

2023-0439

Discussion Regarding Amendments to the City's Ordinance to Allow for the Keeping of Chickens

(Staff Report dated 9-19-23, Draft Amendment Chapter 138-4.438, City Map with Affected Parcels, and Planning Commission Minutes of 7-18-23 were placed on file and by reference became a part of the record hereof.)

Mr. McLeod noted that as it was discussed several months ago, the Zoning Board of Appeals has seen several different applications for the keeping of chickens on parcels that may be less than one acre in size, which is the current regulation. He noted that the current ordinance is fairly simple, and in speaking with Jodi Welch, Manager of Ordinance Services, there might be the need to provide some additional language even if not changing the size of the properties. He stated that two different discussions ultimately need to occur; one is for the potential language addition, and one whether the City wants to entertain a smaller lot size. He explained that City staff receive on average five to 10 inquiries per month for chickens; and in most instances they are told that their lot is not of sufficient size.

He stated that two applications have come forward, and one has never truly formalized. He noted that they took a look at the overall number of properties that may become eligible based on a simple calculation of lot size. He explained that right now the parcels of one acre or more total about 1,100, and he mentioned that there are some properties that would be excluded from this such as Oakland University's open space. He said the number of parcels also does not take into account any deed restrictions or subdivision regulations. He noted that if the lot size was reduced to a half-acre, that would potentially open it up to about 3,100-3,200 parcels, also not taking into account any subdivision or deed restrictions. He commented that it would be an impossible undertaking to go through every single subdivision's bylaws or deed restrictions; however, this rough calculation gives the Commission some context and shows where lot sizes of that nature generally occur within the city.

He reviewed the draft amendments, noting that Staff looked not only at the City's ordinance, but comparable community ordinances and best practices. He noted that even if lot size is not considered, the proposed amendments are still things that the Commission may want to look at. He stated that for parcels between one-half and one acre, it would be kept to a maximum of six chickens; and above one acre it would go to the current standard of 12. He noted that roosters are prohibited right now; by not technically being prohibited but by the fact that roosters are the loud ones and the ordinance does say that if a nuisance is created by excessive noise, Code has the right to go in and take the chickens away. The proposed amendments would specifically prohibit roosters, which is fairly standard in most ordinances. He pointed out that there would be no slaughtering at the property itself. Also, letter E states that chickens would be kept within an enclosure which includes both a coop as well as a fenced-in area; as right now, someone could make the claim that chickens can run free on their property. He added that they are looking at some setbacks for the rear yard, 10 feet from the side yard, and 40 feet from any residential structure on adjacent property, which would try to eliminate some of those odor concerns. Letter G would prohibit ground feedings and mandate that

sanitary conditions must be kept to try to get rid of the potential for rodents.

Chairperson Brnabic asked how it would be determined whether a chicken coop was designed, constructed and considered harmonious and appropriate with the general area it is located.

Mr. McLeod responded that the ordinance would ensure that it was built to the standards that the City expects in terms of a residential accessory structure, rather than be a makeshift structure. He used the example that a tin type or corrugated material would not be normal for a residential type accessory structure and Code would be the ones to review it and have the ability to deny it or request a modification of materials.

Chairperson Brnabic commented that it could be a matter of opinion and would question the way it is written.

Mr. McLeod stated that there is some subjectivity to it, and there are so many materials out there and different scenarios for different areas of the city.

Chairperson Brnabic noted that the ZBA saw two extreme opposite examples, with one design that was cute and amazing and the next person having wire and the bare minimum for the coop. She stated that she believed that there will be HOAs that decide to amend their bylaws to prohibit chickens.

Ms. Denstaedt asked if there was the ability to put provisions into draft on what materials could be used for the coops so there is consistency.

Mr. McLeod responded that at this point nothing is off the table. He commented that he is not sure what there is as far as best practice as far as materials; and he asked if the City were to go down this road, what would be the materials that they would be willing to accept.

Ms. Denstaedt stated that there would be a great variety of structures with some being really beautiful and some weird. She asked if there was a way to mention during fielding calls that they should check with their HOAs, as she knows that her HOA will not allow them.

Mr. McLeod suggested it might be more of an application requirement where they need to provide a sign-off from their HOA; however, he did not see why that would be something that could not be added to the process if they go down that road.

Ms. Neubauer asked what surrounding communities allow this.

Mr. McLeod responded Troy allows chickens, along with Auburn Hills. He stated that this is similar to the Auburn Hills ordinance they looked at. He mentioned that he thought Shelby did as well.

Ms. Neubauer asked if the Commission could get copies of their ordinances regarding chickens so that the language could be compared.

Mr. McLeod responded that could be done.

Chairperson Brnabic noted Royal Oak and Ferndale were two cities mentioned.

Mr. McLeod stated that for the more urban locations, where urban farming is anticipated to be prominent, most of them allow it.

Ms. Neubauer asked if Bloomfield Hills allows it and suggested areas within a 20-30 minute drive.

Mr. McLeod responded that he doesn't think they looked out toward Bloomfield Hills, but they could definitely look at it.

Chairperson Brnabic asked if there was a comparison at this point for neighboring city ordinances in regard to keeping of chickens.

Mr. McLeod responded that they looked at a total of five or six different ordinances and a lot of them are based off of a model ordinance that was created a while back, with a lot of repetition. He noted that some communities start to not allow chickens by dictating great distances from any residence which effectively zones them out. He commented that he can provide the samples they looked at and perhaps expand a little bit to get additional samples.

Mr. Dettloff noted the language that they have to be kept in an enclosure and asked if that meant they had to be kept inside the coop all day or could go out within the enclosed area on the ground. He commented that he was surprised that there were that many calls per month.

Mr. McLeod responded that they could go out on the ground within the enclosure. He stated that they were actually quite surprised about the number of calls, but the Building Department has logged them, and they fluctuate between five to 10 calls a month.

Mr. Dettloff stated that this is just for pets or laying eggs because obviously the City would restrict the slaughtering of them.

Mr. McLeod responded that a lot of people see them as pets, many use it as a family bonding experience to show kids how people on the farms live, and there is the egg component as well. He explained that the Zoning Board of Appeals heard that these chickens ultimately become a part of the family like a dog would.

Mr. Dettloff stated that he has no problem with the language and asked what Staff was looking for from the Commission this evening.

Mr. McLeod responded that this was just discussion, and noted that if the Commissioners said that they were not interested, the conversation would be over. If the Commission wanted more information to look at or to keep the conversation going, eventually they would look for a determination whether they wanted to take it to a public hearing.

Dr. Bowyer stated that she has had chickens and raised them on a farm up in Imlay City and they had anywhere from 12 to 20 at a time. She noted that they got a lot of eggs but also had coyotes and foxes and something always killing them. She commented that she would want people to know that if they have chickens that foxes and coyotes would probably kill them and the City would not mount a campaign to go out and start culling coyotes. She commented that she can see having chickens as pets, but they get old and how would they tell them that they could not use that chicken for meat once they stop laying eggs.

Mr. McLeod responded that the ordinance would say that they cannot take care of the chicken on site and would have to take it somewhere else to be processed.

Dr. Bowyer stated that she can see them being set free on the property around the city. She commented that she sees all the drawbacks, and would want a coop not in proximity to the neighbor, and can see wherever the coop is located that coyotes and foxes would get at them. She stated that the neighborly thing to do is to have a coop with a huge distance setback to the neighbors. She commented that she thinks it should be five acres, but knows that people want the agricultural experience.

Mr. Struzik stated that he has an open mind going into this, and has a few friends that live in the city that want to have chickens. He commented that ultimately the HOAs will have the say in many locations. He asked if an ordinance could go into effect in a future date, perhaps a year from when Council adopts it to allow the HOAs time to make a rule change if needed and avoid any legal battles.

Mr. McLeod responded that he did not know if he would recommend a year, and thought that within reason, they could probably push the effective date out a little bit.

Chairperson Brnabic noted that one speaker's card was received.

Amanda Whybrew, 156 Shadywood Road, stated that she has over an acre and has 12 chickens. She pointed out that she sees a disconnect between proposed letters E and F and stated that the language says that the coop has to be an enclosure and the enclosure including the run and the coop cannot be more than 36 square feet. She stated that this is entirely not enough room and they would be inviting disease and would not be good for the general health of the chickens. She added that it would invite more vermin just by the general upkeep of the coop. She stated that she would put three chickens in that space. She noted that her coop is 8 by 10 feet, and is 80 square feet for 12 chickens. She stated that chickens get bored in the wintertime and start picking on each other. She mentioned that they do not lay eggs forever and when they get to a certain point she has to cull them, and they are buried with cinder blocks on top. She stated that hawks are her biggest issue, and another is neighborhood dogs, along with feral cats and possum. She commented that coyotes run through but have never bothered them. She stated that she lets her chickens out and they listen better than her kids. She offered advice on how to make the coops designed in a way that things will not kill the chickens.

Chairperson Brnabic thanked Ms. Whybrew for relating her experience, noting that it was a good point that the square footage is too small.

Ms. Neubauer asked Ms. Whybrew if she could write an email to the Planning Department to provide this information in more detail - sharing her concerns and relating how it would be an effective ordinance for those on 0.5 acre. She commented that a lot of the schools have chicken programs and she thinks this has sparked a lot of interest in the community.

Ms. Whybrew stated that she also has a presentation that her fifth grader put together to give at school with basic information and would provide it to the Commission. She commented that this is important to her as any changes could affect her as well. She stated that she felt the requirements for different property sizes need to be separated as those on a half acre are dealing with different issues.

Mr. Weaver stated that he has zero experience with chickens, and is not opposed to chickens; but based on what he is learning he would ask what doors they are opening up if they allow this. He asked how many complaints they get per month regarding chickens.

Mr. McLeod responded that he would say there is a handful, but it is not a regular occurrence. He noted that typically someone will call and say that the chickens are a nuisance, usually noise. Code then inquires about it and it never gets to the point of an enforcement. He commented that there are a couple of repeat offenders according to Code Enforcement, but for the most part it is a one-and-done solved problem.

Mr. Weaver commented that based on what he is hearing, he tends to agree that one acre is probably a good size to limit it because if it is lowered to a half acre, the complaint number would go up. He added that they might want to set some minimum standards of what to accept so it is not a ramshackle structure. He stated that he does not want to rely on HOAs to govern.

Ms. Whybrew commented that the Building Department put out a packet of guidelines for them when they did their basement, and suggested that this could be extremely helpful.

Mr. Weaver asked if the City would be requiring or requesting permits for the number of chickens to make sure that someone wasn't keeping 20 on their acre parcel.

Mr. McLeod stated that this is something that could be done, as there are communities that do, with an annual inspection or an annual license. He noted that this was discussed relative to parcel size and would discuss with Code Enforcement as to whether they felt this is something that could be handled administratively.

Mr. Weaver stated that he is not suggesting that every year a crew would have to go out and inspect, and pointed out that for dog licenses it is mostly an honor

system. He commented that if there are complaints, that is where enforcement would come in.

Mr. McLeod stated that this is how one of the cases came to the Zoning Board of Appeals. He noted that the enforcement actions would still be in place. He asked if it was a matter of whether they want to go more complaint-driven or to take a different approach and get more involved to be more proactive on smaller parcels. He noted that it would be whatever the Commission feels is appropriate.

Mr. Weaver stated that he thinks an acre would be more appropriate than a half-acre, as this is too tight of a space.

Mr. Hooper stated that he would not support a half-acre and would not consider going less than one acre. He asked for clarification about the enclosure size and fenced area suggested. He mentioned the draft setbacks, noting that 40 feet from his neighbor seemed very close. He commented that if the Commission wants to walk down this path, it needs to be more stringent. He questioned whether this was a solution in search of a problem, noting that they are chasing five to ten inquiries a month for a community of 80,000 people. He suggested that this could be a solution that creates a huge problem.

Mr. McLeod responded that while this is not the norm, it is a trend that more and more communities want to do. He commented that with any change there is the potential for growing pains, and that is why this is being kept at the discussion level at this point. He noted that this has been discussed at least once or twice in the past, and suggested that the Commission at least consider some of the additional provisions to make sure that the ordinance and the way that chickens are kept in the community regardless of lot size is done in an acceptable manner.

Mr. Hooper stated that the size can be a separate conversation. He mentioned where he is currently working, a rooster on adjacent property can be heard a quarter-mile away. He added that slaughtering is possibly the wrong word to use, and suggested harvesting.

Chairperson Brnabic stated that ordinance or not, people are keeping chickens across the city. It came to the attention of the ZBA due to a complaint. She stated that she wanted it discussed and there to be a possible option.

Ms. Whybrew stated that she moved in Christmas of 2018 and brought her chickens from Kentucky. She commented that her neighbors were at first curious, and one neighbor comes over all of the time for eggs. She noted that neighbors on the other side have ducks. She mentioned that she did hatch a rooster this spring and she rehomed him. She pointed out that it costs money to build a coop, and they need 11 hours of daytime to produce an egg every 26 hours. She noted that they lay for three to five years, but can live from seven to 10 years so people will get rid of them after they are not laying anymore. She stressed that if they are going to go forward with a half-acre there should be some good guidance.

Mr. Struzik thanked Ms. Whybrew for coming to be a part of the discussion. He mentioned that his daughter was friends with Ms. Whybrew's daughter and they know each other. He asked what contains the chickens in her yard.

Ms. Whybrew responded that it is an enclosed run and the coop built in it is off the ground to maximize ground space. She noted that they recently added an automatic door. She noted that they used four-by-fours and poultry netting in one area and move it around as they eat the greens. She mentioned that she has black chickens because hawks do not like crows and they look like crows from high up.

Mr. Struzik asked what positive benefits Ms. Whybrew gets from chicken ownership on her property.

Ms. Whybrew responded that eggs for one, and responsibility as they are a pet just like her dog and cat. She stated that they can recognize 100 faces, and they go out and play with them daily. She stated that she wanted her kids to have the experience and know where their food comes from, and it's an education.

Mr. Struzik stated that he agrees with some of the other concerns stated, and suggested that even if it is kept to an acre that they go ahead and make some other changes such as saying only hens, and adding some other restrictions and guidelines. He stressed that he did not want to do anything that would negatively impact responsible owners on larger lots, by making a rule that is targeted at a half acre and have it apply to 1.9 acres. He commented that he would like to further entertain discussion as there are definitely pros and cons.

Dr. Bowyer stated that being harmonious with the neighbors would be a big caveat. She noted that her chickens were free range and would go back in their coop at night. She stated that they know where their food and water is and stay in that area. She commented that a 36 square foot enclosure is animal cruelty for more than three chickens. She stated that if considering regulating what a coop looks like, then they should also start talking about dog houses. She concurred with Mr. Hooper saying she would agree with one acre or more. She noted that culling is a part of the experience.

Ms. Whybrew stated that laying hens are different than meat chickens. She explained that meat chickens only live for eight weeks, and laying hens are lean and you do not do anything with them after they die. She stressed that she has not had anything bother her chickens except for a possum that got in because the automatic door battery died.

Chairperson Brnabic asked if the Commissioners wanted to have another discussion or to just close to door. She asked for a straw poll of the Commissioners. After polling the Commissioners, it was determined by a five-to-four poll that they would like to close the subject to remain with one acre.

Discussed