

## FINANCE

Tuesday, May 5, 2020 – 6:45 p.m.

Council Chambers – Olean Municipal Building

Present: Members: Chairman Gonzalez, Vice Chairman Crawford, Alderman Witte, Alderman Panus, Alderman Dougherty, Alderman DaPolito, and Alderman Anastasia. Others: Mayor William Aiello; Fred Saradin, City Auditor; Bob Ring, Director of Public Works; Tim Richardson, Fire Chief; Jeff Rowley, Police Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

### 1. Roll Call

Alderman Gonzalez called the meeting to order at 6:45 p.m. and asked that the record show that all committee members were present.

### 2. Approval of the Minutes of the Previous Committee Meetings (Tuesday, April 2, 2020)

A motion to approve the minutes of the April 2, 2020 meeting was made by Alderman Gonzalez, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.

### 3. Unfinished Business

None

### 4. New Referrals for Consideration

#### a. Discussion – Sales Tax on Garbage Stickers

Alderman Panus explained that he had been approached by a constituent that asked why they were being charged sales tax on garbage stickers all of a sudden. He explained that it looks like there is supposed to be sales tax on the garbage stickers, but nothing is stated on them regarding sales tax, so at the very least we need to see if the company can advertise better.

Mayor Aiello explained that he has been fielding a lot of calls regarding the sudden change. He spoke with Casella, who informed him that an internal audit was performed and the auditor determined that vendors are supposed to be collecting sales tax on the garbage stickers. He explained that he spoke with someone in their finance department who confirmed that the tax should have been collected all along.

Mayor Aiello explained that he spoke with Senator Borello's office, who contacted the Department of Taxation and Finance. Alderman Panus explained that this is considered "maintenance to real property". Mayor Aiello explained that he cannot recall the exact terminology, but it is the same as selling a service. He explained that Casella is selling a service

to us, and it is up to the individual stores that sell the tickets to collect the sales tax. He explained that either Casella pays the sales tax, or the stores have to collect it and submit it. He explained that he has gone back and forth with Caasella and there is confusion because we have a contract with them that states that the stickers will be sold for a certain amount, with a cost of living escalation each year. He explained that he has also learned that Casella is no longer paying commission to the vendors who sell the tickets.

Mayor Aiello explained that he spoke with a manager at County Fair and learned that they have been told by corporate not to collect sales tax until corporate looks into this further. He explained that Rieds and Park and Shop are collecting sales tax, and the Municipal Building will need to start charging sales tax as well. He noted that he has never paid sales tax on a transfer station ticket that he's bought at Dewey's.

Alderman Panus explained that County Legislator Kelly Andreano will be bringing this topic up with the County Legislature. Mayor Aiello explained that the County is selling transfer station tickets and do not charge sales tax. Alderman Panus explained that he has had some time to learn how sales tax works due to his occupation. He explained that with the sales tax code, you have to know that you are supposed to collect something, and then do it.

Mayor Aiello explained that it was not a state audit, but an internal audit. He anticipates that this will probably create a state audit. Alderman Panus added that he has a feeling that the County will come about realizing that they have to collect sales tax on their tickets as well. Alderman Dougherty explained that they are a taxing entity so they may not have to. Mayor Aiello agreed, explaining that the transfer stations are a county service, while we hire an outside vendor.

Alderman Panus explained that there could be a loophole, and that Casella can go to court to see if the situation falls under the tax code. He explained that he found an example where trash created at the County transfer station, as the State determined, is taxable as a vendor is dealing with it. He explained that the situation is confusing because of the use of vendors and contractors. He explained that Legislator Andreano will touch base after she gets in touch with someone who can get to the bottom of this.

Mayor Aiello explained that vendors are supposed to collect sales tax on tickets and then submit it to the State. Alderman Crawford asked if this could trigger a sales tax audit, He explained that if you think of the garbage stickers that go out every week, with tax around twenty cents per sticker, that's a considerable amount of money.

Mayor Aiello explained that not that Casella is not paying commission for the sale of garbage stickers, vendors may stop selling them. Alderman DaPolito mentioned the Olean Area Federal

Credit Union, and Mayor Aiello explained that the Credit Union called his office because they do not have a certificate to collect sales tax, and now they have to get one.

Alderman Panus explained that as a vendor that collects sales tax in business, there are not loopholes and you can't play dumb. He explained that if they are audited they may have to pay back sales tax on garbage sticker sales.

b. Discussion – Sales Tax Revenue

Mr. Saradin explained that tomorrow is the day of indication of the effect that the virus had on the City's sales tax revenue. He explained that the City will receive a wire transfer from the State that includes one hundred percent of sales tax collected between April 1<sup>st</sup> and 22<sup>nd</sup>, as well as a percentage of what was collected during the last week or so in March. He explained that this time is mostly COVID-19 related. He explained that he will email the Council tomorrow and will let them know what we received this year versus what we received last May. He explained that he figured that we would receive 35 percent less, but we really had no idea what the effect would be. We will find out tomorrow how close he was.

Alderman Crawford explained that his one concern is whether or not we received the correct amount of sales tax revenue last month. Mayor Aiello explained that now that Walmart is doing a lot of sales online, our sales tax revenue could rise. He explained that maybe we need some indication on that. Mr. Saradin explained that if we receive \$218,000, we will have collected exactly what we budgeted, compared to \$326,000 of May last year.

Alderman Crawford asked if we will receive another payment in May, and Mr. Saradin explained that there are always two payments, and the second occurs in mid-May. Alderman Crawford asked if the bigger of the two amounts is deposited tomorrow, and Mr. Saradin responded that it is.

Alderman Crawford explained that he just can't believe how much we received last month, and that the amount really surprised him. Mr. Saradin explained that he can't answer why we received that amount, and that the only reports he gets are on a quarterly basis. He explained that the March, April, and May report probably won't be available until the beginning of July, and that will tell him who was up and down by vendor.

Alderman Crawford asked if he could recall when there was a mishap for when the City received sales tax revenue from WalMart and Home Depot, and Mr. Saradin explained that although it was deducted from the City last June and July, he does not know when they gave the City the sales tax in error. Alderman Dougherty asked if WalMart is in the City's tax district, and Mr. Saradin responded that they are not, and he is led to believe that employees at WalMart and Home Depot incorrectly filed their sales tax return with the State and gave

information for the City of Olean rather than the Town. He explained that this was their error, not the towns. Mayor Aiello explained that it seems that the problem is that the City has the same ZIP code as the Town of Olean and the part of the Town of Allegany.

Alderman Dougherty asked if we see any benefit from WalMart's sales, and Mayor Aiello explained that if we get the sales tax revenue, we have to pay it back. Alderman Panus explained that when you pay sales tax, you go on the website for the New York State Department of Finance and Taxation, and you have to enter information and submit the tax payment. He explained that WalMart probably has accountants that punch in information for a group of stores, and probably found the Town first when punching the ZIP code,

Alderman Dougherty asked what is in our area and what makes up our sales tax. Mayor Aiello explained that small businesses and car dealers create sales tax revenue, and Mr. Saradin explained that gasoline tax revenue is huge. Alderman Dougherty explained that hardware businesses are booming right now, and Alderman Crawford explained that people have more time now for home projects. Mr. Saradin explained we might be very surprised by how much sales tax revenue we receive. He explained that it is not cut and dry.

#### c. Discussion – Capital Project Funding

Alderman Gonzalez explained that the purpose of this is to have a general discussion regarding some of the capital projects that have been previously discussed. Mayor Aiello explained that he was not sure who put this on the agenda and what it was about, but that we can talk about a few projects if we are talking about what we should do with the leftover contingency funding.

Mayor Aiello explained that the Council had previously discussed not purchasing new police cars this year. He asked Chief Rowley how many cars have at least 100,000 miles, and Chief Rowley responded that at least two, if not three cars have that many miles or more on them. Mayor Aiello explained that it has been discussed over the past year and a half of maybe two years about leasing vehicles from Enterprise. He explained that it may be the time to take a look at that again and possibly lease here police cars, and use the program to keep our fleet going strong. He explained that he just wanted to throw that out there for tonight. He asked that some of the Aldermen who are good with numbers to take a look at things and see if it is feasible.

Mayor Aiello explained that another situation has arisen with the Police Department, and there is now an issue with their recording device. Chief Rowley explained that the department has a recording system that is out of date with a security certificate that is no longer valid, and the company is no longer going to handle the security aspect for our system. He explained that he put a rough dollar figure in his budget for the replacement because he did not have a final number at the time, and it is now an issue because it was removed from the budget and we

can't run the system without the security due to the recent ransomware issues. He explained that the new system, if purchased, will also help the discovery worker with creating audio files that he needs to create.

Chief Rowley explained that we are currently not recording phone calls in the station, which has never happened. He explained that if someone makes a quick 911 call and hangs up, the dispatcher can listen to the call again to get the address if they didn't the first time, if the calls are recorded. He explained that the recording also aided in a previous circumstance when a caller admitted to murder when speaking with a dispatcher.

Mayor Aiello explained that \$8,000 was in the budget for the new system, and it was removed as a part of the deductions because in the State's budget there was \$40 million for assistance for municipalities related to the new discovery law. He explained that this funding could help with equipment and other items to deal with the discovery law, including this recording system. He explained that he spoke with Senator Borello's office to see when the money may be available, and their response was that the state is not doing anything right now other than handling the Coronavirus situation. He explained that \$12,000 is needed to update the recorder system, and he would like the Council to consider taking that out of contingency. He noted that he hopes to recover the money from the state.

Alderman Gonzalez asked if the cost for two police cars was \$90,000, and Chief Rowley explained that the cost is somewhere around there. Alderman Crawford asked if we are putting on the table an alternative, and we are looking to lease. He asked if we would be able to get lower pricing. Mayor Aiello responded that it wouldn't cost \$90,000. He explained that he has numbers in his office, and he can send them out to the Aldermen who are interested. He explained that this may be a way to start to go.

Alderman Panus explained that the County leases a lot from Enterprise, included all of the sheriff's cars. Mayor Aiello explained that they are very happy with them. Alderman Crawford asked if we would receive the same cost structure as the County, and Mayor Aiello explained that we possibly could, and we could talk about piggybacking on the County's agreement.

Alderman Gonzalez asked if the City has never leased before, and Mayor Aiello explained that the City has entered into "leases" but what it really is, is financing with a five year payback. He explained that with Enterprise, the City would take the vehicles and at the end of the lease would return them to Enterprise to be sold. He explained that equity remains with the City and the theory is that this program would reduce gas consumption and repair costs, as there is a service with Enterprise for vehicle repairs, He explained that the City could always have new vehicles on a rotating basis.

Alderman Gonzalez explained that all of the benefits of buying our own vehicles are negated by having to spend \$90,000 a year on police cars.

Alderman Panus asked if the City Garage would have to fix the vehicles under the lease agreement, and Mayor Aiello explained that they would only need to change the oil. Mayor Aiello explained that the program has been so successful with the County that they have been able to add additional vehicles on, and each deputy has their own take home car. Alderman Panus explained that the fact that the County is doing this and are having such a positive experience should make our decision cut and dry.

Mayor Aiello explained that Bob Ring has a couple of issues to keep in mind, such as the repairs at Station 1 to make it safe for \$15,000 to \$16,000, and the boiler at Central Fire. He explained that he can regenerate the whole list of projects and get it out to the Council to have a discussion.

Chief Richardson explained that the aprons were kicked to next year. Mr. Ring explained that the HVAC control system in this building is an issue, and he has \$15,000 he can encumber of the estimated \$50,000 to \$60,000 cost to repair. He explained that the old controls were on a 2007 windows system, and the controls have shut down so he can't control the heat or cooling in the building at all. Alderman Crawford asked if he really can't control the temperature, and he responded that he really can't.

Mayor Aiello explained that we are compiling a list of what we are losing to see if insurance will help with any of the costs.

Chief Richardson explained that his concern with the parapet at Fire Station 1 is that when the doors open, the parapet could come down and hit someone, which is a safety concern. Alderman Witte explained that happened with the Manny Hanny building, that someone was walking by and pieces of the parapet fell. She explained that is why the URA paid to have it netted, but some cornice is still chipping off. She asked if something were to fall from the Manny Hanny building who would be responsible, and Mayor Aiello responded that the URA would be.

Alderman Crawford asked if the Mayor anticipates seeing the City recover the \$75,000 that was recently taken out of the three contingency accounts, and Mayor Aiello explained that he hopes that in the next couple of weeks he will have a finite idea of how much we are getting back.

Alderman Gonzalez explained that we typically try to make decisions regarding leftover contingency prior to the end of the budget year, but asked if it doesn't necessarily need to happen like that. Mr. Saradin explained that it doesn't, and Alderman Dougherty explained that the transfers would just occur from the General Fund after June 1<sup>st</sup> rather than from

Contingency. Mayor Aiello explained that there is a regular meeting next Tuesday the 12<sup>th</sup>, then committees on the 19<sup>th</sup> and a regular meeting on the 16<sup>th</sup>. He explained that we have three weeks left in the fiscal year to make decisions. Alderman Gonzalez explained that he is not trying to slow roll the process or drag our feet, he just feels that there is a lot of uncertainty right now. Mayor Aiello explained that if we don't use contingency funding, it rolls into the fund balance, and we can take the money from fund balance.

Mayor Aiello explained that the other option with the repairs to the municipal building, as well as the things that Mr. Ring and the Fire Department needs with buildings and things like that, is to look to bond, or BAN and then go from there, and put together as many of the projects that we need to get done right now. Alderman Dougherty asked how interest rates are on financing right now. Mr. Saradin explained that he will find out in a couple of weeks when the Washington Street and Walkable Phase II BANs are renewed. He explained that they are being put out to bid now so he will know in two to three weeks how the rates are. Alderman Dougherty explained that if the rates are really low, we might want to consider jumping on the train, because we might need that contingency money elsewhere.

Mayor Aiello explained that the City received the final money from the State that they had coming from the Farmers Market, so we are ready to turn the remaining \$220,000 into a Bond. Mr. Saradin explained that this was the City's match. Mayor Aiello explained that it is actually \$225,000. HE explained that we may have to look into alternative financing for the other projects, but it's something we could consider. Mr. Saradin explained we possibly could look into financing as the Farmers Market bond is due in July, and we could put the projects together to BAN at this time to save on financing costs. Mayor Aiello explained that he would not suggest financing like this for recurring expenses such as police cars.

Alderman Witte explained that she would like to see where our sales tax numbers come back. Mr. Saradin explained that he knows that our online sales tax revenue is up, as he saw this on the quarterly report that came out in March. Alderman Crawford asked if this report breaks things down so you know which retailer pays what, and Mr. Saradin explained that the report breaks down sales tax revenue by retailer.

Alderman Witte asked if anyone has heard about the Pizza Hut building and if anyone is interested in the property. Mayor Aiello asked if we have heard for sure if they aren't coming back. He explained that he had a recent call from a developer who is interested in doing things in the City. He explained that we still have the mall who is interested in doing some things there, and there is possibility for a four story senior living home. He explained that this is not assisted living, but apartments for those 55 and older.

A PL and Resolution will be introduced at the next regular meeting to transfer \$12,000 from contingency for the Police Department recording device.

5. Committee Reports

None

6. Adjournment

A motion to adjourn was made by Alderman Gonzalez, seconded by Alderman Witte. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 7:35 p.m.