

**MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW COMMITTEE  
MEETING HELD ON TUESDAY, MARCH 3, 2020 AT 7:00 P.M. IN ROOM 210, TOWN  
HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

David Veleber, Chairman; Don Walsh and Peter Talbot

Staff: Town Manager Sean Kimball; Arnett Talbot, Asst. Town Manager; John Andrews, Fire Marshal, and George Noewatne, PW Director

**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.

Chairman Veleber opened the meeting at 7:01 p.m.

**3. CONTINUING REVIEW OF UNSAFE PREMISES/POTENTIAL  
BLIGHT ORDINANCE**

Mr. Veleber stated there was a brief review of this ordinance at the last meeting, and the ordinance was originally for one year; it had a sunset clause; and it has been approved by Council for another year. The Ordinance Review Committee (ORC) is looking at the ordinance and it could be changed or amended, as needed. He said the committee wants to find out how this ordinance is working.

Fire Marshal Andrews is also the Town's "Unsafe Structure Premises Enforcement Officer". He informed the committee that he submits a report to the Council on a regular basis with data and information on enforcement issues in Cheshire.

The committee was told by Mr. Andrews that "enforcement" is the issue. In the past the building and health officials were going to a structure that was unsafe/dilapidated/broken windows/hoarding condition/collapsing roof, etc. In the present code there is ability to deal with these situations. But, this is an expensive and long drawn out process.

Mr. Andrews cited one long time case on a Cheshire property that took over a year of multiple court appearances by him and other town officials, and \$48,000 in costs. Over time the house was cleaned up, sold, and is being renovated.

At that time Mr. Andrews came forward regarding an ordinance, and he was looking for a "blight" ordinance... because of the numerous blight situations in town. There is now an Unsafe Structure ordinance, which is a great tool for him and other staff...it eliminates the potential 1+ year process with multi-thousand dollar costs. The situation has moved into an immediate compliance without much cost to the town. All the legal costs, meetings with lawyers and judges, are taken care of up front with the current ordinance.

A number of unsafe structures have been taken care of due to this ordinance without enforcement of fines. Mr. Andrews is able to talk to people, explain the unsafe structure ordinance, and they take care of the issues on the property. The ordinance also allows Mr. Andrews to go into a property that may not be unsafe, but has blight issues. And, people have voluntarily repaired their properties. Mr. Andrews supports the ordinance as it now stands; it is a useful tool; and there is quick and no cost resolution to properties.

In his reports, Mr. Andrews has pointed out and defines the number of unsafe properties taken care of, and 75% of complaints received are blight issues, which do not fit into the unsafe structure ordinance. The property could have cars parked, is unpainted, furniture parked in the backyard...the property is neglected but is not "unsafe"...it is a blighted property. And, it does not fit into the unsafe structure ordinance. Over time, blighted properties will become unsafe properties.

Mr. Andrews prefers to be proactive rather than reactive. His recommendation is to expand the existing ordinance into something incorporating blight properties, even unoccupied blight properties. Right now, nothing can be done with these blight properties. He also talked about the need to address unoccupied/unsafe structures.

With regard to a building permit for these properties, Mr. Walsh asked about the length of time for a permit, with the property owner fixing one thing over a long period of time, and if this keeps the permit in effect.

There is a property with issues on Route 10, and Mr. Andrews said he can knock on the door...and if asked to leave he must leave. He does not have authority to inspect a single family home, but can look and see things visible from the street. In the past he has been able to view unsafe properties from a neighbor's back yard.

Mr. Talbot agrees with the un-inhabitated situations...and he noted the house on Brooksvale next to Norton School. He asked about taxes being paid on the property. He said the house on Brooksvale is dangerous...so near a school and children. Mr. Talbot talked about adding more "teeth" to the current ordinance, and asked if taxes are being paid...if a lien can be put on the property.

For the house near Norton School, Mr. Andrews said it fits into the existing ordinance due to broken windows, unsecured doors and other issues. It is one of the properties he is dealing with, and he is having difficulty with the owner. He informed the committee that the building official dealt with this unoccupied property, spoke to the owner and gave him a week to do something. Nothing was done. There is the ability to fine \$100 per day per violation with a lien against the property. At this time, the owner has cut off all communications with Mr. Andrews and town staff.

