

**MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW COMMITTEE
MEETING HELD ON WEDNESDAY, JULY 26, 2017, AT 5:30 P.M. IN ROOM 207,
TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Patti Flynn-Harris, Chair; Paul Bowman and Timothy Slocum
Staff: Michael A. Milone, Town Manager; Joseph Schwartz, Town Attorney;
Louis Zullo, Personnel Director; Deputy Police Chief Brian Pichnarcik

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: ANTI-BLIGHT ORDINANCE

Attorney Schwartz reviewed the comments and changes made at the June 8th committee meeting. These included the definition of “Blighted Property”; subsections “c and d” we do not want the ordinance used to enforce landscaping issues; definition of “Hearing Officer”; section 9-A 3), fine of \$100.00 per day.

Problem Sites Committee Membership – no definition is needed; the committee would report to the Town Council monthly; there were comments about cost and savings to the Town. Attorney Schwartz cited the Peck Lane situation, and explained that with this ordinance in place, what could have been done along with savings to the Town.

Attorney Schwartz cited the recent legal fees paid by the Town on blighted properties. Peck Lane, \$19,000 to date; Spardone, \$10,000; Jarmine (next to Norton School), \$22,000. The vacant Jarmine property has equipment and trucks in the yard, no windows in the house, it is next to a school and there are safety concerns. Each case got final judgment from the Court for the Town to go in and remediate the property.

The committee was informed by Attorney Schwartz of the current process for filing a remediation request with the court. The case is filed; fee is paid and the case is opened; there is a full blown trial; witnesses are prepped to testify; he goes back to court a few times; the property owner is given time to fix the situation; court renders a decision and the Town can go in to remediate. The property has a lien placed to cover these costs. All remediation costs are paid to the Town at some point, but legal fees are not reimbursable. The statutes only permit collection of attorney fees with zoning actions. By having the ordinance this process changes.

Mr. Milone pointed out there are personnel costs to the Town for staff going to court.

With the blight ordinance, Attorney Schwartz said it allows the Town to issue a letter to the owner to remediate the property. If it is not done, he files a simple form with the court and can get a judgment lien on the property, a citation with the court. If the

property is not remediated after the fact, he asks the court for power to remediate. There is no need to prove a violation; it is already done by issuing the letter to remediate the blight. This saves legal fees and time getting to the root of the issue.

According to Mr. Milone this expedites cleanup of the property; the Town gets a handle on what could be serious public health and safety issues; and can move quickly.

The issue of personnel costs was raised by Mr. Bowman with monthly meetings of the committee.

This was a group developed internally and informally, and Mr. Milone said there are instances with multiple problems that bring in other Town departments. There is no intention of monthly meetings with 11 people. He expects Town personnel who would be involved in most situations to be Building Department Head Keith Darin and Fire Marshal John Andrews, along with Maura Esposito, Director of Chesprocott. Human Services Director Michelle Piccerillo also gets involved in the process. They keep everyone in the loop on the property and the situation.

Ms. Flynn-Harris noted that this committee is not part of the Blight Ordinance.

Mr. Milone said this is a working group; this is how the ordinance would be enforced; it is a team approach. These are the people to be active based on the nature of the problem. This committee could have semi-annual meetings to review regulations. The Health Department, Building Department and Fire Marshal are the core three departments. The Health Department is involved because there are mental health issues in some situations. The 11 people will play a role, as needed. Mr. Milone noted that in the last two years there have been hoarding concerns with properties in Town.

The issue of legal occupancy was raised by Mr. Bowman. He talked about someone occupying a house owned by a bank, using fake documents, and a way to address illegal occupancy.

Under Section 7 b-4 illegal occupancy is addressed. Attorney Schwartz said notice of a blighted property is served on the owner of the property, the owner's agent, or legal occupant, as the case may require. If the bank is the owner, there is the option of serving notice on the bank or the owner's agent, or the legal occupant.

Stating this is a squatter situation, Mr. Milone said the ordinance is not needed to intervene with an illegal occupancy, as it is a police matter.

For the purposes of the ordinance, Attorney Schwartz said the letter goes to the person who will clean up the property, i.e. the bank owned property, and filing a judgment with a \$100 day fine. Most likely, the bank would address the situation.

Mr. Slocum mentioned the committee seeing a lack of a public component, and possible liaison to the Council in the working committee.

In response, Mr. Milone said the role is no more than any other administrative working group. These people are here because of their expertise and what they bring to the discussion. The intention was to have the Hearing Officer who is a peer, and currently Attorney Bruce Diamond is used for police citations. The Hearing Officer would be the judge on the outcome. The situations involved necessitate moving quickly, and do not lend themselves to the Juvenile Review Board where cases are assembled, scheduled and decisions made. The blight situations require immediate assembly, getting out to the property, and collective judgments and decisions are made to solve the problem.

Mr. Bowman raised questions about the process and a vehicle for a person to go to...can they go to a counselor. Eleven people will make judgments, and he has concerns about property rights on a case by case basis.

One of the people on the committee will be the enforcement officer, the point person who gets or makes the complaint. Mr. Milone said that person gets and reviews the complaint, makes a decision, issues notices. If a respondent takes exception the matter can be appealed to an outside party, and this could be the Hearing Officer.

Mr. Bowman said the Hearing Officer is a paid person working for the Town of Cheshire. A peer review for relief is important, and he wants someone to be able to get some relief.

It was stated by Ms. Flynn-Harris that Fire Marshal Andrews is very specific about how he handles situations today. He is flexible with business owners. This is what he would bring to his role as enforcement officer on a blight situation.

The Town has worked with people in the past. Mr. Milone cited a current situation where a homeowner needed help from Chesprocott. There is weekly interaction with support and guidance on what must be done each week to clean up his property.

Attorney Schwartz stated the blight enforcement officer has power to issue a blight violation; there is power to appeal; and give someone 10 more days to go to a peer individual or Town agency.

Mr. Bowman cited the Zoning Board of Appeals as an avenue for someone with a zoning violation.

Ms. Flynn-Harris talked about peer review, and this agency being the Public Safety Commission.

The situation could go to Public Safety. Attorney Schwartz said the property owner could request more time to clean up due to a personal situation, and appeal to the

Public Safety Commission for more time to clean up his property. This could then be appealed to the Hearing Officer with a recommendation in the file. The Hearing Officer makes the final decision, with Public Safety making the recommendation.

In that regard, Mr. Bowman does not want to make another role with the Public Safety Commission as part of the process. The process could go to the Hearing Officer, and if someone is unfairly treated the matter should have an appeal process.

Attorney Schwartz talked about a solution. The Hearing Officer sees the blight and orders it fixed up. In the ordinance it could state the individual has the power to go to the Public Safety Commission for a second appeal. This is not a binding appeal; it will not overrule the Hearing Officer; once the Officer reaches a decision it goes to Attorney Schwartz, who sends out a letter. Within 30 days of sending the letter out he files the citation with the court. By going to the Public Safety Commission the property owner actually has 45 days. It could be a more informal process rather than formal process. The Town has the discretion of imposing the \$100 a day fine or \$10 a day fine. Mr. Schwartz does not recommend an informal process being written into the ordinance.

Regarding the verbiage and changes to the ordinance, Ms. Flynn-Harris has no issues with them. There are some issues with the process. She asked for an outline of the document, a step by step flow chart for Council to review.

Mr. Milone stated the key issues are to have safeguards for someone who is aggrieved, to have an appeal process before going to the Hearing Officer.

Attorney Schwartz will make the changes and the flow chart.

Mr. Milone will rewrite the information on the Sites Committee.

Mr. Bowman requested clearer definitions. He noted Naugatuck CT has some definitions which could be added, i.e. "junk".

Stating he has already merged other town ordinances into Cheshire's proposed blight ordinance, Attorney Schwartz will recheck the Naugatuck CT ordinance.

4. DISCUSSION RE: TRAFFIC CONTROL ORDINANCE

Ms. Flynn-Harris stated this ordinance is for extra duty jobs, using police officers and cruiser vehicles.

The rates for extra duty officers and cruisers were included in the information submitted to the committee.

Deputy Chief Pichnarcik reviewed the ordinance and the traffic control language. He noted the five conditions for which traffic control must be provided.

- 1) On any State highway
- 2) In a designated school zone during school hours (teaching hours)
- 3) On Town roads designated by the Police Chief (Appendix A)
- 4) During hours of darkness
- 5) On any Town road at the sole discretion of the Chief of Police or his Designee, where the work is causing a significant traffic disruption or hazard, for the purpose of traffic control and public safety.

(B) Chief Pichnarcik stated this would be for a major storm, car accident involving traffic control, tie-up of Cheshire resources until utility contractor shows up and pole is replaced. When officers are called up on overtime the costs are pushed off to the contractor. A pole hanging over the road must be cleared, and this will be a police department call, with costs recaptured.

(C) Cruisers at day and night work; cruiser is required for hours of darkness, 6 p.m. to 6 a.m.; cruisers will be mandatory with imposed charge of \$25 hour; contractors can request a cruiser during the daytime hours at \$25 per hour.

Mr. Milone informed the committee that \$47,000 has been generated through this voluntary program. This money goes into the general fund under the CPD revenue line. It is the call of the Council on how this money is used.

