

**CITY COUNCIL WORK SESSION  
CITY OF WATERTOWN  
December 11, 2023  
7:00 p.m.**

**Mayor Jeffrey M. Smith Presiding**

**Present:** Council Member Patrick J. Hickey  
Council Member Clifford G. Olney III  
Council Member Sarah V.C. Pierce  
Council Member Lisa A. Ruggiero  
Mayor Jeffrey M. Smith

**Also Present:** Kenneth A. Mix, City Manager  
Kristen E. Smith, Bond, Schoeneck & King PLLC, City Attorney

**City staff present:** Patrick Keenan, Angel French, Brian MacCue

**DISCUSSION**

**Western Outfall Trunk Sewer (WOTS) Consent Order**

City Manager Kenneth Mix began the meeting by offering some background on the situation with the Western Outfall and the Department of Environmental Conservation (DEC). He detailed the timeline that began in January when the City received the first letter ordering the City to stop pumping water into Beaver Meadows. He noted in July they received the consent order from the DEC, which requires a schedule of short-term and long-term offset plans and suggested the creation of a sewer bank. He said the City would be submitting its proposal within the week. Mr. Mix went on to explain that the sewer bank would allow the City to earn credit by completing projects. He also explained that this would not impact future development as the City could go into deficit with credits and pay them back with projects. Mr. Mix added that there will be two accounts: one for the City and one for the Town and that each will offset their own credits.

Patrick Keenan, retired Superintendent of Public Works, now working as a consultant, gave an overview of the scope of the Western Outfall sewer and drainage areas and referred to a provided map (on file in the City Clerk's office) which displayed the 22 miles of pipes within it. He noted the Western Outfall represents 32% of the City's sewer pipes. He then provided a detailed history of the projects completed on the Western Outfall during his 30-year career with the City of Watertown. He explained that most of the projects were chosen based on a report prepared in 1986. He stressed that the City has made many improvements over this time period and done their best to keep up with accelerated development.

Council Member Ruggiero thanked Mr. Keenan for his helpful report and requested a copy be provided to Council.

Mr. Keenan placed the Western Outfall situation in context by noting that it is not the only area of the City where work has been done and improvements made. He noted during his years working in the DPW, he spent most of his time in the sewers and many problem areas have already been repaired. He

discussed some of the short-term projects that will contribute credits to the sewer bank and added that the City is coordinating with the Town of Watertown on the outer Washington Street area. He explained that long-term plans included working with the Town and making progress on the Route 3 corridor. He also added that they would address basins 4,7,8 and 9 as recommended target areas.

Council Member Olney said he was trying to understand how much the City could handle and asked if the City was “OK” with capacity.

Mr. Keenan reported that the plant processes 10.5 million gallons a day and this is sufficient, except when there are unusual rain or snow events which are few and far between. He added that the long-term plans include enlarging pipes to increase flow.

Council Member Olney inquired about how much the Town of Watertown is dumping in the City’s system and wondered if there was any correlation between issues with the City and overflow from the Town.

Mr. Keenan said there was not a large variation in flow and the City only sees measured differences which correspond to rain events along the Route 11 corridor.

Council Member Olney asked if mitigation plans could include things like a business putting in a brick pad in a parking lot to drain water, a project he has seen done in Altmar.

Mr. Mix commented that could be done, but that the City is currently focusing on the public part of it rather than commercial. He said the City’s concern is where storm sewers are getting into sanitary sewers.

Council Member Olney suggested that the City had overbuilt.

Mr. Keenan stressed this was not the case as the City was proactive with projects in anticipation of development of Fort Drum and the increased commercial development.

Mr. Mix added that the water treatment plant capacity was also enlarged prior to the Drum expansion and all the development that came with that expansion.

In response to Council Member Olney asking for clarification that the issues are not with the plant but the pipes, Mr. Mix said that the older areas need pipe work.

Council Member Olney inquired who had reported the City to the DEC about the pumping into Beaver Meadows and suggested the City had been “caught with our pants down.”

Mr. Mix stated that pumping from the manholes should not have been done but may have been something staff did not know was not allowed. He noted that someone from the DEC had observed the procedure being done.

Mr. Keenan informed Council that the problems with the City’s sewers have been addressed over the years. He noted there have been eight City Engineers during his tenure with the City and all of them had

designated projects to be done. He noted that the current studies began in 2013 and were followed up by GHD in 2019-20.

Mayor Smith commented that the City of Watertown is built on an old foundation with combined storm and sanitary sewers and that those pipes used to drain right into the Black River. He stated the City has spent millions of dollars and done dozens of projects over the decades to correct these problems. He noted this has not been “kicked down the road” as has been suggested in various media. He noted the City has a capable system to handle the sewer output and said it is only an issue during rain events.

In response to the Mayor’s suggestion of putting a restrictor valve on the pipes coming in from the Town of Watertown to send the overflow back to the Town, Mr. Keenan said he was reluctant to recommend that at this point. He noted that the City is working closely with the Town to face the issues. He added that over the years they have not been able to locate the “smoking gun” that causes the overflow problem. He suggested this was likely cumulative rather than just one source.

Council Member Olney asked how the Town paid the City for storm water disposal.

Mr. Mix indicated that sewage is metered.

In response to Mayor Smith’s question about holding tanks, Mr. Mix reported tanks were no longer in use.

In response to Council Member Olney asking if the City was close to submitting a proposal to the DEC, Mr. Mix replied that they are.

### **Process for Reviewing Ethics Board Referral**

Mayor Smith explained that the City of Watertown has an Ethics Board for a reason and commented Council should not simply ignore their recommendations. He noted that what Council decides to do is completely up to the Council, but the Board had gone out on a limb to make their recommendation and he suggested Council take action. He noted Council could either do something more, something less or ignore the recommendation.

City Attorney Kristen Smith described the process as set forth in the City’s Charter, Section 20.3. She listed each step in the process: bring a Resolution determining whether Council wants to bring charges, draft and serve those charges and then hold an Administrative hearing under general law and due process. The Council Member would be given a chance to respond to these charges and Council would be able to subpoena documents and witnesses. She explained that both sides would present evidence as in a criminal case but that since the hearing is administrative in nature, hearsay would be allowed into evidence. She further noted that the burden of proof is on the City to prove the case and they would present first. The accused Council Member would be allowed to cross-examine witnesses and both sides would present opening and closing statements. Attorney Smith noted that if charges are sustained, Council must decide what the punishment will be. She noted that Council would vote, and the majority would rule.

Attorney Smith strongly suggested that the entire proceeding be documented with a stenographic recording or video.

Council Member Pierce asked who would be presenting on behalf of Council.

Attorney Smith responded that if there was a decision to move forward, “The City” would be the body from a practical perspective so Council would need a legal representative as Council would be the “judge and jury.”

In response to Council Member Pierce’s inquiry on whether a hearing was the Council’s only option, Attorney Smith replied that was what was provided for by the City Charter.

Council Member Olney asked the Attorney if she had a chance to look at the evidence in the exhibits presented to the Ethics Committee.

Attorney Smith noted it was not her purpose to review the evidence and that she was here tonight only to describe the procedure.

In response to Council Member Olney’s question as to whether he is a City employee, Attorney Smith replied that he is.

Council Member Olney questioned her response by noting he does not work for City Manager Mix and he was elected by the people. He asked whether he could waive the attorney privilege, in regard to the opinion letter of whether he is entitled to City-paid legal representation.

Attorney Smith noted that, as the City Attorney, she begins at a place of privilege but noted that Council Member Olney could choose to waive his privilege and Council could agree to the waiving of privilege.

Council Member Olney noted he was not provided with an attorney and questioned whether the charges against him were brought by Mayor Smith as a private citizen or as the Mayor of Watertown.

Mayor Smith clarified that the charges were brought by him acting as the Mayor of the City of Watertown.

Attorney Smith informed Council Member Olney that, since the purpose of this meeting was only to describe procedure, he had no need for legal representation at this point.

Council Member Olney objected to evidence presented against him, noting he revealed nothing that would not have been inevitably revealed at the next meeting and took exception to the “back room voting” in executive session. He further expressed his feelings about the “questionable” City Charter. He proposed that Council take a vote on whether there was “an appetite for moving ahead’ with this review.

Mayor Smith noted that since Council was not in session, there would be no voting tonight. He noted that Council was here tonight to hear Attorney Smith’s description of the disciplinary process.

Attorney Smith advised Council to retain an independent attorney if this process goes forward since part of the complaint against Council Member Olney deals with the release of information about the firm she works for.

Council Member Ruggiero asked what would happen if Council's voting ended in a tie as opposed to a 3-1 majority vote and asked if a future Council could bring new charges.

Attorney Smith noted this was a due process question.

Mayor Smith indicated that this Council could not vote to bind a future Council.

Council Member Olney reiterated that if decisions were made in public rather than in the "back room" this could be avoided. He suggested that removing an elected official from office sets a dangerous precedent and would allow Councils to remove members that were not aligned with their political party.

Council Member Ruggiero asked the time frame of this process.

Attorney Smith noted that there was no time period provided for in the Charter and stated it would take some time. She suggested once charges were prepared, the respondent would need time to prepare and that would take weeks or months. She noted this process was not something Council would want to rush through.

In response to Council Member Ruggiero's question as to whether this hearing would be open to the public, Attorney Smith said it would be public.

Council Member Ruggiero asked if there was any State law that would supersede any decision that Council might make.

Attorney Smith stated there is no standard for removal of an elected official, but noted there was plenty of authority and lots of case law, so Council would want to make sure their case was well-supported.

Mayor Smith clarified that this was not a "willy nilly" process. He stated there were specific allegations brought to an independent body and that body made a recommendation. He noted there was nothing political about it. He added that there were multiple charges made against a Council Member. He reiterated that this is not a "Mayor Smith process" but a Charter process.

Council Member Ruggiero questioned the cost of this procedure and mentioned fiscal responsibility.

Mayor Smith asked if there is a certain number of dollars that makes it acceptable to break the rules.

Council Member Pierce advised that although Council is beholden to what is described in the Charter, she would like to see a less formal process. She suggested giving Council Member Olney a chance to defend himself. She stated that she had no interest in removing people from office, as she respected the will of the people, and asked again if there was nothing else Council could do.

Attorney Smith informed Council that, because the possible end result of the removal of a Council Member is so significant, the process is very formal. She also explained that if Council decided to have an informal gathering, that was within their discretion.

Council Member Hickey cited the report from the Board of Ethics and stated that the Board only offered one possible outcome – removal.

Attorney Smith commented that the Board of Ethics only offered an advisory opinion as a recommendation, but they have no authority.

Council Member Hickey contradicted this by saying that the Board went beyond recommending a hearing and recommended punishment and this skews the process.

Mayor Smith replied that their job was to make a recommendation and it is Council's job to review the recommendation and make decisions.

Discussion ensued about what the Board could have recommended and whether they limited Council's options.

Council Member Olney suggested the Board of Ethics contained members that were biased against him. He questioned why Council could agree to vote out a Council Member, but a Mayor had to be removed by the Governor.

Mayor Smith responded that the process to remove a Mayor is outlined in State Law.

Attorney Smith noted that discussion had veered away from the process, and she was not prepared to offer any opinions.

Work session ended at 8:39 p.m.

*Lisa M. Carr*  
Deputy City Clerk