

**MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW COMMITTEE  
MEETING HELD ON THURSDAY, JULY 12, 2018, AT 7:00 P.M. IN ROOM 207,  
TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Patti Flynn-Harris, Chairperson; Paul Bowman; Absent – David Velebr.

Staff: Sean Kimball, Town Manager; Louis Zullo, Deputy Town Manager; Al Smith, Town Attorney; Keith Darin, Building Inspector; John Andrews, Fire Marshal; Suzanne Simone, Environmental Planner.

Guest: Kerrie Dunne, IWW Commission Member.

**1. ROLL CALL**

The clerk called the roll and a quorum was determined to be present.

**2. PLEDGE OF ALLEGIANCE**

The group Pledged Allegiance to the Flag.

**3. DISCUSSION RE: INLAND WETLANDS PERMIT AFTER THE FACT FEE**

Ms. Simone referred to her memo of March 21, 2018 which cited CCM data and her research on the permit fee structure of other towns similar to Cheshire. The information, table #1, shows towns with and without additional fees. In Cheshire there have been some discrepancies with some people going through the regular fee process and others going through an enforcement action for permit fee payments. The additional proposed fee is for administrative and staff time and work. In the past few years there have been nine (9) situations of enforcement of fee payments. It was noted by Ms. Simone that other towns have higher permit fees, with staff time incorporated and balanced out through the fee structure. After the fact fees do not reflect the standard fees in place.

Mr. Bowman would not support increasing the fees in place for people going through the process...penalizing them because others do not go through the right process. He asked if judgment is applied for someone who did not know about permit fees, i.e. a first offense. He wants to insure discretion is applied in certain situations.

This is not an administrative decision. Ms. Simone stated it would go through the IWW Commission which uses discretion when people explain a situation, are educated on the process, and then voluntarily comply. Staff does not look at the fees.

Stating he prefers a late fee for someone who does not apply for a permit, Mr. Bowman asked how this would be applied.

Attorney Smith explained if a person performs the work, then makes an application to IWW, they would be charged an application fee with supplemental fees also imposed.

If there is willful action without a permit, as opposed to someone who misinterpreted a wetlands map and makes a mistake, Ms. Simone said IWW handles them differently.

Ms. Dunne explained that IWW handles each situation different, and the additional fees are a way to compensate the Town for administration and staff work and time.

At this time, the Town Attorney has not drawn up any language on the IWW fee structure. Ms. Flynn-Harris asked Attorney Smith to draft ordinance language to be reviewed by the committee next month.

Ms. Simone stated that the IWW recommendation is the standard fee application +200% supplemental fee.

#### **4. DISCUSSION RE: UNSAFE PREMISES ORDINANCE**

The 4/6/18 draft of the “Unsafe Premises Ordinance” was reviewed by those present.

Ms. Flynn-Harris noted the draft was revised/changed based on feedback from the public comments at the public hearing. One part of the concerns was use of the word “blight” and overstepping of government onto private property. Other issues include “unsafe” vs. “anti-blight” ordinance; too many edges taken off the ordinance; definition of “abandoned”; what materials can accrue on a property (i.e. debris); protection of neighboring property values...and whether the ordinance was softened too much.

According to Mr. Bowman the draft ordinance is a good start. He has concerns about a broad based ordinance, preferring something light to start for 6 months, followed by a review of any issues and modification, if needed. He commented on the difficulty of enforcement action for this ordinance. Mr. Bowman noted the past situation which resulted in loss of a life, and public safety officers in harm’s way. He stated the facts of each situation must be weighed.

The ability of safety officials getting onto the property and how to do that has been a concern, and Ms. Flynn-Harris talked about the importance of this, with inclusion of the definition of “Abandoned” in the ordinance. She asked about anything removed from the ordinance which would prohibit the required assistance of officials.

In the “Unsafe Premises” definition, Attorney Smith cited that it states...”existing conditions which pose a serious threat to public health or safety...” This is very broad, and gives considerable discretion in pointing to a condition on a property that poses a threat.

Fire Marshal Andrews said he listened to the public hearing comments, understands the concerns stated, and reported that Cheshire has lots of blight properties without tools to deal with them. Mr. Andrews displayed recent photographs of properties in Town which would come under the proposed unsafe premises ordinance. One of the unsafe properties is located 127 yards from a public school. He cited the need for safety

officials to have the tools to handle and take care of these situations, without going to court for over a year and incurring huge legal fees.

Mr. Darin reviewed the photographs showing the unsafe structures and blight issues on the properties. He commented on issues with these situations -- squatters in the buildings, writing letters to owners about unsafe conditions on a property, one abandoned property for +20 years w/building now ready to collapse, working 6+ months on an unsafe property, and eventually some matters going to court. With a blight ordinance in effect there could be earlier action for these situations.

The Fire Marshal goes onto a property upon notification from someone, and is there for a reason. The Fire Marshal is a mandated reporter. If there is an unsafe condition reported, there must be response to the situation; people are given help as needed for health and safety; some situations require a referral to Social Services. The unsafe premises ordinance is one of the tools at the disposal of safety officials to deal with situations.

Mr. Bowman said this ordinance must be created and crafted so it is applied equally.

With the rewritten ordinance, Ms. Flynn-Harris asked if anything is lacking, if it is a good tool for town officials to use, and if it covers the issues.

Fire Marshal Andrews stated the ordinance gets to a point where it can be applied for unsafe/blighted properties, and noted there are many steps prior to using the ordinance. Some people need help through Social Services; many properties are unsafe with conditions that must be addressed; and often times the courts are involved in order to save a person's life. The process is started to get the property owner needed help and the property eventually cleaned up. Mr. Andrews cited the Peck Lane property. Mr. Andrews said a blight ordinance would have been of help with this property. In Cheshire there are properties needing clean up, and with multiple violations at \$100 per violation per day, a dumpster shows up on site and clean up begins.

Ms. Flynn-Harris stated the proposed "Unsafe Premises Ordinance" is a viable, workable ordinance.

MOTION by Mr. Bowman; seconded by Ms. Flynn-Harris.

MOVED to forward the "Unsafe Premises Ordinance" to the full Town Council for review and approval.

VOTE           The motion passed unanimously by those present.

## **5.     DISCUSSION RE: BUILDING PERMIT LATE FEE CHARGE**

Ms. Flynn-Harris noted this item has some draft language to be reviewed by the committee.

Mr. Bowman noted there is a new process in place for permits “on line” and he has concerns. With the proposed assessment of late fees/charges, he hopes it has nothing to do with the system, someone getting on-line, and discretion from the Building Department staff providing an explanation on how to do the on-line application. He cited the example of an electrician filling out the paperwork for a job, walking out without paying the fee, but doing the service.

According to Mr. Darin there is something in the code for emergency repairs, and administrative action in place when a permit is taken after the work is done. He explained there are many people flipping houses in Town, working without building permits which results in problems. There are also situations with a house up for sale without permits for work done 20 years ago, i.e. a roof replacement.

It was suggested by Attorney Smith that the language include “additional fee can be waived for good cause shown”.

There was a brief discussion regarding an applicant (i.e. electrician) filling out a permit and asking for immediate pricing. Mr. Darin advised the actual fee may not be immediately generated...but the contractor can pay it remotely. There is also a streamlined process in place for all departments requiring approval.

It was stated by Mr. Bowman that the Town does not want to lose revenue opportunities. He supports the new system and wants people accommodated equitably.

Under a Public Act requirement, Mr. Darin informed the committee that people who occupy a house without a certificate of occupancy could have a penalty imposed. With the new process, it sometimes speeds up applications, and other times it does not. There are situations when on-line applications are incomplete because all documents are not submitted to the Building Department.

Attorney Smith will draft the language for building permit late fee charge ordinance to be reviewed by the committee at the next meeting.

## **6. DISCUSSION RE: BUILDING PERMIT FEE WAIVER FOR HANDICAPPED ACCESSIBILITY.**

Mr. Bowman brought up this fee waiver during past discussions on building permit fees. He cited the case of a disabled veteran who was making handicap accessible modifications to his house, and having to pay building permit fees. In situations with handicap accessible requirements for veterans and disabled people, there should be waiver of the burden of a fee payment. The waiver could also be extended to non-profit organizations and new construction for eligible people. The waiver would only be for

those people currently living in the house...and if the house is sold the benefit no longer applies to the new homeowner.

The Building Department can research and review how many property owners would be eligible for this fee waiver. Mr. Darin stated his support for a waiver for veterans and handicapped property owners. He explained it would be just "residential" properties for improvements under ADA (i.e. bedrooms, ramps, widening doors, barrier free access).

## **7. ADJOURNMENT**

MOTION by Mr. Bowman; seconded by Ms. Flynn-Harris.

MOVED to adjourn the meeting at 8:08 p.m.

VOTE           The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk