

**MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW COMMITTEE
MEETING HELD ON THURSDAY, FEBRUARY 21, 2019 AT 7:00 P.M. IN ROOM 207,
TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Patti Flynn-Harris, Chairperson; Paul Bowman, David Veleber.

Staff: Sean Kimball, Town Manager; Arnett Talbot, Asst. Town Manager;

Al Smith, Town Attorney; Don Nolte, Engineering Operations Manager; Dan Bombero, Assistant Town Engineer.

Ms. Flynn-Harris opened the meeting at 7:02 p.m.

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. CT'S MS-4 ILLICIT DISCHARGE AND CONNECTIONS STORMWATER
ORDINANCE**

Mr. Nolte submitted a summary regarding the ordinance, and a copy is attached to these minutes.

Mr. Nolte explained the MS-4 program gives a general permit to Cheshire to operate, maintain and discharge town storm water into waters of the State. This permit was revamped and requires additional measures which municipalities must undertake to prevent and/or treat polluted runoff. This requires monitoring quality of water bodies with a phased-in timetable for adoption of new tasks.

The Town of Cheshire submitted a 2017 report to the State. The State has additional measures and Cheshire is in compliance and in front of other municipalities for the MS-4 program. Mr. Nolte cited Cheshire as being ahead regarding State requirements with GIS mapping of storm systems, catch basin cleaning, water quality monitoring of outfalls, complaint tracking and record keeping, working with Inland Wetlands Commission (IWW) and public education outreach.

According to Mr. Nolte, over the last 10 years, developers in Cheshire are following storm water management plans of the State.

The ordinance from the DEEP is a guideline for adoption. Some municipalities have changed this ordinance or used it as minimum standards or enhanced it.

Mr. Bowman cited his concerns about this affecting property rights, and a property owner not understanding the implications of this proposed ordinance. He has issues supporting the ordinance. Mr. Bowman noted this is an unfunded State mandate.

He supports clean water and raising the bar when possible, but he has more questions, and one question is where it starts and stops.

Town Manager Kimball reported that Cheshire submits an annual compliance report in April, and Cheshire is ahead of many municipalities, is proactive and reporting as required.

The committee members discussed the proposed ordinance, and stated there must be a public hearing on the matter.

Attorney Smith said it would be an informational meeting, with documents available to the public at the meeting.

The Town Council must be familiar with the proposed ordinance and Ms. Flynn-Harris asked about staff recommendations for altering or adding items to the ordinance for Cheshire. She commented on Cheshire being a large farming community, and needing guidance on this issue.

Mr. Nolte has met with Environmental Planner, Ms. Simone, on the issues involved, and Chesprocott attended a meeting on the matter. The MS-4 list of illicit discharge is in the summary report to the committee. #3 in the report cites the time limit to remove illicit discharge as 60 days or 180 days, and fines or penalties are authorized to recoup permittee's costs. IDDE Deadline was for legal authority enactment by July 1, 2018, and the town's date of anticipated adoption will be known prior to the April 1, 2109 compliance report.

Before the next ORC meeting, Attorney Smith will check on the leeway of the town, i.e. legal minimums, DEEP approval of the ordinance before it is effective, enactment, and other items.

Ms. Flynn-Harris asked that Attorney Smith check on towns that have already adopted this ordinance, reviewing and working with their model.

The committee was told by Mr. Bombero there are other things to be looked at...rules and recommendations, permit conditions, oils, sewage, etc.

Cheshire adopted the first Aquifer Protection Regulations in Connecticut, and many towns have looked at these regulations.

Mr. Veleber asked if the ordinance obligates the town to do what is now being done.

In response, Mr. Nolte said with the ordinance there is less added burden, and illicit discharge enforcement can be enacted. Reports of illicit discharge come through inspections and people seeing discharge and reporting it.

Proposed Ordinance, page 4, 3.0 – Mr. Veleber read this section into the record. It cites \$33,000 additional funding to meet the MS-4 requirements. He questioned the budget implications of the MS-4 plan.

Mr. Nolte said the Public Works Department budget implication was just the expense of the Vactor, and the department will fund other problems.

Mr. Veleber asked about the next implementation phase and more costs to the town.

Once there is identification, Mr. Bowman presumes there will be priorities based on findings, and the Council will have to appropriate the funds.

The committee and staff discussed public properties including the Chapman Property. Mr. Nolte said there will be retrofitting as part of the Chapman project. Attorney Smith commented on the fact that this property has been around for a long time, with lots of contamination. DEEP has had push back from municipalities and CCM that caused DEEP to scale back its original plan. It should not be assumed that DEEP is done with imposing obligations and more stringent requirements.

Before the next ORC meeting, Attorney Smith will review the materials submitted. Mr. Nolte and Mr. Bombero will review and determine how the plan fits into Cheshire, and have discussions with Ms. Simone and other town staff.

Mr. Kimball advised that the Town of Simsbury adopted an ordinance last year, and he will put Cheshire staff in contact with Simsbury staff and get a copy of their ordinance.

Ms. Flynn-Harris stated this matter will require more than two (2) months, more discussions, and an informational public meeting so people know and understand what the town is dealing with and the impact.

In many aspects, Mr. Nolte said Cheshire is ahead of other towns, and in general compliance with State requirements.

There are concerns about what this will cost the town and residents, and Mr. Bowman said we must be careful given the economy of the State of Connecticut. He commented on more rules and regulations putting pressure on Connecticut businesses and residents.

4. POTENTIAL MERGER OF YOUTH SERVICES AND HUMAN SERVICES COMMITTEES

The committee was told by Ms. Talbot that the proposed ordinance was forwarded to Human Services Director Michelle Piccerillo and shared with her staff.

Attorney Smith said the ordinances for Youth Services and Human Services are similar and their missions are similar for combining into one committee.

Mr. Veleber, Council liaison to Youth Services Committee, advised that the merger has been discussed by the committee. They want assurances that the youth participation will not change, with dedicated spots for the high school and middle school students.

Ms. Talbot advised that the Youth Services and Human Services Committees each have seven (7) members. With the merger, these two committees will be disbanded. The new committee will have seven (7) new appointed members with staggering terms.

Once the new committee is formed, Ms. Flynn-Harris said they will select a chair and vice-chair, and develop new by-laws through a sub-committee. The new by-laws are sent to the Council for approval.

Page 3 (d) – Attorney Smith brought this section to the attention of the committee, and questioned its inclusion.

Ms. Talbot believes this had to do with elderly accessibility. Attorney Smith believes this is moot at this point in time. It will be removed from the proposed ordinance.

One of the problems for these committees has been members attending meetings, and Mr. Bowman asked about a policy regarding appointed officials not attending meetings and how this is handled.

The Council has a mechanism in place and Ms. Talbot said it is through the Town Charter.

In the by-laws, Ms. Flynn-Harris believes there could be a section on the number of un-excused absences, and how it would be handled.

Town Manager Kimball cited the Town Charter, Section 3-12(b) and read it into the record.

Mr. Veleber pointed out that “Town Council” should be cited the same throughout the ordinance.

The committee will wait for review of the proposed ordinance to merger the committees before approval and forwarding to the Town Council.

5. AGE RESTRICTIONS FOR SALE OF VAPING, E-CIGARETTES AND NICOTINE PRODUCTS.

Attorney Smith took new and recent definitions from State law and the Hartford CT ordinance on the vaping products and merged the information. The question for the committee is the licensing provision for the sale of tobacco in Cheshire, and the town can create a licensing program.

Mr. Bowman stated he would not support a licensing fee.

According to Mr. Kimball, licensing is not necessary, and there is no structure in place. He pointed out the ordinance is for vaping and increasing the age for tobacco products and vaping to 21 years old.

The committee discussed the "Licensing" issue. It was stated by Attorney Smith that Hartford and Southington have passed ordinances, without inclusion of licensing.

Ms. Flynn-Harris stated all "licensing" language should be removed from the proposed ordinance. "Signage" will still be part of the ordinance.

Enforcement (a) – Mr. Kimball recommends that the enforcement action should be through the "Town Manager or his designee".

Mr. Bowman suggested that Chesprocott Health District be involved as much as possible as an enforcement agency.

Mr. Kimball will reach out to Chesprocott Director Maura Esposito on the enforcement section of the ordinance with Chesprocott involvement. He will advise the committee of the outcome of discussions.

Ms. Flynn-Harris raised the issue of the "Building Permit Fee" ordinance which was tabled by the Council at the February 13th meeting, but not forwarded back to the ORC. She suggested giving the Town Attorney some preferred language to make the ordinance work. If the majority of the committee does not want this matter to go forward, Ms. Flynn-Harris asked that she be so informed.

Mr. Bowman said the more thinking about this ordinance, the more things come up to be addressed and thought out. He sent the Town Manager his thoughts on this matter. We must find grounds to address the situation and concerns, and Mr. Bowman said there should be final discussion at the Council level.

6. ADJOURNMENT

MOTION by Mr. Veleber; seconded by Mr. Bowman.

MOVED to adjourn the meeting at 8:00 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk