

POLICY COMMITTEE MEETING

January 16, 2014

3:00 p.m.

County Government Center, Building D

1.) Roll Call

Present

Ms. Robin Bledsoe
Mr. Rich Krapf
Mr. Al Woods
Mr. Tim O'Connor

Staff Present

Mr. Jason Purse
Mr. Scott Whyte
Mr. Chris Johnson
Ms. Beth Klapper

Ms. Robin Bledsoe called the meeting to order at 3:00 p.m.

Ms. Bledsoe welcomed the citizens who were in attendance to participate in the discussion.

Ms. Bledsoe stated that the purpose of the meeting was to learn more about urban chicken keeping and receive input from the community.

2.) Minutes

- a. December 2, 2013
- b. December 3, 2013
- c. December 5, 2013

Mr. Al Woods moved to approve the minutes.

In a unanimous voice vote the minutes were approved as submitted (4-0).

3.) Old Business

Case No. Z0-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County

Mr. Scott Whyte, Planner, stated that in early 2013, the concept of creating a chicken keeping ordinance was considered by the Policy Committee; however, the Board of Supervisors ultimately chose not pursue the creation of a chicken keeping ordinance at that time. At its December 11, 2013 meeting, the Board of Supervisors approved an initiating resolution and requested that staff revisit the creation of a residential chicken keeping ordinance that would define policy and specify development standards within the Zoning Ordinance.

Mr. Whyte further stated that currently, chicken keeping is permitted by-right in A-1, General Agricultural, R-6, Low Density Residential, and R-8, Rural Residential zoning districts. Mr. Whyte noted that this accounts for approximately 49% of the County.

Mr. Whyte stated that as a precursor to any ordinance changes, staff has (1) engaged interested citizens, HOAs and other key stakeholder groups. Mr. Whyte stated that a survey has been available on the County's website from December through January 13 which sought to gather opinions on chicken keeping in residential areas. Mr. Whyte noted that 600 responses had been

received and tabulated. Mr. Whyte stated that the results will be used to help determine how the Zoning Ordinance should be amended to allow for the keeping of chickens on residentially zoned property in the County.

Mr. Whyte further stated that Staff reviewed ordinances from several localities in the area that allow chickens in residential areas. Many have limits on the number of birds, as well as regulations for the construction of the coops and pens. Most restrict roosters, and some require setbacks for coops as well as a permitting process.

Mr. Whyte stated that the purpose of this committee meeting will be to gather input from interested citizens, answer questions about other jurisdictions' regulations, and use the survey results to determine the initial direction and next steps for staff to take concerning creating a residential chicken keeping ordinance.

Ms. Bledsoe opened the floor to questions from citizens.

Mr. Piotr Swietuchowski stated that he would like to see the Zoning Ordinance amended to allow the keeping of chickens in the R-1, General Residential district. Mr. Swietuchowski stated that approximately five other families in his neighborhood are interested in being able to have chickens. Mr. Swietuchowski noted that there should be a limit place on the number of chickens. Mr. Swietuchowski further noted that he favored setbacks for the coops.

Mr. Bob Moore stated that he represented the Fords Colony Home Owners Association (HOA) Board of Directors. Mr. Moore stated that the HOA Restrictive Covenants prohibits chickens and other livestock. Mr. Moore stated that the Board of Directors is concerned that changing the Zoning Ordinance to allow chickens in residential areas may create a conflict between with the Restrictive Covenants and subject the HOA to litigation. Mr. Moore requested that the ordinance include an affirmative statement that restrictions set by the HOA supersede the ordinance. Mr. Moore further stated that the concern was especially important for the Westport section of Fords Colony which had experienced a series of difficulties.

Mr. Jason Purse noted that Westport is currently zoned A1, General Agricultural, which already allows chickens by-right.

Mr. Moore stated that he believes that the HOA Restrictive Covenants currently supersede what is allowed by the zoning district.

Mr. Rich Krapf noted that the Deputy County Attorney has stated that when there is a conflict between County ordinances and private restrictions, the more restrictive regulation prevails.

Mr. Jim Doebler stated that he also serves on the Fords Colony HOA Board of Directors. Mr. Doebler further stated that the Declaration of Protective Covenants had been updated in March 2013. Mr. Doebler noted that there is a statement within the Declaration of Protective Covenants which prohibits livestock and that the Covenants apply to both Fords Colony and Westport. Mr. Doebler requested that the ordinance be absolutely clear that more restrictive HOA covenants would supersede the ordinance.

Ms. Bledsoe stated that the County had no desire to tell HOAs what they can and cannot do.

Mr. Woods inquired whether Mr. Doeblner was requesting inclusive language in the ordinance regarding HOA covenants.

Mr. Doeblner confirmed that he hoped the ordinance would speak to the issue of more restrictive HOA covenants superseding the ordinance in order to avoid potential for litigation.

Ms. Bledsoe stated that this particular concern had been an ongoing subject of discussion with the Policy Committee and the Planning Commission.

Mr. Dobeler stated that enforcement of the Restrictive Covenants would still be the responsibility of the HOA.

Mr. Jim Smith, Vice President of the Drummond's Field HOA, stated that a County ordinance cannot supersede the HOA covenants.

Ms. Pauline Price stated that she had been a chicken keeper in a different locality and wanted to speak in favor of backyard chickens. Ms. Price further stated that chickens are not a nuisance in residential areas if they are properly kept.

Mr. Eric Danuser stated that he has done substantial research on chicken keeping ordinances. Mr. Danuser further stated that his research confirms that a local ordinance cannot supersede restrictive covenants. Mr. Danuser noted that there are already instances where the County's Zoning Ordinance and HOA covenants conflict with each other.

Ms. Bledsoe inquired whether there were any chicken keepers present.

Mr. Roy Condrey stated that he previously kept chickens but does not have any at this time. Mr. Condrey stated that chickens are generally clean as long as they are properly cared for and are not noisy unless there is a rooster. Mr. Condrey further stated that a number of years ago chicken keeping was encouraged so that there would be an ample supply of eggs.

Ms. Joyce Felix stated that a number of neighboring localities have good ordinances to model on. Ms. Felix further stated that she would be agreeable to any fee required and to having her coop inspected.

Mr. Donny Martin stated that he is in favor of permitting backyard chickens. Mr. Martin stated that other domestic animals were often more of a nuisance than the chickens. Mr. Martin stated that he was opposed to fees unless the chicken keepers would be receiving something beneficial in return. Mr. Martin further stated that keeping chickens requires a substantial financial investment, therefore, they would be well cared for.

Mr. Arthur Sobolewski inquired what the major objections were to allowing chickens in residential areas.

Mr. Whyte responded that the concerns include odor, noise, chickens running at large and promoting more predators in the neighborhoods.

Mr. Purse noted that the County was considering how to mitigate these concerns if the Zoning Ordinance is amended to allow chickens in residential areas.

Mr. Sobolewski inquired whether any of these concerns were insurmountable.

Ms. Bledsoe stated that the results of the survey would help define what the concerns are so that options can be developed to mitigate the concerns.

Mr. Sobolewski inquired whether there were any preliminary results from the survey.

Mr. Whyte stated that while the results had been tabulated, staff had not yet pulled any conclusions from those results.

Ms. Deborah Rockafellow stated that it would be important to consider setbacks; especially where zoning districts that permit chicken keeping are adjacent to zoning districts that do not permit chickens. Ms. Rockafellow further stated that the proposed 10-foot setback did not seem adequate.

Ms. Bledsoe stated that most of the ordinances reviewed included a nuisance clause to address concerns related to noise and odor. Ms. Bledsoe stated that a large part of her goal for the ordinance was to ensure that it would reduce the potential for nuisances.

Mr. Daniel Malone noted that a study done in Columbia, South Carolina found that the sound of chickens registered at 70 decibels, the same level as a normal human conversation. Mr. Malone further stated that it was determined that barking dogs and lawnmowers registered between 90 and 100 decibels.

Mr. Tim Hogan stated that chickens are very quiet, easy to care for and do not stray far from their coop. Mr. Hogan further stated that chickens are very social creatures and can become good pets.

Mr. Jim Icenhour suggested that if an ordinance with some type of permit application process were adopted, there could be language included to clarify that a permit would not be issued if the property fell under the jurisdiction of a HOA that prohibited chickens. Mr. Icenhour stated that consideration should also be given to establishing a process for handling complaints.

Mr. John Hunt noted that chickens can be a nuisance if the owners are not willing to care for them responsibly.

Mr. Danuser stated that it should not be the County's responsibility to confirm whether there are restrictive covenants governing the use of a property; rather, it should be the responsibility of the individual applying for a chicken keeping permit to provide that documentation. Mr. Danuser suggested that a requirement might be included to obtain consent from adjacent property owners when applying for a chicken keeping permit.

Ms. Bledsoe opened the floor to questions from the Commissioners.

Mr. Rich Krapf inquired whether keeping chickens attracted rodents which would in turn attract other predators such as snakes, foxes and other predators which might not have been prevalent before.

Ms. Joyce Felix stated that in addition to keeping chickens, she also maintains a compost pile and has not noticed any increase in the number of natural predators that already exist. Ms. Felix noted that the feed is kept in predator proof containers.

Ms. Bledsoe stated that the ordinances the Committee has reviewed include a requirement for the coops to be predator proof. Ms. Bledsoe inquired whether Ms. Felix's coop was predator proof.

Ms. Felix stated that she has taken measures to make the enclosure predator proof.

In response to a question from Ms. Bledsoe, Mr. Icenhour noted that his coops had not been predator proof because at that time he lived in the country. Mr. Icenhour also stated that when his wife kept chickens for the Jamestown Fort, predators were a great problem.

Ms. Felix stated that she has not lost even one chicken to a predator in the six years she has been keeping chickens. Ms. Felix further stated that keeping chickens is not a casual hobby and is expensive and an investment if done properly.

Mr. Rich Krapf inquired whether it seemed that predators were attracted by the chickens but would move on to easier targets in neighboring yards when unable to get to the chickens.

Ms. Price stated that predators already exist throughout the County. Ms. Price further noted that predators might be attracted by what they perceive a food source but will move on if the food source is unavailable.

Mr. Danuser stated that he has not seen any increase in predators; however he has noticed an increase in buzzards which seem to be attracted by food for dogs on an adjacent property.

Ms. Bledsoe inquired how the chicken keepers control odor from the chicken waste.

Mr. Malone stated that proper ventilation and routine maintenance of the coop are enough to control odor.

Ms. Bledsoe stated that most ordinances prohibited stockpiling of litter and inquired how the chicken keepers disposed of the waste.

The chicken keepers responded unanimously that they used the waste as fertilizer for gardens.

Mr. Malone stated that he used lime to neutralize ammonia odor.

Mr. Danuser stated that his neighbors often ask for the litter to use in their gardens so he never has a stockpile.

Ms. Bledsoe stated that her reason for asking certain questions is to determine what is fair and reasonable to include in an ordinance.

Ms. Price stated that there should definitely be a limit to the number of chickens and roosters should be prohibited.

Mr. John Hunt stated that there should be restriction related to selling the eggs, noting that this had been a problem in Drummond's Field.

Mr. Al Woods inquired why the chicken keepers felt that a restriction on number was beneficial and requested an idea of what the limit should be.

Ms. Price noted that four seemed to be sufficient for egg production; chickens generally produce one egg a day. Ms. Price further noted that chickens require approximately three square feet of space each. Ms. Price also noted that the waste produced by four chickens could easily be absorbed as fertilizer if one had a garden.

Mr. John Wright inquired if a special use permit would be possible if someone wished to do commercial egg production in a residential area.

Mr. Purse stated that a special use permit would not be an option.

Mr. Danuser stated that setbacks would be important.

Mr. Tim O'Connor inquired about the average size of a coop and a run.

Mr. Danuser stated that the recommendation is approximately three square feet per chicken.

Mr. O'Connor stated that based on the size and configuration some lots, particularly corner and flag lots, it might be possible that the coop would be closer to an adjacent home than the chicken keeper's home. Mr. O'Connor inquired whether that was fair and how that should be mitigated.

Ms. Bledsoe stated that many of the ordinances provide guidance for where the coop is place depending on the location of the chicken keeper's house or the location of the neighbor's house. Ms. Bledsoe inquired whether there might be a situation where a lot would not qualify for chicken keeping.

Mr. Whyte responded that it would depend on what restrictions were established.

Staff and the Committee concurred that it was possible that a lot might not qualify for a number of reasons including size, configuration and location of the drainfields.

Ms. Bledsoe noted that some ordinances require the coops to be mobile to avoid eroding the ground underneath.

Ms. Price stated that her coop was not open to the ground. Ms. Price further noted that she used diatomaceous earth to eliminate pests.

Mr. Malone requested clarification on the concerns the size of the lot and the potential for the coop to be closer to a neighbor's home than the chicken keeper's home.

Ms. Bledsoe clarified that it was two separate matters. Ms. Bledsoe stated that there was a potential for the size or configuration of a lot to make it unsuitable. Ms. Bledsoe further stated that there was also the possibility that in some situations the coop could be placed closer to a neighboring home than the chicken keeper's home.

Mr. O'Connor stated that he was looking for ways to craft an ordinance that would allow adequate buffers to mitigate adjacent property owner concerns.

Mr. Danuser stated that chicken keepers should be engaging in dialogue with their neighbors to ensure that concerns are addressed satisfactorily.

Ms. Price suggested that research be done on what complaints are filed in other jurisdictions where chickens are allowed in residential districts.

Mr. Woods requested staff provide a brief overview of the ordinance revision process. Mr. Woods noted that emphasis was being placed on the survey; however, the survey was only one data point among many.

Mr. Whyte stated that to date staff has reviewed the results of the survey which had been distributed to a number of stakeholders and reviewed large number of local ordinances to determine what regulations are in place in those localities.

Ms. Price inquired about next steps.

Mr. Woods stated that as a subcommittee of the Planning Commission, the Policy Committee would review draft regulations and make a recommendation to the Planning Commission. Mr. Woods stated that the ordinance would then be presented to the Board of Supervisors with a recommendation from the Planning Commission. Mr. Woods further stated that there would be a number of opportunities for citizens to provide input on the draft ordinance.

Mr. Purse noted that this matter would be the subject of at least two more Policy Committee meetings.

Ms. Felix inquired whether any of the petitions previously filed on behalf of the chicken keepers would be considered.

Mr. Purse stated that the work done by the chicken keepers is what has brought the matter forward for consideration.

The chicken keepers noted that any limit on the number of chickens should not be overly restrictive because of the laying cycles and life cycles. It was noted that the laying cycle of chickens is approximately three years and the life span is approximately ten years.

Ms. Bledsoe thanked the citizens for attending and participating in the discussion. Ms. Bledsoe stated that the Committee's goal is to ensure that any regulations will address the needs of all stakeholders.

4.) New Business

Planning Commission Organizational Items for 2014

Mr. Chris Johnson, Principal Planner, stated that the bulk of the calendar information provided was for informational purposes and discussion among the full Commission at its organizational meeting. Mr. Johnson stated that the one decision point for this meeting was to determine from the list of meeting dates provided whether there was a preference for holding the April 2014 Policy Committee and CPT meeting on the 10th or 14th.

The Committee discussed the options and agreed to the holding the meetings on April 14.

Mr. Johnson requested that the Commissioners review the remaining proposed meeting dates and advise staff if there were any conflicts or concerns. Mr. Johnson stated that the calendar would be voted on at the Planning Commission organizational meeting.

Mr. Johnson stated that copies of the Planning Commission By Laws, Guidelines for Outside Communication and the Public Hearing Speaker Policy were provided for review. Mr. Johnson stated that these items should be reviewed annually and adjustments can be considered. Absent any adjustments the By Laws should be re-adopted by resolution each year.

Mr. Johnson noted the Commission may wish to consider whether to keep the public comment period on the Planning Commission agenda. Mr. Johnson noted that even if there is no public comment period, the chairman has the option to call for public comments.

Ms. Bledsoe inquired where this matter will be discussed.

Mr. Johnson stated that it would be discussed at the Planning Commission organizational meeting.

Mr. Johnson stated that there would also be consideration of the desire or need for a half-day retreat for training in advance of the Comprehensive Plan Review process.

Ms. Bledsoe inquired if any of the Commissioners had additional items for discussion.

Mr. O'Connor noted that he should have asked the chicken keepers why the 49% of the County that does permit chicken keeping is not adequate.

Mr. Woods noted that if everyone who lives where chicken keeping is prohibited wanted to move to where chickens are permitted, there would not be enough parcels available to accommodate them.

Mr. O'Connor noted that not everyone wants to keep chickens.

Mr. Woods stated that he was surprised by the interest generated among citizens by this issue.

Mr. Krapf stated that the County needed to consider the effect of setting a precedent for changing the uses permitted in a residential district.

Mr. O'Connor noted that he was concerned about the effect of allowing the use in areas where participation in a HOA is voluntary.

Mr. Woods noted that he had concerns about areas where there are mandatory HOAs but the HOAs are very small and would not have the resources to enforce restrictive covenants.

Mr. O'Connor noted that there are also areas where there are restrictive covenants recorded with the land records but there is no HOA.

Ms. Bledsoe noted that the responsibility was not only to create the regulations but to consider how the regulations would be enforced.

5.) Adjournment

The meeting was adjourned at 4:49 p.m.

Robin Bledsoe, Chair of the Policy Committee