

**MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW COMMITTEE
MEETING HELD ON MONDAY, DECEMBER 28, 2020 AT 5:30 P.M.**

VIRTUAL MEETING VIA ZOOM

Public access made available through live streaming

[www.youtube.com/c/Cheshire Channel14](http://www.youtube.com/c/CheshireChannel14)

*Public comments accepted at Comments@cheshirect.org and by voice mail
message at 203 271-6638.*

Present

David Veleber, Chairman; Peter Talbot and Don Walsh

Staff: Arnett Talbot, Asst. Town Manager; Fire Chief Jack Casner; Acting Fire Marshal
Mike Koslowski; and Town Attorney Patricia L. Boye-Williams

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 5:31 p.m.

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

Mr. Veleber stated the focus of the meeting will be on the unsafe premises and potential blight ordinance. He said the Cheshire Fire Department (CFD) continues to get calls and complaints about Cheshire properties with blight situations, which do not come under the Unsafe Premises Ordinance.

Chief Casner informed the committee that CFD is receiving calls about a "blight" situation in one neighborhood. However, the structure is not unsafe; there is overgrown grass, 3 feet high; it is unsightly; but the situation is not enforceable.

Fire Marshal Kozlowski stated the CFD gets repeated calls from people about what they consider a blight condition...i.e. too many vehicles (or boats) on the property, high grass...but the condition is not under the Unsafe Premises Ordinance. It is a zoning regulation issue and not part of the ordinance which does not cite anything about motor vehicles.

The towns of Farmington, Guilford, North Haven and Trumbull have blight ordinances. Farmington and Guilford address abandoned motor vehicles on properties and what to do about this situation. North Haven and Trumbull have regulations with listing of many things which Cheshire can address. Some of the ordinances are limited to residential properties, while others cite all properties...commercial, industrial, residential. The ORC will read and review these ordinances.

Mr. Veleber stated the issue of blight is blight regardless of the identification of the property.

Mr. Walsh supports including business properties in the ordinance, as they are taxpayers, and must take care of their property with the same formula applied.

Mr. Talbot cited the fear of including business because many are farm properties. These properties could have farm equipment, i.e. a tractor sitting there for 2 or more years. Anything dealt with to date about unsafe properties has not dealt with a commercial or business property...all have been residential.

According to Chief Casner there is one commercial property which he can discuss with the committee.

The primary focus in Cheshire is residential properties, some of which are falling apart. The committee discussed the issue, and noted that some of the sample ordinances have language that includes business, boat repair etc. which are separated out of the ordinance. There could be wording for Cheshire to cover farmers, equipment on the farm site, extracting certain types of businesses from the ordinance, and how to address issues that come up.

Attorney Williams explained that in Farmington any issues come to the town council. She does not know why the town chose the town council for review of blight problems. In North Haven there is a Blight Advisory Board that handles blight issues and violations. Middletown CT blight ordinance is vague. Ms. Williams noted the process has not been challenged in the courts; all towns have various ways of handling blight issues; and they have not had court challenges.

The North Haven and Trumbull ordinances have a list of things which are deemed to be blight, and Mr. Veleber said there are properties in Cheshire which are blight sites. In Cheshire there is the question of finding the property owner for notification of an issue. He questioned the amount of time and additional work for the CFD staff to handle the current unsafe premises ordinance plus a possible blight ordinance. Mr. Veleber also talked about the timing of getting everything done by going to a town council or advisory board, and imposition of a fine to the property owner following notification of the violation.

Mr. Talbot and Mr. Walsh both stated they have received emails or communication from residents about blight issues, support of an ordinance, and concerns about diminished property values.

Unsafe Premises Ordinance – it was pointed out by Mr. Talbot that the ordinance states the Town Manager or designee appoints the “officer” responsible for handling these

issues. He supports and recommends keeping this officer appointment with the Town Manager.

With regard to staff time for the person handling the ordinance work, Fire Marshal Kozlowski said it depends on how the blight ordinance is structured and the number of complaints received. The unsafe premises responsibilities and enforcement should remain with the Fire Marshal and Building Official. The “structural” part of the ordinance should not just go with a blight officer. Chief Casner noted that one recent unsafe premises case took one month of the Fire Marshal’s time.

There was a short committee discussion about the interplay of the two ordinances...unsafe premises and blight...and if they should be separate ordinances. Attorney Williams explained that Farmington had a number of farming complaints as the blight ordinance was being developed...and the ordinances can be separated due to different enforcement.

When there is blocking of sight lines on roadways due to blight conditions, Mr. Talbot said this could be a police department issue, when there is no ordinance to handle the matter.

For the roadway sight lines, Fire Marshal Kozlowski explained the town has some control over sight lines, and with an ordinance can take care of the situation and put a lien on the property. The CPD Traffic Division is the enforcement division for sight line violations. He also explained that a dead tree falling on the street, location of the tree, impact of the tree and hazard to a house or wires is handled by the Tree Warden.

The problems of “dead trees” on properties and potential hazards was reviewed by Attorney Williams. She said Cheshire has open space land where there could be dead trees which the town may not be caring for. This property would have to go on the blight list, and could be a liability for the town for “dead trees”. This is one reason why the State has drafted tree laws so the State has no liability for dead trees on its property.

Regarding farming equipment on a property, Marshall Kozlowski stated this is covered under the zoning regulations with Zoning Enforcement Officer enforcement.

Chief Casner stated his agreement that Town Manager Kimball determines who handles enforcement. He recommended the ORC members look at the samples of the ordinances from other towns, take excerpts from them, and come up with a draft ordinance for ORC review.

The committee members agreed with developing a draft blight ordinance using pieces from various other town ordinances. There should be a focus on a “blight enforcement officer” as a key part of the ordinance, and drafting an ordinance which would not be

challenged. Mr. Veleber noted ORC does not want blight issues coming to the Council or have an advisory board, and prefers to have a blight enforcement officer.

Attorney Williams will work on putting together a draft ordinance to include defined terms, the right legal components, enforcement discretion, liens for more egregious cases, blight condition specific characterization and requirements, and related issues.

4. DISCUSSION OF SHORT TERM RENTAL ISSUE

The committee members discussed the Oxford Court rental situation in Cheshire which was dealt with and resolved by a cease and desist order. Mr. Veleber said the ORC will be looking at an ordinance to address these types of issues going forward.

Ledyard CT has a short term rental ordinance which is very good and helpful. Attorney Williams said this well created ordinance could address some of the situation(s) in Cheshire.

Short term rental ordinance criteria and questions were raised:

- Types of rentals - non-hosted and primary residential, and difference between the two
- Would there be an enforcement officer appointed
- An absent property owner must have a legal local representative to address problems, complaints, issues etc.
- The representative would have all the property information and be readily available for the town to have access to the property; have information on the "renters"; provide the rules and regulations for a rental of the property
- Rental regulations would require getting a permit on an annual basis and meeting all permit requirements/fees/insurances
- There would be annual inspection of the property by the Fire Marshal, with a written right-of-entry form from the property owner or representative

Mr. Veleber read excerpts from ordinances in other towns...Noise & Nuisance and Occupancy & Restrictions for Use. He said the proposed Cheshire ordinance talks about short term rentals, having a permit, and if not the CPD can close down the event and the house.

Attorney Williams advised that these restrictions are only for short term rental use, and not the use of the property owner. Regarding the number of people on the property, it is limited to two (2) persons per bedroom. She commented on the remedy of the town depending on how the ordinance is written. With an ordinance there is an enforcement mechanism outside normal public safety type codes.

The committee was told by Chief Casner that for the Oxford Court property there were up to 30+ people in the house for events...i.e. family reunion, wedding, parties. In

response to a question from Mr. Walsh about CFD knowing of other short term rentals houses in Cheshire, he said there are about six (6) such houses.

Ms. Talbot reported that other than Oxford Court there have been no complaints to the Town Manager's office. Some properties are owner occupied with rental of a part of the house.

The committee members raised the issue of this ordinance enforcement as another work burden on town staff and their potential involvement in the process. It would be a tool to monitor short term rentals with an enforcement officer rather than through zoning regulations.

In that regard, Ms. Talbot said the goal is to prevent future occupancy situations as Oxford Court, or give the town the tool to deal with issues as they arise.

Following the discussion, Mr. Talbot stated the committee is looking for an ordinance in search of a problem. There has been one rental occupancy, a resolution was found, and the problem is no longer there. Mr. Talbot is not in favor of "doing an ordinance for the sake of doing an ordinance"...and is not in favor of a short term rental ordinance.

Stating his agreement, Mr. Walsh said if an issue or problem arises, it can be addressed at that time. Cheshire had one issue; it was resolved; and we move forward. Owner occupied properties will, probably, not have problems.

Mr. Veleber also agreed there is no need for an ordinance; the impetus for the ordinance has been resolved; and he thanked town staff for assisting with the resolution of the problems. An ordinance is not needed at this time, but there is a structure in place should one be needed in the future.

The ORC members agreed to put this ordinance on hold pending any future problems or issues on short term rentals.

5. DISCUSSION RE: POTENTIAL MOBILE VENDORS ORDINANCE

Mr. Veleber explained this potential ordinance came about as the result of a tragic summer accident and loss of a child in Cheshire. He has discussed this matter with Rep. Linehan who may submit a law on this matter to the Legislature. If a Cheshire ordinance is proposed in the future it can be structured around a State ordinance. Mr. Veleber will continue discussions with Rep. Linehan on this important matter.

Mr. Talbot stated the wording of the State bill will supersede a local ordinance. When this is in effect the town can decide on a local ordinance based on the structure of the State.

Mr. Walsh agreed, but emphasized the importance of keeping our children safe and nothing like this accident happening again. He supports waiting until there is a State ordinance before Cheshire creates a local one.

6. ADJOURNMENT

MOTION by Mr. Talbot; seconded by Mr. Walsh

MOVED to adjourn the meeting at 6:55 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk