

PLANNING & ZONING COMMISSION MEETING MINUTES
December 5, 2023 - 7:00 pm

Chairman Carbonetti called the meeting to order at 7:00 pm. City Clerk Moller called roll to establish a quorum. Commission members present: Jim Carbonetti, J Albertson, Steve Creviston, Mike Grieshop, Paul Hereley and Ian McCafferty. A quorum was present. Also present were Alderwoman Lisa Haderlein, City Administrator Lou Leone, Community Development Director Donovan Day, Code Enforcement Officer Anne Nutley, City Attorney TJ Clifton and members of the audience.

Public Comment

Chairman Carbonetti opened the floor to public comment for any item not presently on the agenda. There were no public comments.

Planning and Zoning Commission Minutes of July 11, 2023 – Approved

A motion was made by Commissioner Grieshop, seconded by Commissioner McCafferty to accept the minutes of the Planning and Zoning Commission Meeting of July 11, 2023, as presented. All ayes. Motion carried.

Public Hearing – City of Harvard

Chairman Carbonetti opened the hearing in the petition submitted by the City of Harvard. The petitioner is seeking text amendments to the Unified Development Ordinance (UDO) to Amend Section 2.3, Definition of General Terms and Section 9.3, Accessory Structures and Uses, of the UDO to include Backyard Chickens in Residential Zoning Districts.

Presentation of Evidence by Petitioners

The parties of interest were present. On behalf of the City Council, City Administrator Lou Leone reviewed the petition for a text amendment to the UDO, to Amend Section 2.3, Definition of General Terms and Section 9.3, Accessory Structures and Uses, of the UDO to include Backyard Chickens in Residential Zoning Districts. The memo attached to the petition outlines standards for the proposed amendment. The Community Development Department was in attendance to answer any questions.

Public Comment

City Administrator Leone stated that public comment would be limited to three minutes per person and requested that individuals not repeat what the previous person stated.

Chairman Carbonetti opened the floor to public questions/comments in favor of the petition:

- Jessica Helmeid, 308 N. Jefferson St., addressed the Commission in favor of the proposed amendment. If you look at the petitions, there are three times the amount of yes supporters compared to no. She noticed the no petition contains signatures of some of the Commission members or their family members. She requested the Commission check their biases and vote on facts, not opinion. City Administrator Leone stated for the record, that upon checking, the Commission member whose signature appears on the no petition, did not actually sign the petition; someone else signed their name, so there is not a conflict amongst the Commission.
- Dave Helmeid, 308 N. Jefferson St., addressed the Commission and said they have been at this for months and have done vast door to door petitioning asking people what their opinion is; it's been overwhelmingly positive. There are many areas and cities around us that do allow backyard chickens, including affluent ones such Evanston; allowing chickens would be a boon to Harvard. The community has spoken and going against the will of the community without good reason, would be unjust and unnecessary. To not allow chickens would be making a big deal out of something that really isn't. He asked the Commission to consider all the hard work they have done to get to this point.
- Megan Sullivan, 403 E. Washington St., addressed the Commission in support of the petition. She thought this was a good opportunity to bring sustainability to a more local level and opens up an educational opportunity for kids, more community programs for adult education and a great opportunity to have a local food source that is local and easily accessible.

- Kurt Rockcastle, 304 Garfield St., addressed the Commission in favor of backyard chickens. He will not be having chickens as it would not be cost effective, but understands why people would like to. It would be of value to the community.
- Nissi Rockcastle, 202 N. Jefferson St., addressed the Commission in favor of backyard chickens. She will not be having chickens but felt people should have the right to have them if they so choose. Individuals that want to have chickens need to have the money to invest. The City would be able to fine people who don't follow the regulations. Chickens would provide sustainability as well as education for kids. According to the petitions, the majority of people seem to want this and the positives outweigh the negatives. She asked the Commission to look at the facts and that the comparison between petitions is considered.
- Robert Thompson, 319 Marengo Rd., addressed the Commission in favor of backyard chickens. They have 3¼ acres and came before the City Council several months ago seeking a variance to allow chickens as an egg supply and to be utilized in a sustainable way using garden scraps to supplement feed for the chickens which in turn would have compost for other garden projects. Harvard is a rural community with rural traditions and somewhere along the line, some of those traditions, whether good or bad, were forgotten about; chickens are part of the DNA of the area.
- Jay Wolf, 800 Lincoln St., addressed the Commission in support of backyard chickens. He commented that it's kind of bizarre that a town deep in the heart of farm country needs to have a debate over chickens. Chickens are easy to keep and would be a good boon to the community.
- Sara Thompson, 319 Marengo Rd., addressed the Commission in favor of backyard chickens and echoed what everybody else said. Fears around potential things, vermin and smells, have not been proven in any city that has them, to be true. She has lived in Chicago and Evanston; you wouldn't know there were chickens there and she hoped the Commission would consider allowing them.

Chairman Carbonetti opened the floor to public questions/comments in opposition of the petition:

- Linda Morton, 607 Garfield St., addressed the Commission in opposition to backyard chickens. She was not approached to sign a petition, but would have if asked. There should be a minimum lot size of at least three acres. People don't follow all the rules and there will be a lot of potential violations and a lot of work for the City to check on all these places that have chickens. She takes care of her property in hopes of raising property values and felt that chickens might impede that progress.
- Scott Logan, 700 E. Brown St., addressed the Commission in opposition to backyard chickens. The biggest thing is this would in fact change the neighborhoods and have an impact on neighbors. He doesn't want chickens next to him. He has relatives out of state that have chickens and knows firsthand the kind of mess they make. He commented on one accommodation if it were restricted to lots over 1 acre which would be a more reasonable accommodation.
- Sara Berg, 508 Old Orchard Rd., addressed the Commission in opposition to backyard chickens for public health and safety concerns as well as enforcement. Comments have been made that Evanston and Fox Lake have chickens and they don't have any problems, but nobody bothered to check to see if Harvard has problems, and we do, quite a few. Many of the Commission members live next door to places where there are chickens. There was some back and forth discussion between members of the audience at which time Attorney Clifton interjected this shouldn't be dialogue back and forth and not to interrupt the speaker but let her finish her comments. Sara indicated she was done talking. Attorney Clifton said that going forward, all comments should be directed to the board with no commentary from people in the audience.

Chairman Carbonetti entered the completed petition and the following attachments into the record:

- a) Petition Back Yard Chickens - Support;
- b) Petition Back Yard Chickens - Oppose;
- c) Resident Input Article – The Case Against Allowing Urban Chickens in Dekalb, IL;
- d) Resident Input Info – Cities in Illinois & Wisconsin that allow backyard chickens;
- e) Resident Input Info – Backyard Poultry Illness;
- f) Resident Input Info – What Happens When a Chicken Dies;
- g) Resident Input Sarah Berg 8/27/23;
- h) Resident Input Sarah Berg 11/7/23;
- i) Historical Abate Nuisance Notices.

Discussion/Questions by Planning and Zoning Commissioners

- Commissioner Creviston said he lives on the north side of town; there have been 4 or 5 houses around him that have chickens; they are running rampant. Why break the law? That's what's going to happen if it's allowed. The code enforcer already has their hands full with what they do; how is the City going to afford to pay someone else to enforce chickens?
- Commissioner Hereley seconded Steve's comments and said he lives just to the north of him and has had chickens go through his yard on several occasions. Harvard is a rural community; he has lived here for 54 years; he is not against chickens but inside city limits is not a place for chickens.
- Commissioner McCafferty referred to comments about basing opinions off of fact, but hasn't heard a single fact yet. It's educational, but how is it going to be educational? What programs are you going to put aside to teach people about chickens? Where are you going to hold it at? Are eggs going to be sold? He appreciated the effort that was put into something they are so passionate about, but give me the facts. Robert has an area that is accommodating to what he wants to. There are signs up all over outside of City limits for people selling eggs. The packets do have facts, but he asked those in favor of backyard chickens to sell what they want to the Commission and the town.
- Commissioner Albertson said he had a conflicting opinion from everyone else so far and more in the line of what do we do, to do this correctly. He has a few notes on items in the document that weren't outlined very well i.e., setbacks, conditional or permitted use, zoning and lot sizes. There isn't anything specific about lot setback requirements for coops; the UDO has setbacks for apiaries but not coops. Based on research he has done, setbacks are usually 25-30' which he would recommend so the chickens wouldn't be an immediate nuisance to the neighborhood. Also need to keep in mind that while we can fearmonger, this is for the people who rule follow. No matter what is done, there will still be problems with people doing it illegally. This is helping people that want to do it correctly.
- Commissioner Grieshop commented that the purpose of the meeting is to see if it fits the community as beneficial just like other things the Commission has voted on in the past. He didn't believe all of the standards were met for a text amendment: "to the extent to which the proposed amendment promotes the public health, safety, and welfare of the City" and "the relative gain to the public". The only positives he could see that could eventually open the door would be a conditional use with a good degree of scrutiny on lot size at which time conditions could be set forth. There are so many lots in town, that even if you put it in the back of the lot, it would be in my back yard, which doesn't work. Mike further noted that the Community Development Dept. is in a state of transition and needs more time to catch up and then if they have time to oversee it, maybe. Conditional use, possibly, but overall to the City Council, no at this time.

City Administrator Leone addressed some of the Commission's questions/concerns:

- Setbacks are addressed in Section C.4 - coops are treated just like any other accessory building which requires a 4' setback. Commissioner Alberson didn't think that was enough.
- Enforcement – the proposed text amendment has been going around for several months. One of the first things staff did was to talk to the code enforcement department to see how much of a strain this would put on the dept. It is staff's belief that the City can keep this enforced. The proposed amendment provides more tools to access areas and do code enforcement, not just of chicken coops but of neighboring properties as well which will enhance enforcement throughout the City.
- Staff looked at other cities and how they did it and tried to put together a text amendment that would satisfy everybody. It is within the Commission's scope to make additional changes to the proposed text amendment and adding a one or two year probationary period.
- The proposed text amendment does not allow eggs to be sold in the City.
- There is a life cycle type of education tied to the proposal and educational value in that it teaches self-sustainability within the home.

Planning and Zoning Questions/Comments to Objectors/Supporters

There was additional dialogue between Commission and members of the public. Areas of discussion:

- Commissioner Hereley inquired if chickens need vaccinations. Jessica Helmeid responded that often times when you purchase chickens they are vaccinated. She commented there is a bigger problem with cats in town than chickens. This isn't about illegal chickens; this is about legal chickens. She referred to the printout that didn't list any complaints in other cities.

- Robert Thompson addressed the comment about people who had chickens outside of the city limits, many of whom free range their chickens; this would not be allowed per the proposed amendment. Questions and concerns can be thought about with answers and solutions; have productive dialogue to come to a good understanding to see what an acceptable route forward would be.
- Linda Morton asked someone to address predators, particularly coyotes. Commissioner Albertson indicated his research didn't show anything notable. As a former educator, she related that teachers educate children in the classroom. There are also farms in the area for people to visit. Jay Wolf responded to the predator concern and commented that coyotes and fox are already here.
- Jessica related that those people who signed the yes petition were having their voices heard and shouldn't be discounted. The concerns with vermin and predators have never been proven and there is no correlation; it isn't happening. Commissioner Albertson related the proposed amendment would deal with many of the concerns that have been brought up.
- Dave Helmeid said there have been 3 or 4 months of meetings where they have been selling the proposal. He thought the hearing was the final run through that wasn't going to be a reiteration of every fact and point brought up previously. There is wildlife everywhere. At a previous meeting, they made a suggestion for an educational course that would be made available and offered by one of the teachers at MCC. Dave commented that he has applied to fill the vacancy on the Planning and Zoning Commission.
 - At Commissioner McCafferty's inquiry, Dave said there have been four consecutive meetings that this issue has been brought up and gone over to seek approval.
 - Attorney Clifton clarified for the record that this is the public hearing for this zoning text amendment. So what may have happened at prior meetings is not technically of record for this public hearing. This is the public hearing in which this body is going to make a determination whether or not the approval standards for text amendments have been met. So if other comments may have been mentioned at a prior meeting, does not mean they are part of the record for this public hearing. Dave Helmeid felt there should be a level of preparation that could have made this smoother/easier.
 - Lisa Haderlein, 904 N. Jefferson Street, identified herself as a member of the City Council and addressed Dave Helmeid's comment. The previous hearings that are referred to were a committee meeting and the City Council meeting. The purpose of the discussion at those meetings was strictly whether or not the council was going to send this matter, this text amendment issue, to the Zoning Board. That is what was approved, not the actual text amendment, but going to the Zoning Board.
 - Jay Wolf further addressed the Commission in favor of allowing people to have chickens and noted all the information that was presented in the packet.
 - Attorney Clifton clarified he did not indicate that what happened at prior meetings was not pertinent. Comments made to people coming up and speaking at a prior meeting is not part of the public record of this public hearing. This is the public hearing to determine whether or not there is a zoning text amendment. What happened or comments made at a prior committee meeting or City Council meeting in which it was determined whether or not this petition would be brought forth are not a part of this public hearing. He was not saying that those comments or what was said may not be pertinent to the debate. If they are not said tonight or in the record of this public hearing tonight, technically they are not before this body to consider.

Additional Comments/Closing Arguments

There were no additional comments from the audience.

Commissioner Albertson brought up discussion of the following:

1. Section F.1.d – “Confirmation that a Backyard Chicken 101 course provided by the City was attended electronically or in person”. In response to his inquiry, Community Development Director Donovan Day noted that the original draft of the proposed text amendment included a link to a YouTube video, but it was removed in case at some point, the link no longer worked. The City could offer the classes either at City Hall or the Library or individuals could sign the permit application to verify that they had seen the video and knew what was involved. The library offers a class a couple times a year.

2. There was discussion relating to the \$300 permit fee. City Administrator Leone indicated that suggestion was brought up by a City Council member during a committee meeting as a deterrent to filter out individuals that weren't serious about having chickens.
3. There was discussion about the cost of bands for permit holders to add to their flock, annual license and registration fees and showing vaccination records at point of registration.
4. Accessory use building setback of 4'; the UDO requires 10' for apiaries. To avoid being a nuisance, he recommended a larger setback with a minimum of 10'.
5. Consider a probationary period as a conditional use for up to one year.

Commissioner Grieshop concurred with the probationary period and increased setbacks.

Commissioner McCafferty suggested the number of birds allowed based on lot size should be amended: 2-3 acres should be 4 birds, less than 2 acres should be 2 birds, 3-10 acres should be 12 birds. He agreed with the requirement for classes, \$300 fee and registration fee per bird. He thanked the audience members for their passion. There was additional discussion with the audience on the increasing the number of chickens that would be allowed.

Attorney Clifton clarified, pursuant to the UDO, the procedure when there is a zoning text amendment, says that the Planning and Zoning Commission must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. For zoning text amendments, the Planning and Zoning Commission must either recommend approval, approval with conditions, or denial of the application. The Commission may approve the text amendment as is, approve with changes in the proposed ordinance such as making it a conditional use or other things the Commission has discussed or move to deny the application. Regardless of which of the three actions the Commission takes, it still moves to the City Council for an ultimate vote based upon their review of the recommendation.

Vote on Petition

A motion was made by Commissioner Albertson, seconded by Commissioner McCafferty to recommend the text amendment to the City Council with the following changes:

1. Acreage adjustment to the table in Section (B): the number of chickens allowed for 2 or less acres is 4 birds and 2-3 acres is 8 birds;
2. Leave the fee amount as is but add a bird registration fee, as determined by the City;
3. Coop setback to be a minimum of 10' from any residential building.
4. The text amendment to be a probationary period as a conditional use for up to one year. City Administrator Leone suggested a two year probationary period instead of one year which was acceptable to Commissioner Albertson.

Attorney Clifton recommended for the record so everyone is clear on what is being voted on that Commissioner Albertson go through and highlight each of the changes to the proposed ordinance by section. Commissioner Albertson clarified the changes:

1. (A) – *Keeping of Chickens* – As is
2. (B) *Number* – Adjust as follows:

Lot Size	Number of Chickens Allowed
3—10 net acres	12 birds
4—3 2-3 net acres	8 birds
Less than 4 2 net acres	4 birds

3. (C) – *Minimum Requirements*: As is
4. (D) – *Screening*: As is
5. (F) *Permitting Enforcement*: Add verbiage to include a 10' minimum setback from residential properties for a coop; the City to set a chicken registration fee on a per chicken basis and outline that a vaccination record is required. Attorney Clifton suggested that the verbiage for a 10' coop setback be added to Section (C)4 which states that “Enclosures shall be treated as accessory structures per section 9.3 of the UDO”. Community Development Director Day stated that the setback for accessory structures in Section 9.3 of the UDO is 4' from property lines not

residential buildings. Commissioner Albertson concurred that Section (C)4 would be the more appropriate section to add the setback requirement and recommended that the minimum requirement be both: 10' from a residential building, 4' from the property line, whichever happens to be the greater distance.

6. Add language that the use would be for a probationary period of two years as a conditional use. Attorney Clifton confirmed that during the two year period, this use would be a conditional use requiring that a petition be filed for a conditional use. A conditional use would require a public hearing for each petition.

Commissioner McCafferty stated his second to the motion stands after clarification. Roll call vote: Albertson, aye; Creviston, no; Grieshop, aye; Hereley, no; McCafferty, aye and Carbonetti, aye. Motion approved four to two.

The Planning & Zoning Commission's recommendation will come before the City Council on December 12, 2023 at 7 pm. **Subsequent to the Commission Meeting, Mayor Kelly deferred the recommendation to come before the City Council at the January 23, 2024, City Council Meeting.**

Clerk's Report

No report.

Chairman's Report

No report.

At 7:56 pm, a motion was made by Commissioner McCafferty, seconded by Commissioner Creviston to adjourn the meeting. All ayes. Motion carried.

Respectfully submitted:
Lori Moller, City Clerk