MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW
COMMITTEE MEETING HELD ON TUESDAY, JANUARY 5, 2010, AT 7:30 P.M.
IN ROOM 207, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present
Anne Giddings, Chair; Justin Adinolfi and James Sima.
Councilors Timothy Slocum and David Schrumm.
Staff: Louis Zullo, Personnel Director; Police Chief Michael Cruess; Lt. Mazzini;
Bert Schiaroli, Building Official; Gerald Sitko, Economic Development
Coordinator; Mario Panagrosso, Tax Assessor.
Others: Town Attorney Dwight Johnson and Assistant Town Attorney Lana
Glovach; James McKenney, Chair, Public Building Commission.

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. PUBLIC BUILDING COMMISSION ORDINANCE REVISION
Attorney Johnson stated that this matter has been discussed with town staff and
the PBC for many months. Serious concerns have been raised by Mr. Milone
and Mr. Michaelangelo about the length of time it takes under the existing
procedures and ordinance to get capital projects approved. Because of these
procedures for approval, it can take up to 2 years to get a simple project done.
For school construction the only time to do a project is in the summer time.

In his memo to staff, Attorney Johnson pointed out 5 steps to be taken for Town
Council approval of a project. He noted that most other towns do not have such
a complex system of multiple and duplicate approvals by the PBC and the
Council. Attorney Johnson made suggestions on ways to consider acceleration
of the process and eliminate duplicity. There have been no specific directives
received from the Council or PBC to date, and he said it would be helpful to get
direction and guidance to move forward. One possible step is to have an
informal committee review the process, make recommendations on simplifying it,
and if approved, language could be drafted for Council and PBC consideration.

Ms. Giddings noted there were 3 recommendations in the memo of March 3,
2009 from Attorneys Johnson and Glovach. They recommended development
of guidelines for assigning matters to the PBC; reduction of Town Council
involvement in certain projects; and changes to the ordinance. In the 12/29/09
e-mail from Attorney Johnson there were possible steps noted for consideration
and moving forward with a small committee to develop more detailed
recommendations.
It was stated by Ms. Giddings that the process varies for the individual projects, and the Council and Town Manager must decide on whether to refer something to the PBC. Smaller projects or those under $500,000, repeat projects such as roofs, would be given consideration with guidelines developed for the Town Manager to follow. When a project is referred to the PBC, Ms. Giddings noted that the ordinance is very specific requiring approvals back to the Council based on PBC recommendations, and sometimes it goes back 5 times. The suggestion is to reduce the number of steps in going back to the Council, and if the PBC is comfortable with a project it does not need to go back to the Council. In many towns the Council has no involvement in projects. With authorization the Town Attorney will make recommendations for changes/modifications to the ordinance. Projects go back to the Council for approval on selection of the architect, engineer, preliminary design specs, final design specs, if design costs are excessive. If a project is above the Council’s approved numbers, then it should go back to the Council.

This matter of the approval process first came to the Ordinance Review Committee when the current Town Attorney was selected and there were problems with projects taking too long for approval or there were items of concern.

Ms. Sima stated he has a problem agreeing with some of the changes to the process which takes away some Council control and gives authorization to town staff. The Council would not have any real oversight, and when there are problems, it all comes back to the Council.

In that regard, Attorney Johnson said that the Council might be in favor of only 2 of the 5 suggestions which are made to change the ordinance. Even with less Council oversight of a project, staff would still be required to report to the Council on the progress of a project. The Council could require staff to provide a more detailed update, and even request monthly reports.

Mr. Sima noted that the ordinance already requires bi-monthly reports and status of projects from the PBC to the Council. He said he has not seen these reports.

Attorney Johnson stated that the driving force behind the proposed changes to the ordinance is the 2 year delay for projects. If the process is streamlined, periodic reports should be required.

PBC Chairman McKenney commented on the August 4, 2009 Ordinance Review Committee meeting and the minutes in which he delineated, in depth, the process for a capital project. There is a hold up in bidding for an architect, getting responses, screening and meeting the responders, selection of those to be interviewed, and then final selection and award of the project. With a routine roof project the PBC has had satisfaction with roofing contractors, and the question is the need to advertise when they can interview 4 roofing architects for
the project. With smaller dollar projects the process is the same as for larger projects, and it does not make sense on the time cycle. Staff would keep the Council informed of the process and cost of the project. Mr. McKenney noted that the PBC meets once a month, pays its bills, and the numbers do not change in the interim.

In the amended ordinance, Ms. Giddings asked if it could specify that for routine projects the requirements would be changed. She also asked if the ordinance could state that requirements would be waived for specific projects based on cost or complexity.

Attorney Johnson responded that there could be a dollar threshold chosen as the starting point from which the Town Manager would bring a project to the Council. He noted that on the PBC there are members with expertise in making decisions on projects.

Ms. Giddings said the Council would be put in a good position to state a project is one requiring less Council oversight and some of the process could be waived. This would be an immediate way to bring some help to the problem, with the criteria being the cost and complexity of the project.

The committee was informed by Mr. McKenney that the PBC met with the Town Attorney and the prior Ordinance Review Committee to review items, and the committee was to generate a response. There is a need to deal with the e-mail on Council resolutions and the impact on the ordinance itself. Mr. McKenney has been told that a member of the Energy Commission is a permanent member of the PBC, and if so, this means the PBC is a 10 member body.

On that matter, Attorney Johnson said there will be clarification this week, and he will respond to the PBC.

With regard to roof projects, Mr. Sima agreed that most are routine. For the high school roof he questioned whether it was correct to bring in a design firm and where the line is drawn for a roof with multiple layers. He also asked about the PBC telling the Council there is a need to hire an architect or design firm on a roof project.

Mr. McKenney stated that the Council gives the PBC a project and there is no allowance for deviation from the existing process. The PBC would look to the staff/town engineer for direction and guidance in determining whether to hire a firm. Right now there is no flexibility, and we must deal with the entire process. For school projects, Mr. McKenney explained they go to the State and stay there for many months. If the project is received back too late, it is pushed off to the next summer break period which pushes the project off further. The PBC would appreciate a streamlined process.
In response to whether a roof requiring structural work would have to be written into the ordinance, Attorney Johnson said this was not necessary. There are guidelines, and the PBC does not receive anything unless it comes from the Council. Guidelines are needed for the Town Manager and staff to make recommendations to the Council on whether something should go to the PBC. In many cases he can see the Town Manager saying it is a routine roof project, and for a more complex project an architect would be needed. The burden is on the professional staff.

Attorney Johnson reiterated his recommendation to set up a sub-committee to review the matter, to include a Town Councilor, PBC member, Ordinance Review Committee member, and counsel from the Town Attorney’s office. The Council Chairman, Mr. Slocum, would make the selection for committee membership.

4. PARKING TICKETS AND ALARMS FINES ORDINANCE

Attorney Glovach explained that the Police Department wants to identify more efficient means to increase collection for parking and alarm fines.

The Town can involve the State Centralized Infraction Bureau for enforcement of fines and give up local control.

There is a municipal option with the Hearing Officer for hearing appeals on parking tickets and making a decision on payment or nullification of the fine. This could be expanded to include alarm fees/fines which are not done at this time. The ordinance could be amended to include the alarm fines. Section 10-21.

The Hearing Officer for the parking fines acts under the ordinance and a specific process is set forth in the State statutes. If a fine is upheld it becomes an assessment which can be appealed to the Superior Court. If the fine is not paid the Hearing Officer completes a form, pays $8.00 and registers the assessment in court where it becomes a civil judgment against the violator, with the Town having all the rights of a creditor. A judgment lien could be places against property of the violator, wages could be garnished, and bank accounts attached. At the present time the Hearing Officer does not go to court to seek a civil judgment. Under the State Centralized Infraction Bureau the Hearing Office would have to attend court if a ticket is contested.

Police Chief Cruess explained that the advantage in going with the State process is that the ticket is a State ticket to pay or plead, with contesting the ticket taking place in court. If there is no payment the court does all the work; there can be an arrest warrant; State fines are higher than municipal fines; the Town would get it parking tag fine of $30. Chief Cruess commented on people not being happy about this process because the fines are higher than local fines. Police officers would have to appear in court.
Under local enforcement, Chief Cruess explained that the money stays in the town, and contesting the ticket is done at the level of the Hearing Officer. But, he noted it is harder to collect the money for local fines. Under the statute there is the ability for the Motor Vehicle Department to cancel the vehicle registration but this does not happen unless there are 3+ tickets on the vehicle. When a ticket is issued and not paid a letter is sent by the Police Department to the violator. The matter can be turned over to the Hearing Officer. There is a need for fairness for those who do pay their fines to know that the Police Department will go after those who do not pay their fines. In 2007, Chief Cruess stated that the department wrote off $1,160 in unpaid parking fines.

Mr. Sima commented on the need for the Town to create forms for the Hearing Officer to go through the proper process so everything is in order. There will be time expense for the Town Attorney’s office to create these forms, and Mr. Sima questioned how much legal time would be spent on this one item. He said we are talking about $1,000 in annual parking fines which are unpaid. There is also the additional cost for the Hearing Officer to go to court to represent the Town, and Mr. Sima questioned the benefit to doing all this.

In reply, Attorney Glovach said that the combined and unpaid parking and alarm fines totals about $10,500 over the last 3 years. Going with the State route there is still the Hearing Officer going to court. For development of the forms, this will require legal counsel time speaking with the Police officers, meeting with the Hearing Officer, review of the process for understanding of how it will work. Beyond that, the process will be self executed and one of the benefits is payment of fines to the Town.

Up front there is a capital investment and Ms. Giddings said it is not repeated. The Hearing Officer would go to court for the Town.

Attorney Johnson commented on this being a way to generate revenue for the town and a way to insure the fairness issue.

Regarding the alarm fines, Chief Cruess stated that by the end of the year there is a good response to these fines after a letter is sent to the homeowner. The police officer works with the homeowner, sometimes by phone, and is always polite during these calls. He noted that the parking fines are a larger issue than the alarm fines.

Ms. Giddings noted that the Police Department is looking at this matter with easier enforcement of the parking and alarm fines system.

According to Chief Cruess the procedure is similar to other towns, but larger cities have finance departments that set liens on the property. In Cheshire the Police Department sends out a letter in 15 days from the date of the fine, and
after 30 days the matter goes to the Hearing Officer. The Town usually has 3 appeals a month.

For out of town infractions, Mr. Sima said it would be more difficult to collect the fines. If we go forward with the proposal and nothing changes, there will be the same number of unpaid fines, and the town is expending money.

Attorney Glovach stated that failing to follow through by the violator is deemed to admitting liability, and out of town people will usually pay rather than face a judgment.

Mr. Adinolfi said that the front end investment is not that big and because of the increased threats, he expects there will be more fines paid.

After meeting the up front costs, Ms. Giddings said that the revenue from payment of fines comes to the town. She agreed with Mr. Adinolfi that to incorporate the alarm fines is beneficial on the local level and would be convenient for the people in town.

MOTION by Mr. Sima; seconded by Mr. Adinolfi.

MOVED that the Ordinance Review Committee authorizes the Town Attorney to make changes to the ordinance, prepare the appropriate forms, negotiate with the Hearing Officer to expand his duties to include alarm fines, and present the completed documentation to the Town Council for approval.

VOTE The motion passed unanimously by those present.

5. PATTON DRIVE PARKING
Chief Cruess gave a brief history of the parking situation on Patton Drive stating there was an issue with high school students parking on the streets surrounding the high school – Patton Drive, Elmwood Drive, Higgins Road, Chipman Drive and Blueberry Lane. After a meeting with residents on the issue signs were posted stating there was no parking on these streets during school hours. There is one resident on Patton Drive who wants to be able to park on the street in front of his house.

Lt. Mazzini informed the committee that a survey of Patton Drive residents was conducted on July 8, 2009. Out of 68 residents, 50 responded. The responses indicated that 37 people wanted no change to the parking restrictions; 1 resident wanted removal of the parking limitations with 2 hour parking; 7 residents wanted parking on the street for residents only. 74% of the residents supported the existing parking restrictions. The question is whether there could be residents only parking on Patton Drive or whether the restrictions could be waived for 2 people.
According to Attorney Glovach the town could create a residents only parking zone. She said only the traffic authority can make exemptions to the restrictions, and this would have to be posted on the signs. The question is how to define the criteria for an exemption, and the Police Department would need a process for the exemptions.

In this case, Mr. Slocum said it is more specific with one resident having to move around 6 cars in the driveway due to family schedules. Also, this residence has an approved in-law apartment which requires a parking space. The resident wants on street parking and a permit to park on his street. The question is whether this is possible.

Ms. Giddings stated the town could grant a residents only parking zone and this would require new signage.

Mr. Adinolfi commented on turning the parking upside down for just one resident.

This resident has 5 cars, and Chief Cruess commented on the resident having difficulty working arrangements to jockey the cars around.

Ms. Giddings said that any solution being discussed would involve expenditure of time, funds and other issues.

Another issue is granting these permits, how many to be issued, and Chief Cruess said there would be expenditures incurred for decals, signage, etc.

It was noted by Lt. Mazzini that he did much work on this parking issue, and the majority of the residents are satisfied with the present restrictions.

Stating he was being an advocate for the resident not being able to park in front of his house during school hours, Mr. Slocum said there should be some consideration for the resident with the parking issue.

To change the parking restrictions, Chief Cruess said there would have to be a new sign “Resident Only Parking During School Hours”. The parking was a big issue 15 years ago with students parking along front lawns, breaking holes in fences, and abusing the property of the residents on Patton Drive. With a resident only parking law, there would be more administrative work on the part of the Police Department.

After hearing all the comments stated, it was the consensus of the Ordinance Review Committee to take no action on this matter.

Mr. Zullo will contact the resident and inform him of the committee’s decision.
PUBLIC COMMENTS
Ray Ilnicki, Sandbank Road, stated that in many cities parking permits are required for street parking, and unauthorized cars are towed.

Ms. Giddings said that would require someone issuing permits and someone to check on the cars parked, and would require new signage.

Chief Cruess noted that with permits all residents would have to register their vehicles with the Police Department. The resident, Mr. Rose, is seeking the right to park in front of his own house, and other residents will be coming forward with the same request.

There are two possibilities to be considered and Attorney Glovach said there could be a residents only parking zone with a permit to park on the street, or the town can figure out an exemption for this individual resident and others in a similar situation. This would require changing the signs and providing guidelines to the Police Department for such a waiver.

Derf Kleist, Lancaster Way, noted there are signs for handicapped parking, and in this case it would mean one more sign for this resident to park in front of his house.

In doing this, Ms. Giddings said that other Patton Drive residents and those on the other streets with restricted parking would make the same request for the same reasons. It would mean signs all over these streets and possibly bigger problems.

At this time, Mr. Adinolfi stated the issue is one resident wanting to park in front of his house. With more residents making the same request, he would be more open to dealing with the issue. He agreed that the committee should take no action on this matter.

Ms. Giddings sees no easy way to get around this concern without involvement of town funds and having to expand this to other streets, with an increase of administrative time to process the work for the Police Department.

6. MASSAGE PARLOR ORDINANCE
In 2008 this was an issue for the Town, and Mr. Zullo said the Ordinance Review Committee thought it would be a good idea to regulate massage parlors. In June 2009 the State Legislature passed a bill which made performing massage therapy without a license and illegal offense. At this time there is no necessity for the town to move forward with an ordinance on this issue.

Due to the change in State law, Ms. Giddings said this matter is no longer relevant.
7. NOSIE ORDINANCE

Ms. Giddings informed the committee that complaints have been received about the noise from refrigerated trucks parked overnight on Knotter Drive.

Attorney Johnson stated this is an issue regarding Napoli Foods.

Ray Ilnicki said he has been complaining for 10 years about the noise coming from Bozzuto's distribution center.

Stating this has been looked into before, Attorney Johnson stated that from the information he has received there is no clear evidence the noise levels were in violation of the State law. He has also looked into whether the town can enact a noise ordinance to impose stricter restrictions than the State law, and this cannot be done. The State law trumps local efforts, and a local noise ordinance must be reviewed by the State to insure it complies with State law. Recently, the State disbanded its noise group and Attorney Johnson is not sure what would happen if the town enacted an ordinance. He said it is difficult to determine whether or not the noise is in compliance with the State law, but the noise being complained about is not in violation. The company in question has taken steps to reduce noise levels.

Mr. Ilnicki explained that 49 decibels is the nighttime designation and 51 decibels is the daytime level. Now, the State group has disbanded, yet the law in the State is alive and on the books. There is no State enforcement, but the town could enforce the law. A noise test was done in 1997 with 18 refrigerator units, with the firm paying for the test. Mr. Ilnicki said accurate readings were not done because they were done from the road, and his bedroom is in the back of his house. He has requested testing through the Assistant Town Planner and has spoken with the Town Manager about this issue, and everyone is trying to make progress on the matter. Mr. Ilnicki thought the town would conduct another noise test, but the question is who would do it.

The committee was informed by Attorney Glovach that to pass a municipal noise ordinance there must be approval by the State DEP.

Without a local noise ordinance, Ms. Giddings aid the municipality can enforce the State noise ordinance.

In looking at this issue the last time, Attorney Johnson said there was no clear evidence that there was a noise violation, and the town did not conduct an impartial noise evaluation. If the town wants to get into the noise business, it can do so, but there are expenses involved and an expert would be needed to interpret the evaluation.
Mr. Sima stated that everything must be taken into consideration, and the issue is whether the town will pay someone when the State had decided not to undertake this.

According to Mr. Ilnicki the towns of Wolcott and North Haven have adopted a noise ordinance. In speaking with the administrator he was told that staff received training and they are now experts.

Ms. Giddings stated that Cheshire does not have to provide a noise ordinance, but can use the State law for some relief.

Mr. Ilnicki said that the Planning and Zoning Commission has a regulation in place under “Performance Standards”, Section 21.3, and it notes exceptions. He said no one has the right to cast noise volume which is detrimental to neighbors.

With regard to the PZC regulation, Attorney Johnson said the question is whether it is in compliance with State law which trumps local law.

Ms. Giddings said the problem is with the PZC if its regulation is not in compliance with State law. The purview of the Ordinance Review Committee is whether the ordinance is needed. She is hearing that the State Statute has specific decibel levels, and the local ordinance is not needed.

Mr. Slocum commented on creation of an ordinance and the enforcement mechanisms which would have to be in place.

Mr. Ilnicki said the town could adopt the State noise ordinance.

In the State statutes there are laws which prohibit motor vehicle junk yards and the town has the right to bring a lawsuit to shut them down, and Ms. Glovach said it may be possible that the noise statutes may give towns the right to bring a lawsuit on noise issues. She will review the State statutes and inform the Council on the results of the research.

Mr. Adinolfi raised the question about private contractors to do the noise studies, and whether this might be a way to measure the noise levels.

Attorney Johnson noted that the Police Chief does not want to get into the noise ordinance enforcement.

It was noted by Mr. Sima that with the 51 decibel daytime limit, there would be no construction business going on during the daytime hours.

According to Mr. Ilnicki the towns of North Haven and Wolcott are having no problems with enforcement of the noise levels by the police departments. An officer goes to the site of the complaint and does the testing.
Economic Development Coordinator Sitko stated that the Council must think about the potential effect this ordinance would have on economic development and future growth for existing businesses in Cheshire. With regard to Napoli Foods he is aware of the complaints cited, but the complainant has been invited to meetings on the issue but never showed up. Mr. Sitko informed the committee that Consolidated Industries is doing some noise mitigation to assist the neighbors. With the poor economic condition of the State he does not want to send a negative message on noise levels to existing and possible future businesses in Cheshire.

Ms. Giddings stated that the committee can find out about the State’s statute regarding noise levels.

Mr. Ilnicki commented on speaking with the Town Manager who said he is willing to help taxpayers on issues. Mr. Ilnicki supports new business in town, but said noise enforcement could be done properly within the standards of the PZC regulations. He also commented on the cost of $60,000 for a noise barrier on Industrial Avenue which the company said was too costly and would not do. He said the town allowed the zone change in the area and the president of Bozzuto’s said he would take care of problems for the neighbors but nothing has been done.

Mr. Sima is hesitant to create a noise ordinance, noting there are exemptions under the State law. Even with training of local staff he does not believe enforcement could be held up in a court of law. It would require professionals to do the evaluations and this would be very costly, everyone would be upset, and nothing would happen. It works out best to request staff to work with businesses about complaints and try to make things better. With adoption of the State law, Mr. Sima said the town would have to enforce this law.

Stating he has been out there with these companies for many years, Mr. Sitko if anything could be done he would be sure to address these issues.

During the summer when the trees have leaves, Mr. Ilnicki said the noise level is not as loud, and if anything can be done for the residents it would be appreciated.

Ms. Giddings stated that the Town Attorney’s office would look into the State law and advise the Council.

8. RECONSIDERATION OF BUILDING PERMIT FEE ORDINANCE

Ms. Giddings has heard concerns expressed about the reasons for this new fee, and the Council has requested information from the building officials.

Bert Schiaroli, Building Official, explained that he presented information to the prior Ordinance Review Committee on October 22, 2009, and this committee
decided on the $150 fee as a fine for non-payment of a building permit. Mr. Schiaroli read an excerpt from the Building Code, Section 108.4 which cited the need for a building permit before commencing work and that a fine can be imposed. This matter is brought before the Council because it must approve a change in permit fees.

Regarding the penalty fee, Mr. Sima said that the Building Department is looking for a $150 flat penalty for work commencing without a permit. He asked about how this fee was determined.

Mr. Schiaroli had solicited information from other towns on this matter and he stated that the penalty fee is usually between $150 and $200. The committee came up with the determination of $150 as the penalty. The fee is based on the code language and as a tool for the building official to use as a deterrent for people who start work without a permit. This fee is common in other towns and Mr. Schiaroli believes that once people are aware of it there would be less chasing by the department staff.

Ms. Giddings noted that the town’s website provides information on when a building permit is required. She said there is a need to educate the public about the need for a building permit.

According to Mr. Schiaroli the licensed contractors know about the permit requirements.

Stating he has a license in Connecticut and does everything according to the law, Mr. Sima commented on people who know the rules who get away with things. He asked if it was better to report such a contractor to the Consumer Protection Agency. He also asked if the building officials/inspectors will be driving around town and looking for decks, roofs, etc. from 10 years ago and using this as a way to raise revenue.

It was noted by Ms. Giddings that the statute states the effective date would be January 1, 2010.

Mr. Sima commented on the vetting scale of large and smaller contractors, and both receiving the same penalty since $150 is not a large cost for a larger contractor but is for the smaller household project.

In that regard, Mr. Schiaroli said that a percentage of the fee for a smaller project is next to nothing and he has not seen a project in 7 years near the scale of $50,000. Regarding the Consumer Protection issue, Mr. Schiaroli informed the committee he deals with them on a monthly basis, and their only concern is with the fund for the fees and controlling that fund. They no longer do investigations on complaints about businesses as they did years ago. The issue of the sliding scale for larger projects is not an issue but it could be for smaller projects. For
enforcement the building department staff visit sites, ask to see permits, and if none has been issued the work must stop and the contractor is demanded to get a permit. With a violation of the code by not having a building permit, the contractor will be fined for collection along with the cost of the permit required for the work being done. The property owner is responsible for the permit. The ordinance would be amended to include the new fee schedule. When work has been stopped, Mr. Schiaroli said people usually come in for the permit. Without cooperation, the matter would be turned over to the town attorney and it is then outside the hands of the Building Department. This fee would be assist the department and is fair to the people who follow the rules.

Mr. Adinolfi commented on this being a reasonable fee and asked about the other building fees.

Mr. Schiaroli advised that the typical permit is based on the dollar value of the project to be done. $25 for the first $1,000, and $12 for each additional $1,000 or fraction thereof.

Ms. Giddings said she is comfortable with the $150 penalty fee to be imposed for work started without a permit.

Mr. Slocum said he is inclined to go with the Building Official who knows what is best for the department and the town.

PUBLIC COMMENTS
Derf Kleist stated that with a roof contractor a permit is needed, and he asked about a waiver for a resident with a valid contractor and why the homeowner must pay for the permit. He also stated there is unfair enforcement in Cheshire in many areas.

In response to a question on the effective date of the new fee, Ms. Giddings said it would not be earlier than February 1, 2009.

MOTION by Mr. Adinolfi; seconded by Ms. Giddings.

MOVED that the Ordinance Review Committee move this matter forward to the full Town Council for approval at the meeting of January 12, 2010.

VOTE The motion passed 2-1 with Sima opposed.

9. ELDERLY TAX FREEZE ORDINANCE AUTOMATIC REPEAL

10. ELDERLY TAX CREDITS AND QUALIFYING INCOME
Ms. Giddings noted that the starting date for the elderly to file for the credits or freeze starts on February 15, 2010.
Mr. Panagrosso gave a brief history of the tax freeze and tax credit programs which were originally passed in 1988. There is a State funded tax credit program for the disabled and elderly, and Cheshire gives additional credits with higher income levels. These levels have been enhanced over the years with the credits doubling in each of the last two years. There are now 494 recipients of the program at a cost of $498,000 to the town. In 2006 the credits were approved to increase by 10% in the 1st and 2nd years, and 12% in the 3rd year due to the revaluation program, and the program sunsets this year.

Tax Deferral - For the tax deferral program the State income levels are in place with 75% of the tax deferred, and there are only 3 applicants for this program in Cheshire.

Tax Credits – 494 applicants at a cost of about $498,000 to the town. With the increase in income levels more people will apply and be added to the program, and there will be some coming off the program.

Residential requirements – Ms. Giddings said she was surprised at the short residential time requirement for the programs.

Mr. Panagrosso explained that in the original program there was no residential requirement, and this was imposed in 2001.

Ms. Giddings informed the committee that although she would be of age to be eligible for these tax programs, she is not a participant in the programs due to the income levels.

It was made clear by Ms. Giddings that other taxpayers are picking up the burden of the cost for the elderly tax programs. She questioned the reason for the change in the increase in the income levels.

Mr. Panagrosso explained that based on the State income levels the local levels were increased. Cheshire has 3 levels about the State levels, but there has been no change in the tax credits for the programs this year.

Mr. Adinolfi stated he is in favor of the programs as proposed by the town for the elderly tax credits and freeze.

Council Chairman Slocum informed everyone that this matter comes out of committee to the Council for call of a public hearing.

With regard to the 494 residents in the program and the cost of $498,000 Mr. Panagrosso said it comes out to an average of $500 per applicant. There is no increase in the tax credits this year. Mr. Panagrosso explained there is a State circuit breaker program which goes to the $39,500 income level, and Cheshire extends credits to the people with higher incomes than that level.
PUBLIC COMMENTS

Ed Hines stated that he was on the committee which studied the elderly tax credits and freeze programs. He commented on the programs being a benefit to the town by keeping the elderly in their homes with less impact on town services.

Ms. Giddings said her only concern is the residency issue.

Derf Kleist commented on the residency requirement which was studied by the committee and the requirement is only one year of residency.

Mr. Panagrosso noted that with more years of residency the credits are higher.

MOTION by Mr. Sima; seconded by Mr. Adinolfi.

MOVED that the Ordinance Review Committee forward the matter of the Elderly Tax Credits and Qualifying Income to the full Town Council for action and call of a public hearing.

VOTE The motion passed unanimously by those present.

For the tax freeze program, Mr. Panagrosso said this was established in 2006 based on the State legislation. A person must be 70 years old to participate in the program and meet the State income limits. The Cheshire program is based on the October 2009 grand list, without loss of the local tax credits for the elderly. The assessor’s office looked at the applicant’s taxes, takes off the credits, and then the freeze program comes into play. The freeze program affects the July 2011 tax bills. There may be an increase in the program due to the flat tax credits and possible mill rate increase. Mr. Panagrosso stated that the freeze program compliments the tax credit program. The Council would be extending the freeze program to July 2011 (one year).

MOTION by Mr. Sima; seconded by Mr. Adinolfi.

MOVED that the Ordinance Review Committee approve the extension of the Elderly Tax Freeze Program for one year, and forward the matter to the full Town Council for action and call of a public hearing.

VOTE The motion passed unanimously by those present.

11. HISTORIC DISTRICT FEES

Ms. Giddings was recused from this agenda item due to possible conflict of interest as a member of one of the organizations and member of the Congregational Church.

Economic Development Coordinator Sitko informed the committee that the Historic District Commission commenced operation in 2005. The Rules of
Procedure and Regulations were completed and the fee schedule has taken a year to develop, and it has been discussed with a former Ordinance Review Committee of the Council.

Letters were sent in October 2009 to all the property owners in the districts with a response requested. The Commission charges $25 for a COA or exemption, and most applications have been for exemptions. There is no public hearing held, and the applicants have the fee refunded.

The Commission did research and work in State and out of state. Many projects coming before the Commission are smaller projects, except for the Congregational Church and St. Peter's Church.

The Commission wants to increase the fee from $25 to $30 for COA applications for work under $1,000, with a sliding scale to $150 to cover legal expenses and the costs of a public hearing. Demolition fees are $100 for historic buildings and $50 for non-historic buildings. There is a time frame of one year to complete the work.

Council Chairman Slocum stated that these projects do not involve the Planning and Zoning Commission, and the only other fee to be paid is for the building permit.

Mr. Sitko stated that Building Official Schiaroli has been working with the Commission and is most cooperating with properties within the districts.

Mr. Sima expressed his concerns is beyond the charges for people within the districts, but alienation of people and fears the historic districts will dissolve in the future. Regarding one year to complete the work, he noted that with older homes this is a short time frame with added fees involved.

In response, Mr. Sitko stated that the Commission reached out to the property owners and two members of the Commission live on Cornwall Avenue. No one wants to take advantage of the property owners in the districts. If the Council wishes to review and amend the fees, a meeting can be arranged with the Commission to discuss the issues.

Mr. Adinolfi said he has no problems with the proposed fee schedule, and considers it reasonable. He said people with concerns would have provided negative feedback.

According to Mr. Sitko the Commission wanted to take care of concerns up front, and there may be concerns stated at the public hearing. The Commission unanimously approved the new fee structure, and it must be adopted by the Council as an ordinance.
MOTION by Mr. Adinolfi; seconded by Mr. Sima.

MOVED that the matter of the Historic District Commission fee schedule be forwarded to the Town Council for consideration.

Discussion
Mr. Sitko read an excerpt from Appendix C, page 21 of the Historic District Rules and Regulations into the record.

Mr. Sitko informed the committee that the $25 fee was an interim fee, and the Town Attorney recommended that the fee schedule be adopted by the Town Council.

VOTE The motion passed 2-0-1; Giddings was recused.

Mr. Sitko commented on the fact that the Historic District Commission may request the Council reconsider the demolition delay ordinance through the Ordinance Review Committee. He noted that the prior committee did not like the ordinance proposed, and the Commission would like to have it revisited by the new committee.

12. ADJOURNMENT

MOTION by Mr. Sima; seconded by Mr. Adinolfi.

MOVED to adjourn the meeting at 10:30 p.m.

VOTE The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk