose of the committee is, and they should be a part of what their own goals are. She explained that until you have a chairperson for the equity and inclusion committee, you won't know what their goal is.

Alderman Dougherty explained that we could establish this committee based on the goal of reviewing City polices, rules and regulations that may not be up to date or that could hinder equality. Alderman Crawford explained that the Council serves many different purposes and has many different discussions. He doesn't want the only goal of the committee to be to draft policies for us. They could bring light to greater problems in the community. Alderman Gonzalez explained that he doesn't think that there will be any shortage of issues and topics for the committee to tackle.

He explained that there are people here tonight and although they might not be on the committee, they could still be a voice. He does not feel that the Council needs to worry about action items for the committee to go after.

Alderman Panus asked how we choose the chairperson, and Alderman Crawford responded that he thinks that it makes sense to have a Council member act as chair. He explained that this person could act as a liaison between the committee and the Council. He explained that things need to come back to the Council because we are the ones who can pass policies.

Alderman Crawford expressed that the committee doesn't need to be a voting body with an odd number, minutes being taken and "ayes" and "nays". Alderman Crawford explained that the Audit and Compliance committee didn't need to have a quorum so they could meet at Tim Horton's to have discussions.

Mr. DiCerbo asked if this is a subcommittee of the Council or an advisory committee, and Alderman Gonzalez explained that it is to be like the Audit and Compliance committee. Mr. DiCerbo explained that it would be an advisory committee under section 2-44 of the Code, and the Council would need a resolution to establish the powers and duties of the committee. He noted that the Mayor would appoint members to the committee subject to Council approval. HE explained that there would be no real power to the committee, and that they would be advisory in nature.

Alderman Crawford asked if the Council could specify what Council members are automatically on the committee, and Mr. DiCerbo explained that the Council could establish by resolution as far as the positions go. Alderman Crawford asked if there is a limit to the number of members on an advisory committee, and Mr. DiCerbo responded that there is not. Alderman Gonzalez explained that he doesn't want 25 people in a room, but that it doesn't necessarily have to be five people. Alderman Crawford suggested seven to nine, and Alderman Gonzalez added not double digits. Alderman Dougherty asked how the Open Meetings Law applies to an advisory committee, and Mr. DiCerbo responded that he will do a bit of research, but it is his understanding that they are still subject to Open Meetings Law because the government is establishing the committee. He noted that some opinions oppose that, but it is his advice that Open Meetings Law be followed.

Alderman Crawford asked if minutes should be taken, and Mr. DiCerbo responded that they can be. Alderman Crawford explained that Aldermen cannot meet in groups of more than three without advertising the meeting open to the public. Alderman Gonzalez suggested two aldermen, one of whom to chair the committee (possibly the public safety or strategic planning chair), four community members, and one City employee. Alderman Crawford explained that he thinks that this is a good idea.

Alderman Dougherty explained that it sounds like the Council has framed the inclusion committee, but we have not broached on the framework for the police review committee. Alderman Gonzalez explained that the equity and inclusion committee will require a resolution to establish, and it can

be done next week in a special meeting or the Council can wait for the next regular meeting. Alderman Crawford explained that he is glad that people are attending tonight's meeting. He explained that when the Audit and Compliance committee was established, it was difficult to find community members who were willing to serve. He explained that these are unpaid positions that we are just putting out there, and we are asking people to show up and serve just to make a difference. He explained that he hopes that there is interest out there.

Mayor Aiello explained that he feels that we are ready to start receiving information from people who are interested. He asked that letters of interest or resumes be sent to his office, along with whatever supporting information the interested resident has. Alderman Crawford explained that they should also perhaps specify which committee they are interested in becoming a part of.

Alderman Gonzalez explained that the police reform committee, as far as he can see from the discussion, would be comprised of a police union representative, City Council representatives (2), the Mayor, and three community members. He noted that he feels that he would prefer to have four community members on the committee, with the Mayor serving as an advisory role. Alderman Crawford agreed that the Mayor needs to sit at the table, doesn't know if he should be a voting or non-voting member. Alderman Gonzalez recommended a Council member as a chair, with a resolution setting up the committee and the Mayor as a non-voting member. He explained that he would like to side on more community participation.

Alderman Panus asked how we broadcast this besides word of mouth, He explained that we have a lot of different audiences. He also wonders if we will allow people to be on both committees. Alderman Gonzalez explained that he feels that we should see how the applicant pool turns out before we commit ourselves to anything, but that these are all good considerations. He explained that this can be advertised on the City of Olean Facebook page, and Mayor Aiello added that he will put out a press release. He explained that we have enough means from social media and what not to get the word out there and to get interested people to send in their information.

3. PL #37-20: (Dougherty) To amend the City of Olean Code of Ordinances Section 5-1, subsection (4), to amend setback requirements for fowl within the limits of the City.

Alderman Dougherty explained that the resolution was not published soon enough to vote tonight, so it will be on the Council's agenda for a vote two weeks from now. He introduces John Policastro from Flanigan Hill Farms.

Mr. Policastro explained that he doesn't care which way the Council votes, but he has raised about 5,000 chickens or so in the last five years, so he would consider himself an expert., He explained that there are a lot bigger cities that have reduced the size requirement to raise chickens because besides gardening, it is a way for people to feel a sense of independence. He explained that this seems silly compared to some of the bigger issues that the Council is dealing with today, but with the pandemic it has come to light how many more people have been raising chickens. He explained that people are buying chickens in the community. They are hard to breed, and the Council can



choose to outlaw roosters, which most communities do. He explained that roosters are noisy and female chicks are not, and most commercial chicken breeds do not fly. He explained that they only jump and roost. Overall, we are not breaking any new ground but he thinks that passing this legislation will show tremendous forward thinking on the part of the City. He explained that it is almost impossible for people in the City to raise chickens with the current setback requirements. He explained that you don't need a lot of room, and you don't need to raise a lot of chickens.