Mr. Andrews explained the process now in place. He sends a letter to the property owner letting it be known that many complaints have been received. He asks the owner

how they plan to deal with the issues. The letter includes a copy of the ordinance and cites the fines. Sometimes he meets with the property owner, points out the problems, and a few months later things have been done. After the letter and nothing is done, the next step is the owner being served by the Marshal with information on when fines will start and the number of violations on the property.

Over the last 1 ½ years, 12 Cheshire houses have been taken care of and cleaned up, and some were bank owned. Mr. Andrews and the town go after the bank; sometimes the house is flipped; and ends up in good condition. An example of this would be the bank owned house near Chapman School which is now in good condition.

Many properties in town do not fit into the current ordinance, and Mr. Andrews believes a blight ordinance would be beneficial to many of the properties. At this time there are no criteria for a blight ordinance. There is a list of 46 complaints about blighted properties in Cheshire, and Mr. Andrews has looked at all of them and each one is a blighted property.

Mr. Andrews stated that some calls are “neighbor to neighbor” type of complaints such as an unregistered car on the property or overgrown lawn. These are sometimes of little concern, but he does go look at the property receiving the complaint. Under the law, a property owner can have one (1) unregistered vehicle on their property. These types of complaints are usually resolved.

An unsafe/blighted house (corner lot) on Highland Avenue was noted by Mr. Walsh. The lawn was overgrown to the point it blocked visibility of a traffic light and moving vehicles. Kids were walking to school and afraid of animals possibly living under a car sitting on the property with grass growing around it. Something should be done about this type of situation. It could be in the ordinance, giving the Enforcement Officer the authority to handle the situation. Mr. Walsh advised the town mowed the property, and he asked if this expense is billed and paid by the property owner.

There was also such a property on Peck Lane. Mr. Andrews explained the town cleaned the place out, hired the companies with crews working in white protective suits, pulling stuff out and tossing things into the dumpsters. The cost was \$40,000; the house was sold; and the town got its money back.

Mr. Talbot said he has a huge hang up with a blight ordinance, because it paints too broad a brush and gets into things the town should not get into. He asked Mr. Andrews to define something that needs to be taken care of, that does not fit under the current ordinance...and would not fit under “un-inhabitated”.

In response, Mr. Andrews said he would provide photographs/descriptions and a report on such properties in Cheshire for the committee. He noted there is a fine line between what is unsafe and what is blight.

Mr. Talbot commented on a house and property on North Brooksvale, which has nothing done, and the possibility of the town doing the maintenance and getting paid back for the costs.

For a property on Moss Farms Road with overgrown grass, bushes etc. Mr. Andrews sent the owner a photo of the property and its condition. The next day there were people on site to clean up the property.

According to Mr. Andrews about 99% of the current and ongoing issues are being dealt with at this time. The unsafe structure ordinance gives him the ability to talk to the property owner and discuss resolution. Some properties do not fit into the category in the ordinance; owners will not cooperate; and a blight ordinance would help with a number of these properties and make the conditions go away.

With regard to “unsafe” structures, Mr. Andrews talked about the Brooksvale property. He said it is unsecured to entry; windows are broken; building pieces are falling down; the property itself is a danger because it overgrows onto the sidewalk.

A property on Winthrop Drive was cited by Mr. Andrews as an example of a blight property. The structure is sound; it was a hoarding situation; the resident moved out and just left the house; it was locked; there were no broken windows, no gutters falling, it needed painting, the lawn needed care, bushes overgrew the house, etc. The ordinance states...if the situation impedes egress or entrance into the house...it is an unsafe premises.

The committee and Mr. Andrews talked about the government imposing on public property, and they agreed this is not what the town wants to do. However, Mr. Andrews advised that Cheshire has bad looking properties that are decreasing property values and causing neighbors distress. He believes the town has the right to act to keep the community looking good and safe and protect property values.

Example of Blight – Mr. Andrews explained a house (in Cheshire) with three (3) sheds collapsed in the back yard; the sheds are not unsafe and will not fall again; there are three (3) boats, a car, no siding, furniture in the yard, and some scaffolding. There are some older properties in town vacant for 15 or more years; taxes are paid; everything is in tact; animals probably live inside...and these things should be addressed.

Town officials and representatives have the right to say certain standards should be maintained. One such standard would be to keep the property in safe managed condition.

With the current ordinance, other than adding blight, Mr. Veleber asked if other changes or modifications are needed to help Mr. Andrews do what must be done.

This ordinance is a wonderful tool to do his job, and Mr. Andrews is satisfied with the ordinance for the small number of structures involved.

Mr. Veleber asked about circumstances wherein people could not take care of their property for any reason, and how they are helped.

In such situations, Mr. Andrews said there is help for these people, sometimes resulting in a gateway to provide them help through social services and other assistance. For hoarding situations, people get needed help. There is savings for taxpayers and long term court time is avoided.

The committee knows the current ordinance is good, and Mr. Veleber noted there are no recommendations or changes being made. If an unsafe situation is observed, Mr. Andrews has the right to act accordingly and more quickly. He commented on a house not being maintained, affecting the neighbors and property values, and this being looked at through the ordinance. There should be a review of blight ordinances in towns similar to Cheshire, and the committee wants to look at these ordinances.

In the committee packet there was information on the State ordinance and statutes, the Cheshire report from Mr. Andrews, and the OLR Research Report (comparison of municipal blight ordinances). Ms. Talbot will provide copies of 15 different blight ordinances (from throughout the State) to the committee.

Mr. Talbot supports more “teeth” in the existing ordinance, and a shorter time for quick action by Fire Marshal Andrews.

Regarding the \$100 per day fine per violation of the ordinance for the North Brooksvale property (lien against the property), Mr. Andrews said it has never gotten to this point before. With the violation service to the property owner by the Marshal’s office, it is hoped the owner will do something about the situation.

A question was asked by Mr. Veleber about the calls received by Mr. Andrews, and the percentage that can be handled under the ordinance versus something stronger being needed.

Mr. Andrews said there is more blight and no action on the reports than there is with working towards a situation. Since the implementation of this ordinance, he said maybe five (5) properties did not require action on his part.

#### **4. REVIEW OF PUBLIC BUILDING COMMISSION ORDINANCE**

Mr. Veleber stated the purpose of the review is to streamline what the PBC ordinance does and the best way to do this. There are a number of projects with the PBC and possibly more large school modernization projects coming forward.

PW Director Noewatne, staff liaison to the PBC, advised there was a subcommittee formed to review this ordinance (PBC members, Town Council members and Town Attorney). The red marked-up copy of the ordinance (in the meeting packet) is a modification of the existing ordinance. Three options are up for consideration. Maintain the existing ordinance with no changes, modify the ordinance, or go to a simple one/two paragraph ordinance. The existing ordinance is for large scale projects, i.e. a new school. Most projects to the PBC are smaller scale costing hundreds of thousands of dollars, not millions of dollars, and many are maintenance projects.

There was a simple ordinance proposed and Mr. Veleber said PBC does what it needs to do with Council oversight, and the changes include adding a Clerk of the Works overseeing a project.

The smaller projects do not need to come back to the Council six times, and Mr. Noewatne said this back and forth is a timing issue, costs are affected and delivery time is involved.

In that regard, Mr. Talbot asked if it makes sense to have a one paragraph PBC ordinance. But, when projects are approved, the resolution designates how often they come back to the Council. This is handing things in resolution when the project is approved rather than coming up with a catch-all for all projects.

Mr. Noewatne said this is the best way to proceed. It gives the Council the most flexibility.

There was a brief discussion on “resolution” or “referral” of a project to Council, and referral is preferred.

The issue of the man traps at three (3) of the schools was discussed earlier in the day at another meeting, and Mr. Talbot said this project went to PBC in January 2019, and will not be done until this summer...18 months. This window should be shortened.

Town Manager Kimball also said a shorter ordinance allows most flexibility. One project could be a smaller dollar project, a more visible type project, and it is handled differently by towns. In Simsbury CT the general rule of thumb was \$1M or more projects go to the PBC. Larger dollar projects are not, necessarily by definition, a PBC project due to the larger dollars. (i.e. boiler projects). There will be more school modernization projects forthcoming. PBC traditionally handles between five (5) and eight (8) projects, and now there are 26 projects, which will be a huge burden on staff and PBC. The community pool was the last big project.

Smaller projects are usually managed by the entity requesting the project, i.e. BOE or Parks and Rec projects or Public Works.

Mr. Kimball cited the basketball courts and tennis courts projects for Parks and Rec being managed by Director Gawlak, and keeping everyone informed on the status of the projects. Projects are still subject to bidding requirements, and Council can request periodic updates and budget status on the projects.

According to Mr. Veleber the current (red marked) ordinance seems unwieldy for projects being worked on. Most important is the opportunity for Council knowing and insuring there is a Clerk of the Works or town representative overseeing large projects.

Mr. Walsh asked about each time something is done and going to the Town Council for approval...and if this is how it works.

It was explained by Mr. Noewatne that the ordinance requires going back to the Council six (6) times. PBC can issue the RFP for a designer; once the designer is chosen there is a recommendation to the Council to hire; schematic design phase goes back to the Council for approval; design development phase goes back to Council for approval; final design goes to the Council for approval. Then PBC goes out to request bidding (advertise for construction bidding); and the last time is to award the bid to the construction contractor. Then the project is out of Council hands until the end when Council gets a close-out report...or a supplemental appropriation is needed.

With streamlining the process, Mr. Kimball said the PBC meeting date has been moved up one week in the month.

Mr. Walsh commented on the problem in town of red tape and getting things to move through faster. He said anything done to move things more quickly saves money.

The option of a shorter PBC ordinance and more flexibility is supported by Mr. Veleber. He asked about projects that do not come to PBC, i.e. go to BOE.

The committee was told by Mr. Kimball that these projects are mostly in Public Works, and lots of administrative work is involved with these projects. Each of the 26 projects will have a PBC subcommittee to go on site to review the project. When these subcommittees convene there is public notice of the meeting and minutes are filed. For each project, the act of going to an RFP, getting all the work out there and reviewed, will still happen for designer and bid construction. Typically, a professional service like a designer could be hired in-house rather than getting permission every time. And, there will be money saved.

Mr. Veleber said the concept of a shorter ordinance with more flexibility is preferred. And, a referral would be tailored to a specific situation. He asked if there could be a regular ordinance as an alternative, and getting copy of a shorter ordinance for ORC review.

The Town Attorney has a shorter PBC ordinance for the committee to review. Mr. Kimball said with multi-million dollar projects the Council will want PBC coming back throughout the project.

Some important points were cited by Mr. Noewatne.

- Ability to fast track a project; this must be in the ordinance for smaller projects to circumvent the coming back to Council six (6) times.
- According to the current ordinance PBC must bid dollar one for everything; PBC cannot use the town's bid limits - \$15,000 for services or \$30,000 for construction; informal bids can be gotten; PBC cannot use DAS contractors and get around the bidding process. This is critical; a referral for \$6,000 bid waiver must come back to the Council, or PBC has to bid this out specifically.
- Streamline the process; PBC will have someone carry that price under their contract; i.e. a designer will carry the number, but extra costs can be added.

Current limitation is \$15,000 and \$30,000. Without this ordinance PBC can rely on these same bid limits unless Council identifies an exception. The current ordinance does not allow the town to have "on-call designer". One way to speed it up is to have an RFQ for designers, have a list of designers for routine projects. Mr. Noewatne said the current ordinance precludes this option. A short form ordinance would take care of these issues.

Mr. Noewatne explained "design-build" for the committee. It is a procedure...and he cited the CHS storage shed as a typical design-build project. A designer is hired, specs are developed, construction is bid and the created design is bid, and design-build shortens this up. There is basically an architect and contractor working together; they give you a proposal...i.e. build a storage shed with specs. Quotes are received; the best one is chosen; design-build is negotiable as opposed to a locked in bid; there can be negotiations, things added or removed, prices fine tuned, and there is more flexibility. Over-runs cannot be put in with a design-build.

BOE projects are referred to the BOE and they handle oversight.

Smaller projects are \$100,000 to \$200,000, and are usually routine maintenance projects.

## **5. DISCUSSION RE: PUBLIC MEETINGS ELECTRONIC RECORDING POLICY**

Mr. Veleber stated the revised Town Charter, Section 2-9 reads as follows:

*“A policy concerning electronic recording of public meetings shall be established by the Council.”*

It was pointed out by Mr. Veleber that this has not yet been done, and he questioned creation of a policy for electronic recording of meetings.

Electronic Recording can be any means to record a meeting; digital is a technique to record, and Mr. Veleber said meetings must be recorded in some way. Some meetings have audio/visual recordings (Council meetings); there are minutes taken; and there are audio recordings of some other meetings.

The goal of the Town Charter requirement was questioned by Mr. Kimball...i.e. a policy on the types of meetings, how they are to be archived and available for the public.

Mr. Walsh said archiving should be in the cloud; things are stored off premises in case something happens; and he believes there is a cloud big enough to handle the electronic recordings and provide access. This should be in the policy.

Regarding electronic recording of all meetings, Mr. Veleber asked how town meetings will be recorded.

Ms. Talbot explained that the Charter Revision discussion focused on the inconsistency of what is being recorded. There should be consistency and the expectation that all meetings be recorded. She commented on the WPCA meetings at which decisions were made on the \$32M treatment plant upgrade project, and those meetings should have been recorded. The Council can determine which meetings will be filmed.

It was agreed by Mr. Veleber that there should be consistency with recordings of all meetings and storage for maintaining these recordings...i.e. on the cloud. Minutes and meeting recordings are on the town website.

There is a server through the town's broadcast equipment and Ms. Talbot said everything is stored through this server. One thing to be looked at for expansion of videotaping meetings would be running out of storage on the server...and looking at a cloud based solution.

Mr. Veleber said the cloud is usually a backup, and we would be going to a third party somewhere in the cloud.

Mr. Walsh asked about meetings being recorded that are not being filmed.

Ms. Talbot said not all meetings are recorded, and the town has digital recorders.

Mr. Kimball said digital recordings are not kept by the town. The clerk is recording on their personal cell phone, transcribing, and then deleting the recording.

According to Mr. Walsh there should be a policy that subcommittee meetings need to be recorded digitally and saved. Reliance on someone's minutes could miss something and there is nothing to go back on...and this is not good.

Mr. Veleber talked about a clerk recording on their phone or own device, and taking it home...and if this is okay under FOI. Someone could want to hear the actual audio, and the audio is not available. A person works for the town, took the audio, which is now a record of the meeting, and someone should not be able to just delete this audio.

The official record of all meetings is the minutes. Mr. Kimball said if someone has their own private cell phone used for recording a meeting in order to produce the official record (minutes)...and they need storage space on this phone, they delete the audio and the public record is gone. If Council wants recordings of all meetings then the town should have the equipment needed and set a standard.

This is why a policy is needed and Ms. Talbot said an important part of storage is retrieval.

Another issue is record retention, and Mr. Veleber asked about a time frame obligation for the town to maintain these meeting records before they are destroyed.

Until FOIA changes, Ms. Talbot said the official record of a meeting is the minutes. If FOIA changes and they accept video recordings as official records then there will be retention records applied.

Mr. Veleber talked about the ORC looking at this issue and the importance of maintaining records of all meetings for a certain amount of time...a minimum of a number of years. The question is how to record, how to keep the recording, and how long to keep it.

The importance of transparency and being as open as possible was stated by Mr. Walsh for recording of all meetings. The only exception would be Executive Session. Mr. Walsh pointed out that whether a meeting is to be recorded should not be the decision of the Chairperson of the board or commission.

Mr. Kimball said the Council can consider and decide which meetings should be recorded, i.e. Council, regulatory boards and commissions. All Council meetings are videotaped and can be on the website forever.

Mr. Veleber stated all elected boards and specialty boards should have meetings recorded. He cited Parks and Rec Commission meetings as requiring only an audio recording. Council Chamber meetings are all videotaped.

To that point, there are a number of off-site meetings, and Mr. Kimball cited the Library Board, Prison Advisory Committee which could have only audio recordings. For meetings in Council Chambers the cameras and microphones can be turned on remotely.

Ms. Talbot will check with CCM on how other towns record meetings.

The ORC will consider what meetings are to be filmed, audio recorded, storage and how long to keep the recordings. Mr. Veleber reiterated that all public meetings need to be recorded. The discussion at this ORC meeting is the start of a direction to move ahead, and insure that every meeting is, at a minimum, being audio taped.

Before adjournment, Mr. Walsh noted that he was present at the February 4, 2020 meeting.

## **6. ADJOURNMENT**

MOTION by Mr. Talbot; seconded by Mr. Walsh

MOVED to adjourn the meeting at 8:45 p.m.

VOTE           The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk