MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW
COMMITTEE MEETING HELD ON MONDAY, AUGUST 9, 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 Andy Falvey.  
Staff: Louis Zullo, Personnel Director; Patti Lynn Ryan, Finance Director; Police
Chief Michael Cruess; Gerald Sitko, Economic Development Coordinator. 
Guest: Attorney Lana Glovach, Town Attorney.

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.

Agenda Item #6 was moved to current status on the agenda.

6. RECONFIRMATION OF BENEFIT PLANS AND OPEB AMENDMENTS
FOR PENSION ORDINANCE.

Ms. Ryan informed the committee that some of the CRRA money is to be put into
an OPEB trust. Under the direction of the Town Attorney’s office a draft
ordinance was prepared for the Council to accept the ordinance in order to
transfer the money into the trust.

According to Attorney Glovach, the State statutes require a trust to be
established by ordinance. There is also a reconfirming ordinance which outlines
all the plan benefits.

Mr. Sima had a question about starting something like this and then removing it,
and the difficulties which might be involved. He does not want to create
something which locks in the Town, but knows something must be done with this
money.

Ms. Ryan explained that the Council can repeal an ordinance and not fund the
trust.

Attorney Glovach said the last sentence of the trust agreement can be modified,
and the Council has the right to terminate the trust agreement and repeal the
ordinance.

In response to a question from Mr. Sima about who will manage the OPEB, Ms.
Ryan advised that it will be managed by the Retirement Board which now
manages $52 million of pension funds. This new trust is about $500,000. The financial officers are also managing the trust without charge to the Town.

The committee was informed by Mr. Zullo that the Council must hold a public hearing on this matter, and then it will be on the Council agenda for September.

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

MOVED that the OPEB trust ordinance as approved on June 1, 2010 be moved to the full Town Council for consideration.

VOTE The motion passed unanimously by those present.

Ms. Ryan discussed the complete list of Pension, Retirement and OPEB Plans which must be approved by the Council. There are eight (8) listed with plan name, effective date, and amendment dates.

In item #8, Attorney Glovach noted this must be amended to read “Cheshire Board of Education 403(b) Plan.”

This ordinance reconfirms all the plans in place with no changes to any of the plans. Ms. Ryan said the ordinance is the master list of all plans which the Town Attorney has reviewed with a change to #8.

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

MOVED that the Pension, Retirement and OPEB Plan List, with amended item #8, be moved to the full Town Council for consideration.

VOTE The motion passed unanimously by those present.

Agenda item #5 was moved to current status on the agenda.

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

Chief Cruess informed the committee that a memo was sent on September 9, 2009 from him to Town Manager Milone on possibly merging the Public Safety Commission and Prison Advisory Committee.

At the present time there is one vacancy on the Prison Advisory Committee; the committee has not met since January 2009; there is a problem in getting a quorum to conduct a meeting; and the committee meets quarterly, not monthly. It is the recommendation of Chief Cruess that this committee be “merged” with the Public Safety Commission and be invited, quarterly, to attend a commission meeting and address issues of the prison complex in Cheshire. In this way the
police department would be liaison to only one commission, and members of the committee could be folded into the commission membership. The members of the Public Safety Commission are aware of this possible merger of the two groups, but the Prison Advisory Committee members are unaware of it.

With regard to the membership of the two groups, Chief Cruess said that the Prison Advisory Committee was originally comprised of people living in and around the prison area, but now some members live outside this area. There were some serious issues with the prison and this group was formed to apprise everyone of what was happening at the prison, incidents or concern, escapes, the firing range issues, etc. Now, two units at the prison site are closed and the work of the committee is greatly reduced. In the past the neighborhood had a phone tree, and then pagers. There are no more pagers.

Mrs. Giddings said that prison safety issues could be part of the change for the Public Safety Commission.

There was a discussion on how to go about informing everyone involved of this possible merger. It was decided that a letter would go to the members of the Prison Advisory Committee and Public Safety Commission, and the letter would be drafted by Mr. Zullo and Mrs. Giddings.

Mr. Zullo stated that the new commission could have seven (7) members, but this is a decision of the Council.

In the Town Charter there is information about establishing and abolishing committees and commissions, and Attorney Glovach recommended that the Prison Advisory Committee be dissolved, by ordinance. And, by ordinance, all the duties and responsibilities could be moved to the Public Safety Commission. There must be compliance with minority membership rules.

With these two groups, Chief Cruess said there is payment involved of four (4) hours for an officer to attend the meetings, and a clerk to record minutes.

Mr. Zullo will review the meeting record of the Prison Advisory Committee and inform the Council of his findings. He and Mrs. Giddings will work on the drafting of the letter to members of both groups regarding the merger, and the letter will come from the Ordinance Review Committee Chair.

Attorney Glovach said her office will not draft an ordinance until information is submitted to them on the status of this matter.

The committee asked Mr. Falvey, liaison to the Public Safety Commission, to inform the members of the proposal to merge the two groups.
3. PUBLIC BUILDING COMMISSION ORDINANCE REVISION

Attorney Glovach explained that this related to the appointment of additional people, user members for projects, to the PBC.

At the last Ordinance Review Committee meeting there was discussion about forming a study group to include a Town Council Member, Mrs. Giddings as Chair of the ORC, Town Attorney’s office representative, and PW Director Michaelangelo.

There are two issues and Attorney Glovach said they are revision of the ordinance related to the user members of the PBC for a project, and the Charter provision which prohibits a person from serving on two or more boards at the same time. These should be addressed by ordinance revisions. Since there are other ordinances dealing with the PBC, the idea was for Chairman Slocum to form a study group to discuss the issues and develop recommendations to the PBC and the Council. With formation of the group and expeditious work on their part, the Town Attorney’s office will hold off on drafting ordinances until the study group’s work is completed. Ms. Glovach stated that the Council, by Charter, has the authority to create temporary study groups.

Mrs. Giddings said she would rather see all the amendments to ordinances done at one time and at one public hearing.

Stating it is a good idea about forming the study group, Council Chairman Slocum said he would put this matter on the agenda of the upcoming Council meeting.

4. REVIEW OF SOLID WASTE ORDINANCE

This ordinance (Section 7-1 to 7-13) must be changed in order to set up the Town of Cheshire working with Covanta, instead of CRRA. Mr. Zullo said the ordinance refers to CRRA. He met with Attorney Smith and PW Director Michaelangelo to review the proposed changes to the ordinance to make it consistent with the new plant operator.

The original ordinance was passed in 1990, and Ms. Glovach said there have been changes in applicable law since that time, and Attorney Smith is trying to bring the ordinance to current law and situation. The ordinance is fairly extensive. It refers to the municipal contract dated November 22, 1985, and this has no applicability. The ordinance must be brought to current law, including recycling laws, environmental laws, definitions, state and federal laws.

Attorney Smith will submit the draft of the new ordinance to Mr. Michaelangelo. Town staff will review it and work on it, and the matter will be referred back to the ORC in the new future.
7. HISTORIC DISTRICT FEES
Ms. Chesanow, Historic District Chair and Mr. Sitko were presented for this agenda item.

This matter came to the Council in March 2010, and one person from the Congregational Church spoke in opposition to the adjustment in fees with an ordinance amendment. Mrs. Giddings said this matter has been considered by past committees.

Mr. Sima commented on the fact that the Council had the numbers for this amendment proposal, and there were people with concerns about these fees and other things going on within the Historic District. This is the reason why the matter on the fees was pulled back, along with the long time frame involved for getting projects done in the district. Certain projects failed under the Historic District Commission’s purview, others got done, and there has been inconsistency.

Mrs. Giddings received a petition signed by 50% of the property owners in the historic district, and gave it to Chairman Slocum. She did note that the petition was not relevant to the fee structure except that some people had concerns with building permits and fees.

The committee was informed by Mr. Adinolfi that he has not received communication from any resident of the historic district specific to fees. He did question the fee structure in comparison to other towns, i.e. if they were higher or lower, or comparable.

Council Chairman Slocum read the petition statement into the record.

According to Ms. Chesanow the historic district passed by 77% in the Town Center and 90% in the South Brooksvale area. There is a total of 57 properties in the historic districts.

Since the Council has received the communication from the property owners in the historic district, Mr. Slocum said he would refer this matter back to the ORC for a meeting with the members of the Historic District Commission.

With people upset about what is going on in the districts, Mr. Sima said this fee issue should not be addressed, because it will irate the property owners and the historic districts could fall apart. His main concern is changing the fee structure now making people more upset and for the districts to go away.

Mr. Sitko agreed with Mr. Sima’s comments, and suggested that things be kept simple. The commission charges $25 for an application, and 75% of the applications are granted with the fee being refunded. He suggested
establishment of a flat fee to cover the costs incurred for advertising, which runs between $40 and $60. The current fees do not cover these Town costs.

Mrs. Giddings said another issue raised by the Church and historic district residents is that the districts are not just beneficial to the property owners. The rationale for the historic district is to enhance public recognition, and understanding of the history of the Town. She stated that the person who contacted her wants to secede from the historic district.

Stating this is a significant matter, Mr. Adinolfi said it should be taken up by the Council. At this time we are focusing on the fees issue, but should hear about what is going on, and correct and preserve the historic districts.

Mr. Sima said we are throwing gas on the fire with the fee issue.

According to Attorney Glovach there is no ordinance which sets the fees by the Historic District Commission and this should be done. The fundamental question regarding fees for the Council is whether the Town wants to charge application fees for whatever dollar amount for applications submitted to the Commission. If the answer is “no” then nothing is done. If the answer is “yes” the fee must be decided – either a flat fee or sliding scale fee, and then the ordinance question comes into play. The Town can eat the costs of fees. At the same time while there are fees being charged, there is no ordinance establishing them. The Commission regulations state the fees will be established by the Council by ordinance.

Mr. Slocum said it seems like the issue is not the fees, but people dealing with the process of applications. He supports the historic districts and does not want to seem them gone.

In response to a question regarding the sense of the Commission, Ms. Chesanow said this all started with one property owner who had difficulty dealing with the Commission. There was disagreement on points regarding the application for a project. The State statute is incorporated into the Historic District regulations, whereby the Commission has 65 days to make a decision on an application. The Commission meets twice a month to accommodate property owners, and meets the 65 day time frame or less time. For some applications there are problems with information or with the drawings being incomplete and this takes up time. There is a 15 day time frame for a public hearing. Some applications are reviewed in one night and approved for minor work, maintenance or repairs without a fee. Other applications are received, a public hearing is set, and the vote is within the 65 day time frame.

Mr. Sima said he has received concerns from property owners in the historic districts, i.e. the process needed for someone to replace one board on his house.
Mrs. Giddings has heard concerns and comments from members of the Congregational Church, which voted against the historic district, and the Church has a lot of work in the process to get things done.

The historic district is there, and it is good for the Town, but Mr. Sima does not want to throw gas on the fire, and an increase in fees would do just that.

Setting a fixed fee is fine with the Commission and Ms. Chesanow said the proposal was in line with what is charged by other towns. She said a letter was sent out asking people to come to a meeting, or call or write to a Commission member regarding issues of concern. No one called, no one wrote, and no one came to a meeting.

When there is an ad costing $30 to $60, Mr. Sima said it could be for multiple actions of the Commission.

Mrs. Giddings commented on district residents stating that the Commission is inconsistent in its decisions.

It is important to sit down with the people who signed the petition and get their perspective, and Ms. Chesanow said this will be done. She noted that if work is minor on an application the fee is refunded.

Mr. Sima wants to know the exact costs of the Town to get things publicly noticed.

Ms. Chesanow advised that 12 properties have come before the Commission in the last year for review of the projects.

With regard to leaving the fees as they are now, Attorney Glovach said if the fee is zero dollars then an ordinance is not required, and a public hearing is not required.

Mr. Sima noted that the choices are “zero or $50-$60”.

Now that this issue about the fees is public knowledge…that there is no ordinance setting these fees, Mr. Adinolfi said people will be aware of this fact.

Nothing has been done to change the activity of the Historic District Commission and Mr. Slocum said it would be beneficial for the Commission to talk to the members of the districts.

Mr. Sitko suggested leaving the matter alone for now, considering what is going on out there, and things should settle down.
Chairman Slocum said the Council would hear the petition from the property owners at the August 10th meeting, and there could be a meeting of the Council and the Commission.

The Ordinance Review Committee decided to take no action on this matter at this meeting.

8. FIREFIGHTERS TAX ABATEMENT ORDINANCE EXTENSION
This program is in effect until December 2009 or automatically repealed. The ORC is being asked to request an extension of this ordinance. Mr. Zullo said the ordinance was originally passed in 2001; has been extended three times; and the last extension was to December 2009.

Mr. Sima said the reason for only a one year extension last year was due to budgetary concerns of the Council.

Mr. Zullo advised that the original intention of the ordinance was for retention and recruitment of fire fighters, and the program is successful.

Attorney Glovach explained that with this extension we are talking about the grand list of October 2009, taxes due July 2001 and January 2012. She suggested doing the extension by a year. Section “(h) (3)” should be deleted, and a new Section I should be included to state “The expiration date of this ordinance is….” Section 7-12 should state “The ordinance is in effect for taxes due for Grand List October 1, 2010 through October 1 ____” This would make the ordinance more clear.

The first time frame for this ordinance was set to see if it worked, and Mr. Zullo said the Council can repeal it at any time. With this ordinance the Council wanted to have the ability to review it to determine its success. This is the 4th time the ordinance has come before the ORC. To be eligible for the abatement, a fire fighter must collect points annually, January through December, and these points will affect the tax bills. Mr. Zullo said the ordinance must be approved by the Fall for the next year’s grand list.

The committee members discussed the time frame for the extension of this ordinance, and decided it would be a one year extension, and be reviewed again by the Council next year.

Mr. Zullo advised there would have to be a public hearing on this ordinance amendment.

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

MOVED that the Firefighters Tax Abatement Ordinance extension be forwarded to the full Town Council to set a public hearing.
VOTE The motion passed unanimously by those present.

9. ADJOURNMENT

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

MOVED to adjourn the meeting at 9:00 p.m.

VOTE The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk