

**MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW COMMITTEE
MEETING HELD ON THURSDAY, JANUARY 24, 2019 AT 6:30 P.M. IN ROOM 207,
TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Patti Flynn-Harris, Chairperson; Paul Bowman, David Veleber.

Staff: Sean Kimball, Town Manager; Arnett Talbot, Asst. Town Manager;

Al Smith, Town Attorney

Ms. Flynn-Harris opened the meeting at 6: 37 p.m.

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.

Ms. Flynn-Harris explained there are many items for review and some of the items should be postponed to a future meeting when there is more information and presentation.

3. Public Building Commission Ordinance

This ordinance needs further review, and there should be a meeting with the PBC.

Mr. Bowman attended the last PBC meeting at which the ordinance was discussed. PBC would like a joint meeting with the Council to discuss the issues, and have legal representation from the Town Attorney's office present to discuss ADA documents.

Mr. Bowman noted there will be future projects requiring a lot of work. He talked about having additional PBC members due to the work load, identifying a supervisor on projects, such as owner's representative, clerk of the works, construction manager. The supervision would be different for each project depending on the scope of the work. The PBC discussed and took action for assignment of people to projects within their area, i.e. BOE employee having oversight of school projects. Mr. Bowman said he is not comfortable with this for all projects. He expressed his concerns about negotiating change orders, quality of work and other things. If an employee is paid to be at the project site he is not sure there needs to be this split of responsibilities. All these things must be discussed going forward by the Council and PBC.

This issue came forward at the last Council meeting and Ms. Flynn-Harris said Councilors are not up to date with proposed changes between the ordinance and PBC subcommittee. A presentation from PBC is important and she said there should be a joint PBC and Council meeting.

Attorney Smith stated there would be an attorney present at the joint PBC and Council meeting, especially for the ADA documents.

Mr. Bowman said there is confusion amongst PBC members regarding versions of the ADA documents, and members assigned to projects do not know what these documents state. They cannot manage a job without this knowledge. They must rely on the engineer or architect who designed the project to also manage the project, do requisitions, look at scope of work and manage problems. This means the architect is managing problems which he may have caused...this is not good separation of duties and responsibilities. The town needs another set of eyes on a professional basis, such as having paid oversight in whatever capacity is needed.

With regard to IWW and revising PBC membership, Mr. Veleber asked about people having the qualifications to serve on these commissions.

There are requirements and Ms. Flynn-Harris said the Council and PBC should set a time frame for a joint meeting.

4. Building Permit Late Fee Charge

Mr. Bowman reviewed the reasons for this item before the committee. If there is blatant disregard for the permit process, it can be dealt with. If it's a way to raise revenue he would not support this late fee charge. He explained that people were completing projects (i.e. basements), decide to sell the house, and realize there was no permit issued for the work. Building Department staff spends many hours managing the file, satisfying the bank and seller, and the goal is to recapture some of these fees.

The committee talked about one more review of this issue. If it cannot be resolved, it is over and done.

Ms. Flynn-Harris clarified that the matter will be brought back to the Council one more time, as is, without any change. The public hearing has been held. The most recent document is ready to be submitted to the Council. The consensus of the committee is to send the matter back to the Council at the February 13th meeting.

5. Inland Wetlands permit after-the-fact fee

This matter has not been acted on by the full Council because more information is required. Ms. Flynn-Harris said there were numerous presentations by IWW, and IWW is requesting another meeting with Council.

Mr. Bowman and Mr. Oris have discussed this matter, and there is opportunity to move this matter forward to the Council without a joint meeting with IWW. The matter is simple, straight forward, and IWW Chairman DeJongh will be invited to the next Council meeting.

This matter was referred back to the Ordinance Committee by Chairman Oris. Ms. Flynn-Harris advised that Mr. DeJongh has asked what other information the Council

needed. She will reach out to Mr. DeJongh, inform him of the committee decision, and invite him to the Council meeting when the matter is on the agenda.

The committee discussed meeting once a month on the 3rd Thursday due to the many agenda items. The dates of February 21st, March 21st and April 18th were marked as upcoming committee meeting dates, subject to change.