It was stated by Mr. Bowman that the use of these funds should be in the ordinance. This additional revenue could be one (1) new police car.

(D) Chief Pichnarcik advised that State law requires a certified flagger.

(E) This section mirrors State law. The Police Chief can require police personnel at sporting events, shows, concerts, fireworks etc.; Chamber of Commerce Fall Festival and Memorial Day Parade police presence is paid on an overtime basis. Mr. Milone noted that for the marathon races there are police officers hired. For these events, Chief Pichnarcik said bike riding officers get comp time; everyone else is paid by the organization.

In looking at the list of Town roads with required traffic control, Mr. Bowman suggested Notch Road, Wiese Road and Mixville Road be added to the list.

Under #5 of the required traffic control listing, Chief Pichnarcik said police officers at additional roads are at the discretion of the Chief.

The issue of the gas company putting gas mains through Cheshire was raised by Mr. Bowman.

Mr. Milone reported that the gas project has been somewhat scaled back, and the gas company would not abide by Town requirements.

In an area of a work site where roads are touching, Chief Pichnarcik said the site can go back to a flagger, and often times the police officer works in conjunction with the flagger.

Extra Duty Police Charges – Chief Pichnarcik explained that Cheshire Police Department charges time and a-half based on the patrolman's salary for special duty plus \$8 per hour administrative fee. The \$25 per hour for the cruiser is the standard flat rate, with no mileage and distance charges for out-of-town duty.

The committee and staff reviewed the charges by town, officer and cruiser.

If a job requires a cruiser, and a Southington police officer comes to Cheshire with their town cruiser, there is reimbursement for use of their cruiser. If Southington had a policy to put a cruiser on every assignment, and they come to Cheshire, this cost would not be honored.

A Cheshire officer going to Naugatuck for special duty is paid the NPD rate of \$75.18 per hour plus the \$7.35 administration fee; if a Cheshire cruiser goes with the officer the rate is \$25 per hour. Now, Cheshire has a policy, not an ordinance and Mr. Milone commented on support of a car following an officer to another town.

Chief Pichnarcik said if the Council approves this ordinance, it supports a car going with a police officer to another town.

Mr. Bowman spoke about another town requiring a vehicle at the job, calls Cheshire to send an officer, and asked about a cruiser going too.

Right now, Mr. Milone said there is no mandate for a cruiser to go with the officer.

Mr. Slocum commented on Chief Dryfe not wanting an out-of-town officer, i.e. Naugatuck, using Cheshire police cars. This is why it is advantageous to send a Cheshire car with a Cheshire officer working in Naugatuck.

If this ordinance is adopted, Mr. Milone asked Attorney Schwartz if it gives authority for reciprocal arrangement, and whether this should be left in the ordinance. Cheshire police have turned down assignments in Naugatuck because a car is required to accompany the officer. There is no provision in the policy on this issue. He asked if this should be rolled into the ordinance.

Attorney Schwartz said the ordinance is more enforceable, and to the extent we can put everything in policy into the ordinance, he recommends it be done.

There is a lot of revenue to be generated in the next few months with taking police cars to Naugatuck, about \$41,000. Mr. Milone said the only dilemma is incorporating this into the ordinance. It would be in effect 3 or 4 months in the future. Mr. Milone will request the Council modify the policy to permit police cars going to towns where officers are assigned. Otherwise, CPD could lose significant revenue.

Ms. Flynn-Harris asked about a Cheshire police officer in Naugatuck on special duty, an emergency occurring in the town, and if the Cheshire police officer must also respond.

In that case, Chief Pichnarcik said the Naugatuck police officers would leave the job site for the emergency. Cheshire officers would remain at the job site. Chief Dryfe still has authority over the CPD officer on assignment.

There was a brief discussion about Cheshire's rates being under the market. Mr. Zullo explained that when the new contract goes into effect, the new time and a-half rate goes into effect.

Mr. Bowman said Cheshire's rate should be at parity with other municipalities. He talked about a \$60 flat rate.

Chief Pichnarcik noted that officers make out better with work jobs in Cheshire, which have a four hour minimum fee. CPD could lose work by out-pricing themselves in the market, and has always operated at the time and a-half patrol officer's rate.

Mr. Slocum supported the lock box as a good idea.

With regard to a possible conflict of interest, Mr. Bowman stated his son-in-law is a Cheshire Police Officer. He requested Attorney Schwartz provide clarification on this issue for him.

5. ADJOURNMENT

MOTION by Mr. Bowman; seconded by Mr. Slocum.

MOVED to adjourn the meeting at 6:52 p.m.

VOTE The motion passed unanimously by those present.

Marilyn W. Milton, Clerk