

STRATEGIC PLANNING

Tuesday, September 1, 2020 – 6:15 p.m.

Council Chambers – Olean Municipal Building

Present: Members: Chairman Crawford, Vice Chairman Dougherty, Alderman Witte, Alderman Gonzalez, and Alderman Robinson. Others: Alderman Anastasia; 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 Crawford called the meeting to order at approximately 6:15 p.m. and asked that the record show that all committee members were present.

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 Crawford, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.

3. Unfinished Business

None

4. New Referrals for Consideration

a. Discussion Items

i. Airbnb Follow Up (Crawford)

Alderman Crawford explained that these are short term vacation rentals that were discussed some time ago. He explained that Alderman Crawford put this on the agenda at one time and now that he has one in his neighborhood, he wanted to bring the discussion back to the table.

Alderman Gonzalez explained that he had constituents reach out to him about an Airbnb on York Street. He explained that he was not aware that it was there until they brought it to his attention. They do not know how long it has been there, but apparently one weekend there were a number of people who were quite loud staying there. He explained that he wanted to know what we were doing and if the City has any laws about his. He noted that this was discussed previously in February but it went to the wayside when COVID hit.

Alderman Gonzalez explained that he does not know what the right answer would be. He doesn't think that we need to outlaw Airbnb's, but he wants to look at what our responsibility as a City should be while at the same time no overstepping our bounds too much.

Alderman Witte explained that she just had a bed and breakfast approved in her neighborhood, and the owner had to go to the Zoning Board for a variance. Alderman Crawford explained that this is not currently required with Airbnb's. Alderman Witte explained that she feels that if a variance is required that it should be for Airbnb's as well. Alderman Dougherty explained that bed and breakfasts' are typically owner occupied, while an Airbnb is more of a hotel. He explained that technically it should go in front of the zoning board because it takes on a hotel or motel use.

Alderman Gonzalez asked if this is what other municipalities are doing, and Alderman Dougherty explained that they are not. He explained, however, that Code Enforcement could use New York State building code to require this.

Alderman Crawford explained that there are fourteen Airbnb's in Olean, plus three properties listed on Home Away. He noted that none are listed on VRBO. He explained that newer concepts are coming as well. He explained that he is taking this similar to what Alderman Robinson did regarding noise, and he is looking at what other municipalities have done to address these concerns. He explained that there is a concern that where there is a business there is increased traffic of short term users coming into different neighborhoods, and these are for-profit businesses. He explained that there is no change of variance taking place, and he could do this in his own home. He explained that we need to at least get the discussion going. This is a rough draft, and he wanted to sit down with the Fire Chief, Code Enforcement, and the City Attorney to get this hammered out.

Alderman Crawford explained that back in February he met with the City Attorney and they used Ellicottville's legislation as a reference. He explained that essentially Ellicottville excluded certain neighborhoods from allowing Airbnb's. He explained that the City could exclude them from R1, R2, and R3's without a variance. Alderman Gonzalez added that then neighbors would be aware of what was going on and would have the opportunity to ask questions.

Mr. DiCerbo suggested having property owners going to the Planning Board rather than Zoning, as the Planning Board can set restrictions where Zoning cannot. He explained that the City can make this subject to some sort of licensing and can require annual inspections by Codes if the Council chooses.

Alderman Crawford explained that once we get some concepts written down, we could send them to the Planning Board or Zoning Board for their opinions. We should also define a short term rental through Airbnb versus a vacation rental through VRBO or Home Away. He explained that they might be able to operate in the City Center or General Commercial districts without a special use process, with the City establishing restrictions. He noted that perhaps there could be less restrictions if these rentals are owner occupied, such as with bed and breakfasts.

Alderman Crawford explained that the Council doesn't necessarily need to include a fee for licensing, but rather have the process be similar to a Certificate of Occupancy with an inspection on an annual basis to make sure that the property is safe. He noted that we could also require that the business show they have liability and hazard insurance. He explained that Mr. DiCerbo even suggested that the City be named as a potential claimant in the event of a total loss, and that is maybe something that can be considered for all rentals moving forward.

Chief Richardson explained that he thinks that we are right on with annual inspections. He explained that when surveyed, a lot of these types of rentals did not have the necessary smoke or CO2 detectors. He explained that at least this way regulation is in place, and we know where the properties are located so that we can contact the owner in the case of an emergency.

Alderman Dougherty explained that these seem like "transient occupancy" types of places, where emergency lighting and exits may need to be considered.

Mayor Aiello explained that he knows that we need to regulate these, but that the Council also needs to realize that we can have a source of income from this, not by charging for registration, but with a bed tax in the City. He explained that anywhere you go when you pay for a hotel, you pay for taxes. He explained that this is a fee that is not hitting our residents but rather those coming to visit the City. He added that the annual inspections should have a fee as well. He feels that this is something that we should get going on, and that he will be bringing forth a discussion on bed tax for a later committee date. He explained that this would require the Council to adopt a local law as well as have sponsors at the State level. He has already spoken with George Borello and Joe Giglio regarding this and they are willing to sponsor.

Alderman Crawford explained that he was unsure if Airbnb's were paying local sales tax, and Mr. Saradin responded that his guess is that they are not. Mr. DiCerbo explained that he would have Mr. Saradin look into this, as he thought that the Airbnb website was pretty specific regarding the calculation of sales tax. He explained that the renter is responsible to pay the sales tax. Mayor Aiello added that we should see if the County is getting a bed tax from these.

Alderman Crawford explained that after the conversation in February, he was under the assumption that Airbnb would do a detailed inspection of the property, but they don't. He explained that they have a simplified process to get signed up, so you really can't rely on them. Mr. DiCerbo added that they rely on user abuse to do the screening.

Alderman Crawford asked if we have any update on the property on Buffalo Street that we took down. Mr. DiCerbo explained that City Court adjourned so that we could look at the fire investigation report a bit more, and it doesn't really contain anything where there was an issue for her cause. He explained that we will meet with the property owner again in Court soon.

ii. Charter Update – City Auditor Qualifications (Crawford)

Alderman Crawford explained that he met with the Audit and Compliance Committee and reviewed some internal policies. He explained that this pertains to future City Auditors, not the current one. He explained that under the City Charter, officers positions are spelled out. He explained that there are qualifications listed for the City Attorney, but none are listed for the City Auditor. Mayor Aiello presented the Civil Service job duties and qualifications.

Alderman Crawford explained that the recommendation is based on trying to strengthen the City as an organization, and strengthen compliance. He explained that since the City Auditor is one of the most essential jobs in the City, he recommend that the City require a CPA licensed in the State of New York. He explained that the Council would be allowed to pursue a Charter revision through direct legislative action with no referendum requirement to add the qualification to the City Auditor's position. He explained that he suggests this because a license carries the same weight of continuing education and ethical education. He explained that similar to what a law license and PE license require, he would like to see this requirement added for the City Auditor. He explained that this would strengthen and increase qualifications.

Mr. DiCerbo explained that he is not a Civil Service Law expert, but the Council may simply be able to do a Civil Service qualification change, since this is a Civil Service position. He explained that this would not require a Charter change. Alderman Crawford responded that his concern was that if it could be changed this easily, that it could be changed back just as easily, and Mr. DiCerbo responded that he is correct. Alderman Crawford explained that you could go the route to just update the qualifications, but he feels that putting this into the Charter is worth the effort. He explained that this way, it would take a great deal of effort to undo the change. He explained that he feels that there is a reason that the Charter spells out the qualifications of some of the officers. As it stands besides the ongoing educational requirements, a CPA must be board certified.

Alderman Dougherty explained that, let's say Mr. DiCerbo does something inappropriate. He explained that it might not be a crime and we might not be able to discipline him, but if the City has an issue, they can grieve to the Bar and have his license removed because of an ethical issue. Alderman Crawford responded that he is correct. He explained that it is a fine line between ethics and criminality.

Alderman Crawford explained that it is hard to know. The way the City Auditor's position is structured in the Charter, it is a direct report to the Mayor's position, which is risky from a compliance standpoint. He explained that he is excluding Mayor Aiello from this, but that the Mayor's position has direct control over the City Auditor and unless the Auditor risks potentially losing their license in the same way as the City Attorney, what is stopping them from acting

unethically? He explained that this provides additional control for the sake of taxpayers. He explained that he believes that the DPW Director must be a P.E. according to the Civil Service Job Requirements, and Mr. Ring added that this is in our Charter as well. Alderman Crawford explained that this furthers the case for what he is suggesting.

Alderman Crawford asked if Mr. DiCerbo did something to lose his license to practice law, if he would no longer meet the qualifications for the City Attorney and lose his job. Mr. DiCerbo responded that he feels that this is accurate, and Alderman Dougherty explained that he supports this change. Alderman Gonzalez explained that he feels that it would be a good idea for a case to be made to show why the termination would occur.

Alderman Crawford asked if Civil Service requirements would be updated if the Charter is, and Mr. DiCerbo responded that they would. He explained that the Civil Service definition will always be more comprehensive than the Charter definition, but they will always tie together. Mr. DiCerbo recommended changes to the requirements for a diploma from a “regionally accredited university”, as in some cases someone may not have gone to law school but sat through an apprenticeship with a law firm and passed the bar exam when taking it.

Alderman Crawford explained that he will take some time to update the Civil Service Qualifications. He explained that New York State spells out what type of education you need to have to obtain a CPA. He explained that he will take some of that verbiage and update the Charter description.

5. Approval of Committee Reports

None

6. Executive Session

A motion to enter into executive session to discussion the proposed acquisition or sale of real estate was made by Alderman Crawford, seconded by Alderman Gonzalez. Voice vote, ayes all. Motion carried. Executive session began at approximately 6:45 p.m.

A motion to adjourn from executive session was made by Alderman Gonzalez, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried. Executive session adjourned at approximately 6:55 p.m.

7. Adjournment

A motion to adjourn was made by Alderman Crawford, seconded by Alderman Gonzalez. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:55 p.m.