1. ROLL CALL
Roll was called and a quorum was determined to be present.

2. PLEDGE OF ALLEGIANCE
The group Pledged Allegiance to the Flag.

3. HISTORIC DISTRICT ORDINANCE
Ms. Giddings stated that this ordinance matter is on the agenda because people in the historic district have concerns regarding the district and the commission. A meeting was held by the Historic District Commission with many property owners present expressing their concerns along with written remarks. As a result the commission is taking steps to alleviate some of the concerns.

According to Ms. Giddings there is a problem with the Ordinance, Section 2-83 because in the list of properties, 22 Pine Terrace is included, and must be removed.

Jeanne Chesanow, Chair, Historic District Commission, reported that at the last commission meeting there was talk about what is a “public way” and the town attorney was doing some research on this. In Connecticut there is no definition of “public way” and there is no case law about this, nor does the statute define it. The commission included all the language from the statute in their regulations. In several of the statutes public way is defined or left silent.

Attorney Glovach informed the committee that it is within the authority of the Historic District Commission to develop a reasonable definition of “public way.”

Ms. Chesanow said there are several streets in the district that would be a public way. For the sake of the commission, she said the names of the streets could be identified for a public way.

Attorney Glovach said this would leave out driveways which was a concern for the property owners.

Ms. Giddings stated that when something is not defined in the statute it is up to the local authority to determine how this is defined.
In that regard, Attorney Glovach said the process involves looking at the statute. There are no definitions or court cases for the words “public street”, “public way” or “public place” within the Historic District statute, but there is identification in other statutes. An alternative for the commission is to identify public way as limited to the following locales (streets), identifying “public view limited to the following locales” and to do this the ordinance would have to be amended.

Since it is not envisioned there will be any new roads in the South Brooksvale or center of Town, Mrs. Giddings said that naming the streets would be very specific.

Mr. Slocum asked about the exception of Church Drive which is not a Town road but maintained by the Town.

Mrs. Giddings said there is no exception for Church Drive.

Mr. Sitko noted that Church Drive is privately owned by Town maintained.

The question is what did the legislature mean, and Attorney Glovach said if they meant to say your can regulate only that which is seen from a place “owned by the public”…that is one thing. They might have meant to say the middle ground, privately owned land, used by the public with possibly some public funds expended. Her inclination is “public” in the manner of publicly owned or controlled, and there could be a public easement over private property. Attorney Glovach cited an example of a house owned at the edge of the historic district, saying she should know what is expected of her, how she is being regulated without regard to what a neighbor does. This obligation should be clear from the regulations and the ordinance.

Mrs. Giddings stated that listing the names of the streets would be the right way to go.

Mr. Sima said that if the ordinance names roads as public ways this would only come into question by residents of the historic district who thinks something should fall under the purview of being in the public way. They would have an uphill fight to challenge the ordinance of the Town. The historic district takes orders from the State and ordinances in the Town. The view is established and to change it would be a large undertaking.

In the enabling legislation for historic district commissions Attorney Glovach said there is a provision that permits the municipality’s legislative body to enact amendments to the ordinances, provided district boundaries are not changed or there is creation of new districts. This means the Town could say, in the ordinance, that there would only be regulation from public streets (identified). There could be legislation from less than what the legislature said.
Regarding Mr. Sima’s comment, Attorney Glovach said that the statute states that if the Town wants to enact such amendments, they must be submitted to the commission. The commission can hold a public hearing for the district residents and provide feedback. The commission cannot squash any Town Council amendments to the ordinance. The ultimate authority for defining jurisdiction lies with the Town Council.

The Council would have to hold a public hearing and Mrs. Giddings said the residents would provide input on their specific concerns. In naming streets in the district it must be specific.

People in the district have talked about windows, materials used, etc. and Mr. Sima asked about Section 7-147d “Certificate of Appropriateness” and if everything falls into the review.

In response, Ms. Chesanow said the commission can make changes to the regulations with some projects that would have to be reviewed at the certificate level. Not all work done by the property owners needs to be reviewed at this level. The commission has reviewed work which an owner can do without any commission review. A document was submitted to the committee on work which does not require a review and those which require a review by one staff member and one commissioner. This will make the process less onerous. When you have people upset about the process being too onerous, the commission responded. The commission must review large projects such as additions to a house. There have been many exceptions for some projects.

Mr. Adinolfi considers the submission of the work document by the commission as a step in the right direction. He asked if the list would be maintained, or added to in the future.

In reply, Ms. Chesano said someone may call about a project, and the list is not written in stone.

Mr. Sitko commented on final approval of this document, noting it would be sent to the property owners for input on the contents of the list.

This is also a slippery slope and Mr. Adinolfi questioned where we draw the line. At every commission there could be someone wanting to add something to the exemption list, and the process must be considered, i.e. does 2/3 of the commission have to agree to what is being added.

Some of the items may already be in the commission regulations and Attorney Glovach said the list should be made part of the regulations.

This list of items would be a guideline or advisory for the commission and Ms. Chesano said they are written for the people who own houses in the district.
The guidelines can be changed or amended quarterly and they are not binding. This also provides a record of work for future owners of historic district property.

Mr. Slocum asked if this is within the building permit process, and if this is in connection with the view from the designated streets being discussed.

Mrs. Giddings said this is regardless of whether it is visible from a public way or not, and this is a list of things which could be done by a property owner without coming before the commission.

In looking at the list, Mr. Sima recommended that “walls” be more specific and “satellite dish larger than 14”. For the minor changes for review, he asked who the staff member and commissioner would be…this should be clarified. He asked if all of this has anything to do with the ordinance change.

Ms. Chesanow said it could be stated to be Mr. Sitko as staff member, and the chair or vice chair as the commission member.

The committee was informed by Attorney Glovach that she does not think the regulations talk about steps for a certificate of appropriateness. This list is qualifying what is required, and does not require an ordinance change.

Mr. Sima stated that all of this needs to be vetted by the historic district residents for suggestions and this information should be given to them over the next few months.

With regard to the property listed in the ordinance but not in the historic district, Mr. Sima asked how this property can be removed and if a public hearing is required to clear this up.

Because it is in the ordinance, Attorney Glovach said it cannot be removed without an amendment to the ordinance, including a public hearing and notice. The Council is saying there was an error in the ordinance with inclusion of an incorrect property.

Mr. Sima commented on the historic district remaining contiguous and one new home is included in order to keep the district continuous on one side of the street. He asked if this was true.

The historic district map was reviewed by those present, and 22 Pine Terrace was pointed out as the home listed in the ordinance, and it should be removed. The boundary of the district was pointed out; there is no property on the north side of the street; and the 50 ft. frontage was included along with #11 property. Mrs. Giddings asked if this property can be removed because it is a non-contributing property.
In the ordinance, Mrs. Giddings said there is nothing about contributing property and non-contributing property and something could be included a different standard set for those.

PUBLIC
Paul Johnstown, 152 Cornwall Avenue, commented on revising the ordinance, and addressed the issues and concerns of the homeowners in the historic district and the way the district has progressed to this point. It would be incumbent on the property owners to come up with saying they want the district to go away, and on the Town to say it wants to change this ordinance but still have the district. If the ordinance is to be changed we must go back and carefully assess whether or not we want to perpetuate what has been established, and give members the opportunity to say it is not working.

Ms. Giddings said this could be considered. But, she thinks the basic operating procedure discussed was to see whether changes could be made to the ordinance to be more palatable and meet the concerns of the property owners. She has heard the comments of property owners. The Council and commission are working to make the district more accommodating for the property owners.

Regarding the Pine Terrace property, Mr. Johnstown said it may well fall under the purview of the historic district because it is more than 50 years old. The Taylor property is not historic and should be excluded. The boundaries could be changed to exclude the Taylor house.

There is another property between #12 and #13 which is not included in the district and Mrs. Giddings said not every historic property that could have been included was included. Given the fact that the district is established, any changes to the boundaries must come from the commission. The question is #11 being excluded, and recognition of contributing and non-contributing properties, allowing the commission to provide for different treatment for them.

Mr. Sima noted that the statute speaks to expanding or adding to the district, but not elimination of the historic district, and asked if this has ever been done. This question has been raised many times, and he wonders what would happen. The formation of the district went through a big process, and it may not be as easy as changing the ordinance to remove the district.

With respect to the question on the table, Attorney Glovach said that the statute does not speak to dissolution of an historic district. She will review this further and get back to the Council. There are some case notes about dissolution of an historic district in the same manner as it was formed.

Mr. Adinolfi commented on the fact that the vote on the district was taken by residents, and dissolution of the district would, more than likely, have to go to a
vote of the residents involved. He questioned the Council just deciding on an ordinance change for dissolution.

Attorney Glovach must research this further, and advised that everything that it took to create the historic district must be done in reverse to uncreate it.

Mr. Johnstown reported that dissolution of a district has not been done in Connecticut, and there are no regulations around it. Something has come out on opinions on how the process should go from the Connecticut Commission Culture and Tourism. To repeal a district the ordinance must be repealed. This is under the jurisdiction of the Town Council. The issue does not have to be studied. And, the sentiment is to repeal the district.

In listening to Mr. Johnstown’s comments, Mr. Sima asked if he is hearing there is no fix for the historic district, or remedy to get it back on track.

Mr. Johnstown gave his opinion…that the historic district was created with good intentions, and has reached the point where the majority of the people do not want to be regulated in this manner. In his personal opinion, Mr. Johnstown said the Town of Cheshire is not ready to have an historic district. It has one resident of the district on the commission board; has trouble getting five appointed members to a meeting; it cannot fill a quorum to pass anything (3 yes votes to pass anything) without alternates showing up. The people on the commission have been working hard, under the perspective of how much they can bring under their control, as opposed to working with residents to make this as light as possible. The rules and regulations were established 1 ½ years after the passage of the historic district ordinance. Residents had no idea of the tons of rules and regulations ahead of time which would go in, and all they had were verbal assurances which are not being followed by the commission. There is no trust, and it is inappropriate to continue the process of building on this bad foundation. It is better to go back to the beginning, acknowledge the value of these properties, re-work how things are being done. When this district passed it was the 3rd time, and it was through persuasion. This persuasion no longer persuades him that the Historic District Commission should continue, and others feel the same way.

Mr. Johnstown wants to understand how the Council will proceed going forward, and the Council must understand the things which property owners have been going through.

The State statute does provide the commission to have 5 members and 3 alternates, and Mrs. Giddings said the alternates are included because it may be necessary to have people attend meetings, and not vote at each meeting. At the present time there are 4 commissioners and 2 alternates at the present time.
In five years, Ms. Chesanow said there was only one time when there was no quorum present. The commission meets twice a month to accommodate residents.

Mrs. Giddings stated that the ordinance is clearly designed and references the statute in terms of power and duties and mentions a few specifics in terms of ways to operate. It also indicates that the commission has to adopt its regulations, subject to a public hearing, and a vote of 3 members is required. There is not much in the ordinance which spells out specificity, and it relies heavily on the statute, and this is where the regulations come from. It makes sense to define “public way” by listing specific streets and add something about contributing and non-contributing properties in the district. One property listed must be removed, with one other property exempted from the regulations.

Attorney Glovach summarized the four items for her review and advice. #1 removing 22 Pine Terrace from the historic district and how to get it out of the ordinance; #2, Taylor house, #11 on the map…can it be exempted or excluded; #3, recognition of contributing and non-contributing properties in the ordinance; and #4, how to dissolve an historic district.

In the ordinance, Mrs. Giddings asked about different regulations for the contributing and non-contributing properties…i.e. non-contributing properties would not be regulated by the commission.

Eric Anderson, commission member, commented on the non-contributing properties, and said to protect a street scape, this house is part of the street scape and will be regulated to prevent anything from diluting what is an historic street. But, it would not regulated in the same way as the contributing properties. This would all be covered in the regulations, and he is hearing a mistrust of the regulations and trust for an ordinance. Either way the regulations of a Town commission should stand as trust worthy as well as the ordinance.

It was added by Mrs. Giddings that in looking at the Cornwall Avenue map and Town Center historic district there are gaps along Route 10, around Town Hall, and Cornwall Avenue with excluded properties. In terms of a street scape effect this is already lost.

If the law allows the Taylor property to be excluded, Mr. Anderson said that would be great. His intent was that the district be 100% volunteer, and if the law permits exemptions, then the Taylor house should be out.

The process for the commission asking the historic district members about the list of items submitted was questioned by Mr. Sima. The Town Attorney has four items to research with a response to the Council, and he asked how long this would take.
Attorney Glovach said it would take about one month for her research and report.

The commission is having one more session to review the work list, and Ms. Chesanow said after that meeting, a mailing will be sent out to the property owners in the districts. Or, a meeting could be set up with invitations to them to attend, and one month should be the time line for all this to happen.

Mrs. Giddings thanked the Historic District Commissioners and property owners for coming to the meeting.

4. PRISON ADVISORY COMMITTEE/PUBLIC SAFETY COMMISSION POSSIBLE MERGER.

Lori Rusnack, Public Safety Commission member, was present for this agenda item.

Mrs. Giddings informed the group present that Police Chief Cruess presented his recommendation that the Prison Advisory Committee and Public Safety Commission merge with inclusion of the by-laws and responsibilities for each. There is a State statute which applies in that the Department of Correction (DOC) would establish a Public Safety Committee in each of the municipalities where a prison is located.

Ms. Rusnack noted that this applies to the Prison Advisory Board not the Public Safety Commission.

Attorney Glovach said that we must keep in mind the difference between the municipal body (committee or commission) and the State one (DOC). The question is whether there is a statute requiring a municipality to have a municipal prison advisory board and the answer is “no”. There is a State statute which requires the DOC to establish its committee in the municipality in which it has facilities. The Prison Advisory Committee was established in February 1992, and the State statute went into effect in July 1993. The question is whether the State has such a committee. Under this statute, the high level of representation on such a State commission requires the Warden or Superintendent and representatives appointed by the Chief of Police. There is no answer to this question.

In looking at minutes from a September 1, 2009 meeting, Attorney Glovach said it is listed as the Cheshire Prison Advisory Committee…a municipal committee…and Cheshire Prison Public Safety Committee. The attendees included 3 people appointed by the Town, and wardens of the prisons.

Mr. Zullo informed the committee that the Police Chief wanted one local commission, with the second committee on the State level. There has never been a State committee in Cheshire. If there was a State committee, the Chief would not have to staff it with an officer, and there would be no posting of
meetings and minutes. The concern is whether there are enough people to serve on two committees and this is why the Chief wanted to consolidate.

Mr. Sima has been in contact with the Chairman of the Prison Advisory Committee, and this committee is fully engaged and want to become involved again. The former chair of the Prison Advisory Committee has left Cheshire after a long time and there was a breakup of this committee. This committee was established when there were many breakouts from the prison facilities and insecurity in the prisons. This committee is not dysfunctional and wants to stay and meet quarterly as a group. Regarding staffing, there must be someone from the Town to attend meetings.

At the present time the Chief sends an officer to these committee meetings.

Mrs. Giddings read the membership from the ordinance. Five regular members of the committee; Chairman of the Council or representative; Town Manager or representative; Chief of Police or designated representative...ex-officio members of the committee without vote. There are 5 members and 3 ex-officio members. The way the ordinance is written the police are supposed to send a representative. The Chief had a concern about sending an officer, paying overtime, and then the committee does not meet.

Mr. Sima commented on the ordinance stating this is under the purview of the Town Manager to coordinate it or be staff to it. All other committees have the Town Manager being responsible that these committees meet, have a quorum, or make sure they meet on a routine basis. If they are not meeting, we should not be blaming the committee, but pointing fingers to staff, for making sure this committee is not falling apart, and if it is, why is it falling apart.

In the Chief’s initial memo of September 2009, Mr. Zullo said this is when the dysfunction started to happen because the previous chairman had become inactive and resigned. She was the original chairman from 1992 and was active in prison issues prior to that time, and was the impetus towards the Prison Advisory Committee being formed locally.

Mrs. Giddings said the other problem is if appointees by the town committees and approved by the Council are not people willing to commit, this ties the hands of staff. She understands that the appointees are willing to serve.

Mr. Adinolfi said the question is whether we continue our Prison Advisory Committee or shift responsibility to the State with representatives willing to serve.

There are three options, and Attorney Glovach stated them for the committee. Do nothing; dissolve the Prison Advisory Committee with a public hearing because the ordinance will be changed, and roll its responsibilities at the same time into the Public Safety Commission; or dissolve the Advisory and ask the
DOC where there committee is because Cheshire has people ready to serve as representatives.

The duties and responsibilities of the Prison Advisory Committee were raised by Mr. Slocum, and he said there may be a good case to latch onto the State commission.

Ms. Rusnack said she has no first hand experience with the advisory committee, knows its history, but does not know their current responsibilities. She advised that the Public Safety Commission has its own charger, and has nothing to do with prisons. At its last meeting the commission wanted to know what duties and responsibilities would be coming to them, what changes would occur, and what happens to the current members. The commission does not know anything about State options. Ms. Rusnack said she is present to collect information and bring it back to the next commission meeting.

By going to the State level for the Prison Advisory Committee, Mr. Zullo said nothing changes for the Public Safety Commission.

Mrs. Giddings said that with option #2, it requires re-writing two ordinances and a change for the Public Safety Commission. Option #3 requires changing the prison Advisory Committee and its elimination. Public Safety Commission would not get any extra responsibility with option #3.

Under #2, Attorney Glovach said the Prison Advisory Committee responsibilities would be rolled into the Public Safety Commission. The Council would be looking at the existing responsibilities of the advisory committee as they exist in the statute, and some or all would go over to the Public Safety Commission.

Mr. Sima informed the committee that the Prison Advisory Committee was formed in 1992 due to the uneasiness of neighbors in the prison neighborhood. They received concessions from the warden; the warden made a lot of changes; and the committee was a strong group at a time when it was needed. His concern is that with dissolution of this committee and something else were to happen in the prison neighborhood, we do not have this vehicle in place to push as hard as necessary. The Town formed the group and told the warden what to do, and we do not want to lose this control.

Attorney Glovach questioned what would happen if the warden did not come to the local advisory committee meetings anymore.

In the legislation, Mr. Sima said it reads the DOC shall, not should, create a Public Safety Committee in each municipality where there is a prison facility. If the warden has not created one in Cheshire he is, obviously, using the Town’s committee, and he is in violation of the State statute.
With the turnover in wardens at the prison, Mr. Zullo said the current wardens may not even be aware of this statute.

Attorney Glovach noted that the timing is interesting, and she wonders about what happened with formation of the Town’s committee in 1992. She wonders about the genesis of the State statute…and if Cheshire got that legislation passed.

In 1993 or 1994 the Cheshire warden may have stated that he went to a meeting in Cheshire on a quarterly basis, and Mr. Zullo said this would have covered his requirement under the statute.

Mr. Adinolfi said that even with moving the advisory committee duties to the Public Safety Commission, the Town would still have the leverage and still have the responsibility. At the quarterly meetings, there could be an agenda item. He is in favor of making the responsibility on the State level. The advisory group was founded because of a problem, and it is not there now. He said the crying need for the Prison Advisory group is gone. We need to have some vigilance on this so there is no recurring problem, and there is a way through it without maintaining the multiple groups.

If we go down the path of disbanding the Prison Advisory Committee, Mr. Adinolfi said we need a strong assurance from the State that they will do something in place of it, or the Public Safety Commission absorbs these responsibilities.

Ms. Rusnack said that the Public Safety Commission is advisory to the Council and takes on responsibilities it is asked to assume. She cannot respond to whether the commission would take on more duties. The commission needs to know more and what changes, if any, mean to them. Ms. Rusnack advised that the Public Safety Commission pays for the overtime for the police officer at their meetings.

Under Section pages CED 2-41 and 42, Mrs. Giddings said there is a list of the responsibilities of the Prison Advisory Committee, and 7 items are listed.

Ms. Rusnack said that the Public Safety Commission is also concerned about the appointees from the Prison Advisory Committee coming to the commission.

According to Mr. Zullo it had not been decided if the commission would be a 7 or 9 or 11 member commission.

Mrs. Giddings said there is no reason to change the size of the Public Safety Commission unless there is too much work to be undertaken.
Council Chairman Slocum will contact the warden about the State statute on prison advisory committees and inquire whether there is some committee we do not know about.

Mrs. Giddings asked that Mr. Slocum find out about the warden’s willingness to follow the State statute in terms of establishing such a committee in Cheshire. The warden can be informed that Cheshire does have volunteers willing to serve as they are staffing the local committee now.

Mr. Zullo noted that the Prison Advisory Committee has not filed minutes in a long time.

A section of the State statute was read by Mrs. Giddings which states…the committee shall submit a report to the chairperson and ranking members of the standing committees of the General Assembly. If the committee has met, and not had a quorum or minutes posted, this does not mean that the warden is not sending in a report. Technically, he does not have to have a quorum according to the statute.

Mr. Zullo noted that the State committee does not exist because there is no record of anyone being appointed to this committee.

Mrs. Giddings said that the warden could be using the local committee even if the local committee had trouble finding a quorum.

We are talking about 5 members of the community who are members of the local prison advisory committee, and Mr. Slocum asked if the town would have 3 people on the State committee.

It is not specified, and Mrs. Giddings noted it just says “representatives appointed by the chief elected official in a municipality”.

Attorney Glovach said that committee would still have to satisfy minority representation. We know there is the warden or superintendent on the committee, and the rest of the membership is appointed by the chief elected officer of the municipality.

Mr. Adinolfi questioned whether other municipalities, with prisons, have a prison advisory committee and what their membership would be.

According to Mr. Zullo, the Town of Mansfield has the State version of a prison advisory commission.
For quarterly meetings, Mr. Sima said we are talking about Town staff going 4 times a year to one or two hour meeting. This is 8 hours of staff time.

Mr. Zullo stated that Chief Cruess first brought this up in September 2009. We are talking overtime of about $40 per hour x 4 hour minimum for a police officer (liaison) or $160 for each meetings, or about $600. Our local committee meets quarterly. After the chairperson left town, no one wanted to take over the committee responsibilities of developing the agenda, sending out meeting notices, bringing the minutes to be filed in the Town Clerk’s office. The information coming to Town Hall from the prison(s) is the head count each month.

It is not just dollars and cents, and Mr. Adinolfi said that the responsibility is on the DOC to protect the town and they must recognize their role, with the Town have a lesser burden.

More information is needed and Mrs. Giddings said this will be forthcoming after Mr. Slocum contacts the warden. She asked Mr. Zullo to find out what other prison towns are doing and advise the committee.

Mr. Sima asked if other prison towns received the emergency beepers.

These are no longer used and Mr. Zullo said people have turned them in, and there is a process in place to accept them at the police department.

Mr. Slocum noted that Cheshire now has the code red program for emergency situations.

5.     ADJOURNMENT

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

MOVED to adjourn at 9:20 p.m.

VOTE The motion passed unanimously by those present.

Attest:

_________________________________________
Marilyn W. Milton, Clerk