COMMITTEE OF THE WHOLE MEETING MINUTES

TUESDAY, JANUARY 13, 2026 – 6:00 p.m.
COUNCIL CHAMBERS – OLEAN MUNICIPAL BUILDING

IN ATTENDANCE WERE: ALDERMEN ROBINSON, BENNION, KEARY, FORNEY, McCALL, CRAWFORD, AND ANASTASIA. OTHERS: MAYOR AMY SHERBURNE; FRANK CAPUTO, CITY CLERK; LENS MARTIAL, CITY AUDITOR; JAMES SPRAGUE, DIRECTOR OF PUBLIC WORKS; KERI KERPER, COMMUNITY DEVELOPMENT PROGRAM COORDINATOR, AND TIFFANY TAYLOR, MANAGERIAL CONFIDENTIAL ADMINISTRATIVE SECRETARY.

Alderman Robinson called the meeting to order at 6:00 p.m. and asked that the record show that all Aldermen were present.

1. PL #01-26: (Sherburne) To determine pursuant to the State Environmental Quality Review Act that the proposed acquisition by the City of Olean pursuant to Eminent Domain Procedure Law of certain property rights and/or interests with regard to the real property located at 400, 420, and 450 North Union Street in the City of Olean, County of Cattaraugus, will not have a potential significant adverse impact on the environment.

Ms. Kerper explained Allison Fiut, an attorney with Harris Beach Murtha, is present to explain where we have been the last few months and to memorialize what we have done and what we are asking for with this and the next PL.

Ms. Fiut explained the proceeding started in March of last year when the developer, the current owner of the site, approached the Council to request assistance for the purpose of the project to facilitate redevelopment of the vacant space in the Olean Mall. She explained there are currently two tenants in the structure, Kohls and JCPenney's, as well as KeyBank as an outparcel. She explained after the resolution was adopted to provide that assistance, a public hearing was scheduled under the EDPL and was held on May 15, 2025. Ms. Fiut explained the tenants and KeyBank showed and provided comments, and explained the public hearing transcript and proposed resolutions were provided to the Council in advance of this meeting.

Ms. Fiut explained there are rights contained in the leases between the developer and these entities that restrict what can be done with the site in terms of redevelopment and repurposing of the site. She explained one of the comments made at the public hearing was there were no real effort on behalf of the developer to engage with these entities, and in response the developer did engage and is still engaging with Kohls and JCPenenys to request they voluntarily change the rights in the leases. She explained that he did work with KeyBank and they have entered into an agreement regarding the terms in that particular lease. She explained in order to be able to enter into these discussions, the developer entered into tolling agreements with the entities so the City of Olean had longer to enter their determinations and findings. She explained the most recent extension is until January 31, 2026, and as discussions have stalled out between the developer and Kohls and JCPenney's, we want to move this process forward in the hopes it would incentivize the entities to come back to the table and reach an agreement. She explained if it does not, at least it will move this very important project forward so the developer can begin to make plans for the redevelopment of the property and contract interest will not inhibit the ability to redevelop as more than a traditional shopping mall.

Ms. Fiut explained what is being proposed tonight is a resolution to authorize the taking of those rights. She explained the rights are not being taken now and there is a formal process and an appraisal period to determine how much just compensation will need to be made to the entities. She explained there might be a resolution in the meantime with one or both of the entities who have not yet entered into an agreement with the developer. She explained before any acquisition of interests can be had, the EDPL statute requires compliance with State Environmental Quality Review. She explained this is the first resolution on the agenda.

Ms. Fiut explained the scope of the action for the SEQR is quite narrow, and is for the acquisition of interests to facilitate redevelopment of the site. She explained it is not for any specific development or to approve any specific development plan. She explained, however, those development plans hinge on the acquisition by eminent domain to occur. She explained in terms of timing, we want to move this forward and do not want to have a year go by and have this still sitting out there. She explained this is a narrowly defined action and the actual acquisition of the interests does not affect the environment. She explained they have prepared both parts of the Full Environmental Assessment Form and have gone through carefully to ensure they included all details of the site and potential impacts. She explained the SEQR resolution would be incorporated with Part II to support the negative declaration.

Ms. Fiut explained the second resolution is for the actual determinations and findings under the EDPL which can be adopted after the SEQR determination is made. She explained in that document, the Council will see they go in some detail over procedural history and the fact that a public hearing was held and the parties engaged in the discussion. She explained the statute does not require that they take the time to carefully address the public comments raised at the hearing and why objections and arguments are not valid to prevent the taking of rights under the statute. She explained the public purpose for the acquisition is present in the document, which is for the redevelopment of the underutilized, blighted space. She explained some comments at the hearing were understandably a little misguided and noted the JCPenney's representative seemed to think they were trying to take the entire leasehold interest, which is not the case. She explained the only rights they want to extinguish are certain restrictions that are held on the landlord such as building height restrictions, common space restrictions, and retail-only uses. She explained the original proposed interests the developer had identified, that were discussed at the public hearing, were v quite broad and they did pair those down. She explained they have clarified they are only seeking enumerated rights and to extinguish enumerated rights in the schedule and rights that would otherwise prohibit redevelopment of the site as otherwise then a traditional shopping mall.

Alderman Anastasia explained it is his understanding this is being done at no cost to the City, and is just so the developer can get the ball rolling to start redevelopment for mixed use. Ms. Fiut explained this is correct. She explained all coasts are being borne by the developer pursuant to the acquisition agreement, and there is no liability as to what the City would have to incur. She explained the purpose is to redevelop as a multi-purpose, mixed-use development that is not a traditional shopping mall, which is an outdated concept.

Alderman McCall explained she knows the public hearing notice was published appropriately, but in the past when public hearings were held the council were also notified. She explained she requested the minutes because she thinks it is the job of the council and what the public expects, to be informed. She explained she did not have a chance to read through all 157 pages of minutes and that is part of her concern. She explained she does think the mall should be redeveloped and thinks the developer is the person to do it. She explained she did not have a chance to read the entire public hearing document and was not comfortable with the process. She explained the quandary is how to support this without the full scope of what is in the 157 pages. She explained she does not think we know the project scope, and would like to have time to read the entire document.

Ms. Fiut explained, to reiterate, the purpose of this acquisition is to give the developer the site control he needs to do something. She explained the issue is you do not know who the end user will be right now when we aren't even done with the EDPL process. She explained it could still be a year or two before the interests are actually acquired. She explained we are intentionally not biding the developer into something specific at this point, but at this point there are limitations on what can be there. She explained we are not kicking Kohls, JCPenney's or KeyBank out. She explained she has heard different redevelopment ideas mentioned, but it is hard for the developer to secure agreements with an end user and take development steps until this EDPL piece is complete.

Alderman Forney explained these resolutions seem to have really nothing to do with a specific redevelopment piece because it cannot be redeveloped until they are passed. Ms. Fiut explained this will allow the developer to take concrete steps towards redevelopment because right now there are things his hands are tied on. Alderman Crawford explained he is not going to read 157 pages that is probably not in our purview, and he is going to take the advice of our legal counsel. Right now there are contractual agreements with entities that establish this as a mall with only retail space, and the owner wants to redevelop in a more mixed-use fashion. He explained this is the mechanism that brings to the table the ability to remove that language and allow redevelopment in a different way other than the vacant and defunct way it is now. He explained given the transparency the developer has shown, and with Community Development, he is sure when it comes time that there will be future conversations on what development plans are. Ms. Fiut explained the process will need to go through site plan approval, so the City will have some control in the end. She explained there are processes, steps, checks and balances that give the City some control.

Alderman Robinson explained he personally doesn't want anything to do with eminent domain, but when you look into this topic, you learn that this is something that is common in New York State for projects, infrastructure, and redevelopment like the Olean Mall. He explained what seems to be the issue with eminent domain is the way government has used and abused it.; He explained the government has used it for roads, utilities, schools, and parks, and if not for eminent domain, I-86 would not exist. He explained and while that may be a blessing to us, it wasn't for those families who lost those parcels of land. He explained the City has no course of action to own, operate, or otherwise take something physical. He explained this is strictly a formal process in which the state operates, and our City Attorney has added additional measures to ensure the City is protected. He explained the entire reasoning for this action is for outdated lease restrictions and economic development, something this City is in dire need of. He explained he will summarize from the May 15, 2025 public hearing in regards to this action.

He explained the mall facility was purchased in December 2020 and consists of approximately 26.6 acres. He explained tenants at the mall have declined over time and the facility is now prominently vacant. He explained redevelopment there is vital for the social and economic welfare of the City, its residents, and the surrounding community. He explained there are only four small store tenants within the facility. He explained repurposing of the facility and filling this large physical and undesirable predominantly empty void in the very heart of the City has long been an objective of the City and other community and municipal stakeholders. He explained the tenants currently have leases that limit what can be done at the mall and effectively preclude any redevelopment that deviates from the traditional retail mall, which in the current market environment is not desirable or suitable. He explained it should be noted that redevelopment of the mall facility will likely also benefit the current tenants, as the areas in general will be more attractive and there will be more increased visitors resulting in additional economic activity. He explained the redevelopment will consist of the productive reuse, redevelopment, and overall enhancement of the predominantly vacant and underutilized project site and any related parking realignment, parking improvements, infrastructure, on-site improvements, or modification necessary. He explained this is to further the public purpose of advancing general prosperity of economic and social welfare of residents to the City of Olean by returning the project site to productive use by, among other things, to attract new and/or expanded business by other commercial activities, thereby promoting economic revitalization, employment, less development on previously undisturbed locations, increasing the property tax base and sales tax revenues within the City and Cattaraugus County, and alleviating the negative impact associated with large vacant, underutilized, and deteriorating buildings. He explained this project will complement and/or advance any public purpose contemplated by the City's Comprehensive Development Plan, the City's Downtown Form-Based Zoning Code, and the Cattaraugus County "Vision 2025

Comprehensive Plan," and as outlined by the City in its submission to New York State Downtown Revitalization Initiative.

Alderman Robinson explained, for him when he hears eminent domain he thinks of the negative aspects of government involvement, but when it comes to these PL's for termination of rights for contract wording, they are needed to keep this moving forward.

A motion to approve PL #01-26 was made by Alderman Robinson, seconded by Alderman Crawford. Voice vote, ayes all except Alderman McCall, who voted no. Motion carried. Referred to Regular Meeting for Resolution.

2. PL #02-26: (Sherburne) To authorize the adoption by the City of Olean Common Council of the Determination and Findings and publication of the Brief Synopsis of same, pursuant to Section 204 of the New York Eminent Domain Procedure Law concerning the Proposed Condemnation of certain real property rights and/or interests consisting approximately of the Narrow Proposed Interests of the Narrowed Interest holders all in connection with the Project (as such capitalized terms are defined in the Determinations and Findings).

Alderman Crawford explained as much as a comparison he can draw to this is about seven years ago when the Council was asked to involve themselves in a private neighborhood covenant. He explained someone wanted to build 20 to 30 retirement homes in Forest Hills, and unfortunately, some of the influential residents pled their case and lost Council support on that project. He explained to this day he regrets he voted no and explained we failed to serve the greater good of the community. He explained the City has lost all that tax revenue and water and sewer revenue. He explained we need to keep the bigger picture in mind with this. He explained those parcels are still vacant and empty today, and the Council had the opportunity to help that progress. He explained every new development is less pressure on each one of us And each of our residents, and he asked we keep that in mind.

A motion to approve PL #02-25 was made by Alderman Anastasia, seconded by Alderman Keary. Voice vote, ayes all except Alderman McCall, who voted no. Motion carried. Referred to Regular Meeting for Resolution.

3. PL #03-26: (Sherburne) To request the State Legislature enact special legislation authorizing the Olean City Assessor to accept a retroactive application for real property tax exemption under RPTL §420-a from OWH Properties, Inc. (Operation Warm Hearts).

Alderman Robinson explained this was originally passed on November 5, 2025, but the State has required different wording in the resolution, so we need to reapprove this and get it back to the State.

A motion to approve PL #03-26 was made by Alderman McCall, seconded by Alderman Robinson. Voice vote, ayes all. Motion carried. Referred to Regular Meeting for Resolution.

4. Adjournment

A motion to adjourn was made by Alderman Robinson, seconded by Alderman Forney. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:35 p.m.