

PUBLIC SAFETY

Tuesday, September 1, 2020 – 5:30 p.m.
Council Chambers – Olean Municipal Building

Present: Members: Chairman Witte, Vice Chairman Dougherty, Alderman Gonzalez, Alderman Crawford, Alderman Robinson, 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 Witte called the meeting to order at 5:30 p.m. and asked that the record show that all committee members were present except Alderman Panus, who was excused.

2. Approval of Minutes of the Previous Committee Meetings (Tuesday, August 18, 2020)

A motion to approve the minutes of the August 18, 2020 meeting was made by Alderman Witte, seconded by Alderman Gonzalez. Voice vote, ayes all. Motion carried.

3. Unfinished Business

None

4. New Referrals for Consideration

- a. PL #49-20: (Robinson) To amend the City of Olean Code of Ordinances Chapter 15, Noise.

Alderman Robinson explained that he wanted to bring this forward because he knows that this has been an issue in the City, and he believes that it needs to be addressed. He explained that he feels that if we can take some of the procedures that are enforced in some other similar sized cities in New York that we should be able to frame a noise ordinance for Olean. He explained that Olean's current noise ordinance is very weak and does not cover many things.

Alderman Robinson presented to the committee Olean's current noise ordinance, as well as ordinances from other cities and a proposed ordinance for Olean. He presented a comparison of Olean's noise ordinance to ones from cities that are larger and smaller, and he found on comparison that there are a lot of things that Olean doesn't cover. He explained that he would like to set a framework for what the Police Department can do and can't do for enforcing the laws. He would like feedback from the Council and Police Chief, as he feels that it is important to ask for this.

Chief Rowley explained that he met with Alderman Robinson this afternoon and he was provided with a copy of the proposed legislation. He explained that he made some notes and had a productive conversation, and raised some issues where he thought that there were some concerns and where he had some questions. He explained that he is in favor of instituting a noise ordinance, but it is a complex issue that will take a lot of work on his and Mr. DiCerbo's parts in order to put together and enforce an ordinance.

Chief Rowley explained that he gives Alderman Robinson credit for tackling this hot button issue right out of the gate. He explained that he has done well so far putting this together, but it needs some fine tuning to move forward. Alderman Robinson explained that in what he is proposing, he took most of the wording directly from ordinances of other cities.

Alderman Crawford explained that one thing that comes to mind, as this is long overdue, is that he believes that there are some grey areas from past discussions. He explained that it was always about the decibel level and how we determine what is breaking the law versus what is not.. He explained that he believed that the Council was told that some mechanisms to determine the sound level are not reliable. Chief Rowley explained that the reason that it is so tricky is because in the New York State Vehicle and Traffic Law, you have to determine the decibel level a certain distance from a vehicle with a calibrated, registered device. He explained that this makes it difficult.

Chief Rowley explained that with this model, if your neighbor is playing drums and it annoys you, even if it doesn't bother other neighbors, you can make a complaint against them. He explained that it is totally based on the victim, which is why it is difficult. He explained that kids could be running around in an upstairs apartment and making noise. It is tricky because what may be offensive or annoying to one person may not be to another. He explained that we never did this before because we would get into the weeds and nobody wanted to push this forward. He explained that it is like a bar that a previous Alderman complained about from which sound traveled a half a mile away. He asked if we should shut down a bar because someone can hear people talking there from half a mile away. Alderman Gonzalez explained that it is the same as Bradner Stadium. Chief Rowley explained that there is an exemption for public events, but that this is still a totally subjective thing.

Chief Rowley explained that he appreciates the decibel wording being removed. He explained that this is really for habitual offenders, and to stop those individuals. He explained that it is difficult to write the language to get just what you are looking for. He explained that this has been started at least twice but has never been finished, and we need to find out what works for the City of Olean and what our goals are, and then get wording for it.

Alderman Witte explained that some time ago this was looked into and was triggered by bars on North Union Street. She explained that there are hurdles that you have to get over because you do not want to target the wrong people. Chief Rowley explained that right now they use disorderly conduct charges when needed, and they normally get compliance from asking people to quiet down a couple times. He explained that there are still people who create problems every weekend. He is in favor of having this law but it will take a lot of discussion to get it right.

Alderman Gonzalez asked if teenagers are walking up the street making a loud noise, if a ticket will be written, site unseen, just because the Police Department gets a complaint. Chief Rowley explained that yes, this is the way that the legislation is written. Alderman Dougherty asked if an officer needs to witness the loud noise, and Chief Rowley explained that they would not if the complainant gives a supporting deposition as a witness and complainant. He explained that this is not needed if the officer hears the noise, but would probably be taken anyways to support the arrest. He explained that there is an issue where people will listen to the scanner and turn the music down if the police are dispatched, so then the officer can't do much when they get there.

Chief Rowley explained that usually people who do not want to cooperate won't come to the door. He asked what they should do if there are four or five people in the house, should they ticket the property owner? Or everyone at the house? He explained that hopefully someone at the house will cooperate. He noted that a complainant may need to go to court. He explained that a lot of these are tough to prove, because you don't know who to charge because no one will admit to who is playing the music.

Alderman Robinson explained that there are two cities legislation, in what he researched, that state that when multiple parties are in a home or automobile, they can all be charged. He doesn't know if this would need to be written into the legislation, but saying if no one fesses up everyone is getting a ticket could cause the offender to come forward. Alderman Gonzalez explained that then all of the tickets are thrown out, and Alderman Robinson explained that the point is not to write everyone a ticket. He explained that the point is to tell residents that this is the ordinance, and that this is their warning. He explained that with repeat offenders, we can give them tickets to deter the behavior.

Alderman Gonzalez explained that he doesn't want to create legislation that enables harassment. Alderman Robinson agreed. Alderman Gonzalez explained that this has some very negative potential.

Alderman Witte asked if Alderman Robinson has spoken with the Mayors or officers of other municipalities, and Alderman Robinson responded that he reached out to someone in Buffalo,

as their legislation contains a lot of what he believes that we are looking for. He noted that he did eliminate the wording regarding bars that Buffalo used, and that what he has provided is a rough draft. He explained that this proposed legislation can be tweaked as to how we see fit to ensure that this is right for our City.

Alderman Crawford explained that he wants to offer his support because he does believe that from conversations in the past with the Police Chief that we don't have a lot of teeth in our local codes when it comes to noise violations. He explained that he does think that this will take some tweaking, and he does not want to punish a person just because they had a spat with the neighbor so the neighbor turns them in for the slightest noise. He explained that he really wants to go after the repeat offenders who drive the entire neighborhood nuts.

Alderman Crawford explained that this is a start, and it is more than he has ever seen in terms of a noise ordinance since he has been on the Council. He asked that committee members read through it and bring back their comments. He noted that he is interested in hearing what the Police Chief's comments are.

Alderman Gonzalez explained that we have to remember that we live in a City, and due to this there is a certain level of noise intrusion. Alderman Robinson explained that for cities that do not use the decibel rule, there is wording regarding ambient noise versus loud, unnecessary, unusual noise that disturbs. He used the example of someone revving engines constantly, or playing music at such a high volume that it shakes the neighbor's windows. He explained that we can tweak this to where there may not be a ticket or harshness right off the bat, but perhaps a warning. He explained that when he first moved here, you never sped in Allegany because you knew the police were there and would pull you over. Eventually, people will know that there is a noise ordinance in the City and people will follow the law.

Alderman Gonzalez explained that he completely agrees with the notion. He explained that the speeding issue in Allegany has been referenced numerous times. If the police start writing speeding tickets for driving 33 in a 30 sure, a lot will be thrown out, but people will know that the Police Department is not messing around. He explained that he does not think though, that it applies necessarily apples to apples. He explained that there are a lot of close houses, and people could be having a conversation with the windows open and the neighbors could hear it, and call and complain.

Mayor Aiello commended Alderman Robinson for tackling this right out of the chute. He explained that this was going on when he was a patrolman in 1974, talking about a noise ordinance in the City. He explained that we need something that is enforceable. He has been driving down the street and while stopped in traffic a car would pull up with music so loud that his own windows were rattling. We get calls on loud music and the police go to ask them to

turn in down, and they turn it back up as soon as the police leave. He recommended an actual warning ticket that is documented and kept on file, with an actual ticket the second or third time. He sees good potential here and agrees that this needs to be tweaked. He explained that we can also contact NYCOM and reach out to cities across the state to see what they are doing and to seek advice from NYCOM legal staff on this.

Alderman Crawford explained that he appreciates that there are time frames established in the legislation. He explained that yes, we do live in a City, but we don't necessarily want yelling, shouting, hooting and whistling after 11p,m or midnight down our residential streets. He explained that in the middle of the afternoon, he understands that we are in a City and he can live with this noise. He thinks that this is a good start. Mayor Aiello responded that if you work the night shift, the daytime noise could bother you. Alderman Crawford explained that he has a good point.

Alderman Witte explained that she thinks that this is a great start, and one thing that we can do is talk to other municipalities and they can tell us what works and what hasn't. She thanked Alderman Robinson for bringing this forward.

Alderman Dougherty explained that he has had a lot of calls in his ward about bars. He is the last person to throw laws on the books, but he thinks that there should be something about bars in this legislation as well. He noted that there may also need to be work regarding construction.

A motion to postpone PL #49-20 was made by Alderman Gonzalez, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried.

b. Discussion Items

i. Cleanup Week Update (Aiello)

Mayor Aiello explained that he previously provided the Council with a memo from Mr. Ring regarding the Cleanup Week. He explained that it was pretty successful with 128 residents participating. He explained that there is a shortfall of \$4,103 so he will be putting forth a resolution to take this out of contingency to cover the costs associated with the cleanup week.

Alderman Gonzalez explained that Cattaraugus County has their 2020 free household hazardous waste disposal day coming up, and you can register on their website. He noted that this is occurring at their Allegany Highway Facility on North 7th Street in Allegany. He explained that when he signed up, he was scheduled for 10:03 a.m., so they are scheduling right to the minute.

Alderman Crawford noted that transfer station ticket prices are being raised. Alderman Dougherty explained that constituents are concerned because the County closed the Farwell site, which is where they take all of their brush and grass trimmings. He explained that transfer stations are also upping the price on various different things. He noted that people do not realize that yard waste is a part of the City's refuse contract.

Mayor Aiello explained that the closing of Farwell is a concern of ours as well, because the City takes their leaves and other yard waste there. He explained that he is working with the County Legislations, and he will be appearing at a public hearing being held on the 9th in Little Valley to voice his opinion from a City perspective.

ii. Drones (Crawford)

Alderman Crawford explained that he had an interesting conversation with a resident who is concerned because a neighbor continues to fly a drone with a camera over his property at all times of the day. He explained that he has called the police and asked the guy not to do it, but nothing has changed. He explained that with new technology happening, he wonders if this issue is all around the City or if this is a problem only for this resident.

Alderman Witte explained that she has had three complaints, and she will share the information that she provided for this resident with Alderman Crawford. She explained that some people don't mind, but people fly drones in residential areas and make people uncomfortable. She thought that Orchard Park put something on their books, but when she called them she was told that drones are regulated by the FAA and the City can't tell them that they can't fly in a residential area. She explained that she was told that the City cannot really do anything about the privacy aspect.

Chief Rowley explained that he recently had a complaint about an ongoing issue with someone flying over people's pools when teenage kids are out there swimming. He explained that he did some research and that there is virtually nothing that can be done about this unless laws are passed to restrict drones in some manner. He certainly wouldn't want someone flying a drone with a camera over his backyard when he is having a party or when his kids are swimming, and he feels that it is ridiculous that there is nothing that can be done about it.

Mr. DiCerbo explained that he saw this on the agenda, so he looked into it. He explained that the City can enact certain laws that would address the types of behavior that these drone operators seem to be exhibiting. For example, you cannot use drones for the purpose of voyeurism. He explained that there is really no other reason that someone would be hovering a drone with a camera over a swimming pool full of teenagers on a persistent basis otherwise. He explained that the FAA has given municipalities more leeway when it comes to drones than when they first came out. He explained that we can enact certain laws that would eliminate the

use to invade someone's privacy. He explained that he thinks that states have enacted laws that you can't use drones for the purposes of hunting, and the same theory applies here.

Alderman Witte asked how you would prove if the drone owner is taking video or photos. Mr. DiCerbo explained that it is a lot like the noise ordinance in that there is no specific objective, and it is harder to prove with no specific clear cut pieces of evidence to state what they are using the drone for. He explained that we can craft laws in such a way that attention is drawn to the person who is violating them, and we could possibly use the law to get warrants to seize drones and memory cards. Alderman Witte asked if we can start doing something, and Mr. DiCerbo explained that he has the guidance from the FAA so he will start putting something together.

5. Approval of Committee Reports

None

6. Adjournment

A motion to adjourn was made by Alderman Witte, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:15 p.m.