Alderman Witte asked if he was living in the City, if he would feel that six is a good number. She explained that her concern is adding a maximum number of chickens to the law. She asked how many would be acceptable, from a neighbor's point of view. Mr. Policastro responded that six is the minimum amount that can be brought or shipped, given their need for warmth. He explained that six tends to be most of the time what people will get, and he doesn't see a problem limiting the number. He noted that people get passionate about this, and some people will be interested in the different kinds that can be raised. He added that this is not going to get people interested in raising pigs or cows, but this is a good way to get kids involved and to produce food.

Alderman Witte asked about predators, and Mr. Policastro responded that cats, dogs, hawks, owls, and foxes, although scarce, are typical predators of chickens. Alderman Crawford explained that one of his concerns, being unfamiliar with this territory, is disease and if lessening the setbacks could cause an increase in illness. Mr. Policastro explained that this is not unlike raising any other animal, and if you do it poorly it will not go well and things will get dirty. He explained that when chickens are allowed to roam in the yard, they are a great fertilizer of gardens, and if done right they can keep the yard free of bugs. He explained that you can find problems if people abuse or misuse them, but this is true of any animal. Alderman Dougherty noted that the current Code dictates that the animal's food source and where the animals sleep must be cleaned on a daily basis.

Alderman Anastasia asked about chicken feces, as at his employment, they are warned not to disturb pigeon feces. He asked if breathing in the dust can cause serious issues. Mr. Policastro explained that this may be the case with large commercial chicken farms that are mismanaged, but not small operations like the ones in the City. He explained that it is also a myth to think that all chickens carry salmonella, and chickens are not a carrier of disease in and of themselves. He explained that issues tend to happen with large, mismanaged operations. He explained that there could be problems, but it is more likely that the Council will get a call that someone's cat ate someone else's chicken before they get a call about sickness.

Alderman Anastasia asked when roosters crow, and Mr. Policastro explained that they will crow anytime, day or night. He explained that he suggests outlawing roosters to prevent issues, as they can also be mean and aggressive. Alderman Dougherty explained that he sees his point.

Mayor Aiello explained that if you read Monday's Buffalo News, there is an article about communities having issues about chickens.

Alderman Crawford mentioned a PL in the future outlawing roosters.

A motion to approve PL #37-20 was made by Alderman Dougherty, seconded by Alderman Panus. Voice vote, ayes all. Motion carried. Referred to City Attorney for Resolution.

4. PL #42-20: (Aiello) To award the contract for Cleanup Week refuse services to Beichner Waste for an amount of \$210.00 per ton with electronics.

Mayor Aiello explained that after putting out an RFP, the City received two bids and this was the lowest that included electronics. He explained that he is asking that the City approve the contract so that we can continue with the process. He explained that cleanup week is slated to begin Monday, August 10<sup>th</sup>. He explained that because everyone was already in agreement to hold the cleanup week, a notice already went out in the paper to contact DPW to participate. Alderman Dougherty asked what the cost is to participate, and Mayor Aiello explained that residents will be charged \$40 without electronics and \$50 with.

A motion to approve PL #42-20 was made by Alderman Witte, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried. Referred to City Attorney for Resolution.

## 5. Discussion – Walkable Olean Phase II

Mr. Ring explained that Walkable Olean Phase II is a partially funded State project, and the way that the projects run are that they are done in phases. He explained that we are moving into the construction phase, and in order to begin reimbursement for this phase, the City needs to close out the design phase. He explained that we exhausted all of the design phase funding, but we came in \$12,000 under budget so he has submitted a resolution to modify the existing agreement and transfer the \$12,000 from the design phase to the construction phase. He noted that we want to make sure that all construction costs are eligible for reimbursement. He explained that they track this through the processes so we know how much funding we have for construction before going to bid, and the construction phase of this project has already been awarded. He noted that the notice to proceed is almost completed, so we want to ensure this resolution is passed so the City can receive reimbursement from the state.

Alderman Crawford asked if this funding is use it or lose it. He asked if we don't spend it in the design phase, if we don't get it. Mr. Ring explained that this is an accountability measure, and since the funding is federal, the state has to go through a process to have the funding allocated to them. He explained that the City needs to meet certain benchmarks or they threaten to pull the funding. Alderman Panus asked about putting more money into the project from contingency, and Mr. Ring explained that this was already considered. He explained that he spoke with the consultant before coming to the Council. The State is contribution \$540,000 and the total cost is \$1.127 million, with a City match around \$350,000.

## 6. Update – Trailhead Parklet

Mr. Ring explained that he and the Mayor worked on the location based on the idea that Paul brought up, and they went ahead and ordered a water fountain. He explained that the Mayor had the idea of having a bench in the area as well. He explained that they spoke with Upcycle who is willing to donate a bike stand made for outdoors, with tools and the ability to add air to bike tires. He explained that a concrete pad will be added in the area across from AT&T which will have this water fountain that includes a water filling station, along with the bike stand. He explained that he hopes to have this completed in the next few weeks.

Alderman Dougherty explained that it is great to see a small local business giving back to the community like Upcycle is. Alderman Panus explained that he would like to make sure that someone is taking care of these facilities. Alderman Witte added that she thinks that the dog bowl portion of the water fountain needs to be cleaned once in a while, as she has had people mention to her an issue with the one in Lincoln Park.

## 7. Adjournment

A motion to adjourn was made by Alderman Gonzalez, seconded by Alderman Witte. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 7:45 p.m.