6. Building permit fee waiver for all handicapped projects.

There has been a request to expand this ordinance for any handicapped project. Ms. Flynn-Harris said this would be for any modification of the residence due to a family member's handicap situation...requiring a ramp, bathrooms etc. The committee must look at what the measurements would be, classifications, and what must be submitted when pulling a permit to prove the situation is a handicapped issue for waiver of fees.

Attorney Smith stated the language needs to be revised to simply refer to the ADA document, as not everything discussed is required by ADA. There are ADA limits, such as "new construction" (section 3.3) projects being clearly identified, as it could refer to improvements rather than an entire house.

According to Mr. Bowman some people run into circumstances...they are not veterans...and if the town could give them some relief from these fees. The issue should be advanced for committee discussion. He noted people can improve their property with ramps, bathroom modifications etc. due to a disability. Waiving the fees is not a lot of money, but something the town can offer.

The committee briefly discussed the definition of "disability". Ms. Flynn-Harris said it is someone coming forward for property modifications because of handicapped needs and access, internal and external.

Attorney Smith stated "disability" must be defined. The current ordinance has a legal definition for a disabled veteran...there needs to be a definition of "disability" for broader exemptions. There must be a clear definition of "improvements", which will be those to address the disability in a meaningful way.

From a building permit perspective, Mr. Bowman talked about waiving the improvement to the assessment. He noted that sometimes it is not always an improvement...i.e. a ramp in front of a house.

Ms. Talbot explained a ramp is not assessed as it is considered a temporary structure. She also explained the Assessor cannot waive assessments. If there is improvement to the house and it increases the value that assessment stays as part of the total assessment for the property value. Most of the adaptabilities do not significantly impact taxes.

With regard to all that is being discussed, Mr. Bowman said the goal is relief for the elderly, enabling them to stay in Cheshire with some modifications to their residence.

Ms. Talbot cited a kitchen renovation for disability modification. It requires widening the pathway between counter tops and raising counter tops. There is no aesthetic improvement, but construction work must be done, and permits would have to be pulled. This also goes for a bathroom renovation.

A question was asked by Mr. Veleber about who determines a person is disabled.

Attorney Smith stated the veteran gets a card as a "disabled veteran". There must be proof of a disability to the satisfaction of the Building Official. The disability would be identified. Mr. Smith will look at the ADA documents and use their definition for disability.

7. Potential merger of Youth Services and Human Services Committees

These two committees want to merge, as there is information which overlaps in the tasks and missions of the two groups. Town Attorney Smith will review and submit a recommendation for a new committee, with membership of five (5) Youth and seven adult (7) voting members. The youth members are from the middle school and high school, and they are non-voting members.

Ms. Talbot reviewed the issues with meetings due to lack of quorum for both committees...Human Services held five (5) meetings in 2018 due to lack of quorum and Youth Services held one (1) meeting in FY 2017.

8. Amendment of Bazaar and Raffle Permit Ordinance

The State has turned over the licensing for bazaar and raffle permits to the municipalities through the local police department. In the Cheshire Police Department there are many files on these permits. The fee structure is the same as that imposed by the State, and the revenue stream to the town is minimal. Ms. Flynn-Harris has a concern of this being a burdensome task for non-profit organizations. It is not something of high value, it is not taxed by the State, and there could be leeway in the process, procedure and cost. Permits must be taken out through CPD for bingo, tickets sold for a raffle, prizes donated or purchased must be identified by donor and value to the CPD. This is the process for all donations, regardless of value, and winners pay income tax on their winnings. The State law requires submission of verification statements.

Attorney Smith will look into the State requirements on this matter and inform the committee.

9. Age restrictions for sale of vaping, e-cigarettes and nicotine products

Ms. Flynn-Harris commented on the excellent presentation on vaping at the last Council meeting.

Attorney Smith will gather information on this issue.

Ms. Talbot advised that Wallingford CT held a public hearing on the matter; Hartford CT is discussing the matter; and the State continues to look at it. Under State statute the age of a minor is under 18 years old. The town can make a statute to up this age to 21 years old. There are State restrictions on selling to minors, restriction of materials being held behind the counter so customers cannot touch it, and a sales person intervenes for the sale.

According to Ms. Flynn-Harris that is not happening in Cheshire. The materials are out on the counter and customers can touch it. Based on the presentation, Ms. Flynn-Harris' concern is the verbiage on the definition of e-cigarettes requiring a change.

When the ordinance is being written Ms. Talbot said the committee would have to give the definitions careful consideration.

The consensus of the Council and Ordinance Review Committee is to pursue writing an ordinance on the vaping, e-cigarettes, etc. including prohibition on town properties.

Attorney Smith cited the fact there are different names for e-cigarettes; this must be considered for passing an ordinance; and there could be prohibition on town property.

The issue of medical marijuana was raised by Mr. Bowman, who asked if this can be prohibited on town property, if it is medically prescribed.

Attorney Smith said it is not like someone is prohibited from taking prescribed medication, and it can impact those around you...unlike other medications. If taking the medication (i.e. smoking/ inhaling) is noticed by everyone then it could be prohibited.

Mr. Kimball commented on "vaping" having a second hand effect on those around the person.

It would be interesting to see what other towns are doing, but Ms. Flynn-Harris said Cheshire can take what the State has done, change it, update the verbiage, up the age to 21 years old, and materials must be behind the counter as cited in the State statute.

Ms. Talbot noted that Cheshire has an ordinance restricting cigarette vending machines, and this is an example of action the Council can take in terms of prohibiting and penalties for violations.

If someone is vaping on town property, Mr. Veleber asked how the penalty would be enforced by the CPD, i.e. issuing a ticket.

Ms. Flynn-Harris said this is difficult enforcement and by the time the CPD is notified of a violation the incident is over.

The committee outlined the priorities of the agenda items.

Priority items – Vaping, merger of Human Services and Youth Services Committees, Building Permit Fees for Handicapped, Illicit Discharge.

Items to Town Council – #4 Building Permit Late Fee Charge and #5 IWW Permit After the Fact Fee.

#3 – PBC Ordinance – schedule a meeting with PBC; recommended date is Wednesday, February 6th (regular PBC meeting).

February 21st at 7 p.m. – ORC meeting agenda items – Public Works (Illicit Discharge); merger of Youth and Human Services Committees; and information about the vaping restrictions.

Town Manager Kimball clarified that the City of Hartford was the first municipality to raise the vaping age to 21 years old. Meriden and Wallingford are also considering raising the age to 21 years old; and several municipalities are considering raising the legal age to 21; the ordinance is dubbed “Tobacco 21” and has been adopted by 370 communities in 22 states.

10. CT’s MS-4 Illicit Discharge and Connections Stormwater ordinance.

This agenda item involves a Public Works presentation to the committee on illicit discharge of storm water.

Agenda items 11, 12, 13 and 14 are on the list because they are presently open, and the committee must address them sometime in the future...but they are not priority items.

11. Charter Revision Commission Ordinance recommendations.

The Charter Revision Commission Ordinance recommendations includes everything in the new Charter which touched on ordinance. The committee must look at them and insure the ordinance language is reflected from the updated Charter.

It was recommended by Mr. Bowman that the Town Manager and Town Attorney review the provisions of the revised Charter, look at ordinance changes, and submit the information to the committee. Attorney Smith has done a quick review, the list is short, and he will submit a summary to the committee.

12. Solid Waste ordinance review and update.

The review and update reflects changes in the solid waste system. The transfer station was closed in 2011, and there were changes in the State statutes.

13. Alcohol at special events at Town facilities

This matter will be up for another discussion with regard to permitting alcohol at limited events.

14. Noise Ordinance

Ms. Flynn-Harris said another noise ordinance will not be brought up, and the matter must be closed. Prior issues have been resolved by the interested parties. The consensus of the Ordinance Review Committee is to remove this item from consideration.

15. ADJOURNMENT

MOTION by Mr. Bowman; seconded by Mr. Veleber.

MOVED to adjourn at 7:40 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk