

MINUTES OF THE REGULAR MEETING OF THE ZONING PLANNING & APPEALS COMMISSION OF THE VILLAGE OF METTAWA, LAKE COUNTY, ILLINOIS, HELD AT THE HOUR OF 7:00 P.M. ON TUESDAY, APRIL 2, 2019 IN THE COTTONWOOD ROOM OF THE HILTON GARDEN INN, 26225 N. RIVERWOODS BOULEVARD, METTAWA, ILLINOIS

I. CALL TO ORDER

Chairman Krusinski called the meeting to order at 7:05 PM.

II. ROLL CALL

Upon a Call of the Roll, the following persons were:

Present: Commissioners Clark, Leonard (arrived at 7:14), Hirsch, Meluso, Murphy and Chairman Krusinski

Absent: Commissioner Pickell

Chairman Krusinski declared a quorum present.

Also, present: Village Attorney, James Rhodes of Klein, Thorpe & Jenkins, Ltd; Village Administrator, Bob Irvin; Village Clerk, Sandy Gallo

Chairman Krusinski stated he would like to thank Commissioner Pickell and Commissioner Leonard for filling in as Chairman Pro Tem for the last two ZPA meetings. Commissioner Pickell and Commissioner Leonard handled the Grainger's rezoning meetings well and did great work in his absence.

III. APPROVAL OF MINUTES:

The ZPA meeting minutes for February 11, 2019 were reviewed. Commissioner Murphy provided minor revisions to be completed. It was moved by Commissioner Hirsch and seconded by Commissioner Meluso that the meeting minutes of the February 11, 2019 be approved and be placed on file.

Upon a Call of the Roll, the following persons were:

Aye: Commissioners Clark, Hirsch, Meluso, Murphy and Chairman Krusinski

Nay: None

Absent: Commissioners Pickell and Leonard (arrived after the roll call was taken)

Chairman Krusinski declared the motion carried and that the meeting minutes will be placed on file.

IV. CALL OF CASES:

V. COMMUNICATIONS:

VI. REVIEW OF REPORTS OF COMMISSION COMMITTEES:

VII. OLD BUSINESS:

Chairman Krusinski mentioned the Committee email included an updated Village zoning map dated March 4, 2019.

Chairman Krusinski said tonight's meetings is not a public hearing yet a workshop with respect to the issue of raising and keeping of poultry. The Village President and Board of Trustees have referred to the ZPA of the issue of a possible amendment regulating keeping poultry in the Village. At the August 2018 ZPA meeting, a public hearing was held for a moratorium on the enforcement of the Village's prohibition on the raising and feeding of chickens. The President and Board adopted an ordinance instituting the moratorium so that the issue of keeping poultry in the Village could be reviewed. Tonight's discussion will only pertain to poultry regulations. This meeting will be handled in the following order; the Commissioners will review potential text amendments regulating keeping chickens in the Village; followed by the public providing their input; then the Commissioners will discuss the items presented this evening and lastly the Commissioners will provide their direction with the respect to this matter.

Village Attorney Rhodes said the Commissioners received a memo from KTJ and a spreadsheet listing the regulations of 34 municipalities and 1 County in the Chicago area that allows the keeping of chickens. The Commissioners also received residents' emails that were sent to the Village. The emails received included; Kristine Preiser, 2 emails from Keith Gray, Cathy Leahy, Herbert H. Beck, Maureen Kaufman and John Koffel. Attorney Rhodes also provided the Lake Bluff's pilot backyard chicken program, the Western Springs permit guide for raising chickens and the Lake County's information pertaining to chicken ordinances.

Village Attorney Rhodes stated the current zoning code prohibits the keeping of chickens in the Village. Under the provision of the zoning code, the definition of agriculture uses specifically states the raising of poultry is not allowed. Within the R-1 zoning district, agriculture uses are allowed but not the raising of poultry. In the R-2 district, agriculture uses are not allowed. At this time, there are some residents raising poultry against the prohibition. As a result, the President and Board of Trustees requested the ZPA to review this matter regarding chickens and to provide their recommendation.

Village Attorney Rhodes researched several articles regarding backyard poultry raising. Some articles included; a 2010 study completed by a Professor at DePaul University surveying 20 municipalities across the country. This study covered the matter of chickens and their regulations. Another research article included a 2012 survey conducted by a visiting Professor at Cleveland Marshall College of Law of the 100 of the most populated cities in the United States and how the issue of backyard chickens was regulated. Additional research was done by KTJ, surveying several municipalities that allowed the raising chickens. The results showed within the last two decades; the trend is toward bringing agriculture practices into urban and suburban areas which has resulted in more municipalities allowing raising chickens.

The DePaul study of 20 municipalities allowing chickens found that 17 municipalities reported no violation issues, while a smaller number of towns reported over 10 violations. Enforcement was generally complaint driven. Some municipalities had a permit process and an annual review process. The municipalities captured in this study indicated the ordinance had no negative impact on the residents.

In the 2012 study, which encompassed 100 most populated municipalities, the majority of cities indicated they had regulations allowing backyard chickens. The survey of Illinois municipalities found that a number of towns now allow chickens to be kept, while an equally large number of municipalities still have not approved the raising of chickens.

The location of regulations regarding the keeping of chickens varies from municipality to municipality and makes it challenging to determine whether keeping chickens is prohibited or allowed. The most common location for regulations regarding chickens is in the animal control ordinance. Some municipalities have regulations within their zoning codes, nuisance codes or health codes. Village Attorney Rhodes recommends the ordinance be drafted to include the chicken regulations within the animal control section.

Village Attorney Rhodes stated his research included 33 towns and Lake County to determine the most common regulations. The most common municipal regulations for raising and keeping of chickens include: space restrictions, restrictions on the number of chickens allowed, roosters being prohibited, location and setback requirements for coops and penned areas, sanitation requirements, permits, state registration, prohibitions on running at large, prohibiting slaughtering of chickens and sale of eggs and chicks.

Please reference Village Attorney Rhodes memo dated March 22, 2019 for further details on each regulation.

Village Attorney Rhodes stated Western Springs did a comprehensive study in 2012 which resulted in the regulations that have been provided to the Commissioners. Lake Bluff has a pilot program that was started in 2018. Regulations allow the raising of chickens to be done in a safe and sanitary manner, and to avoid any negative impact or nuisance on residents.

Chairman Krusinski stated Commissioner Leonard has arrived for the meeting. Chairman Krusinski thanked Commissioner Leonard for leading the Grainger zoning meeting in his absence.

Village Administrator Irvin said he spoke to the Lake Bluff Village Administrator regarding their chicken pilot program. The Lake Bluff residents showed great interest for the chicken pilot program; however only one application was filed and approved in the first year. Lake Bluff's Village Administrator added they did not

receive any complaints from the residents indicating the list of regulations that were adopted appeared to work well.

Village Administrator Irvin said the Village has 8 Homeowners Association (HOA) subdivisions, which amounts to about 1/3rd of all Villages' parcels that are controlled by Covenants, Conditions and Restrictions (CCRs). Subsequently, some HOAs have greater restrictions regulations from the Village's zoning code. One example is the Village allows a combination of 15 cats/dogs, however, the Mettawa Woods HOA only allows 3 cats/dogs. Deerpath Farm Subdivision HOA allows no more than 4 cats/dogs. The Crest, Sanctuary Estates and the Hamilton Estates HOA's prohibit poultry and livestock. As a result, these HOAs would need to modify their own regulations in order to allow their residents to raise poultry.

Chairman Krusinski said several factors need to be considered. The Commission is not going to decide if chickens are to be allowed or not, the Board will determine that matter. The Commission, however, will take the approach if the Mayor and the Board of Trustees were to agree that chickens should be allowed, the ZPA will provide the Board an outline of what the restrictions and requirements for keeping chickens should be. Chairman Krusinski said the ZPA is not taking a position whether chickens should be allowed in Mettawa.

Commissioner Murphy asked how many residents are currently raising chickens. Village Administrator Irvin said he is aware of 3 residents.

Resident, Dr. Fantus (14253 W. Riteway Road) asked of the researched municipalities what were those towns stance on roosters. Village Attorney Rhodes said most of the towns prohibited roosters. Dr. Fantus asked what is the main purpose of having chickens in residential areas. Village Attorney Rhodes stated the general purpose for chickens was for eggs, to allow agriculture into the area, or as a pet. Dr. Fantus asked if the agriculture use was for a business use. Village Attorney stated there appeared to be a trend for last 15-20 years to bring agriculture uses back to urban and suburban areas, for example community vegetable gardens.

Dr. Fantus asked how the maximum number of 4-6 chickens was determined as the range. Village Attorney Rhodes said the material indicates that chickens are social animals and the 4-6 range was derived from the minimum number of chickens needed for a flock. This range has also been found to be a sustainable count for raising chickens.

Dr. Fantus asked if any recommendation was made on how to dispose of the chickens biproduct given the diseases they carry are transmittal to humans. Village Attorney Rhodes said most of the communities did not specifically regulate the disposal of waste. However, some communities did indicate chicken manure was being used as a fertilizer product in their gardens. Chairman Krusinski said the handling of the manure can also be added under the nuisance ordinance.

Chairman Krusinski said various communities' regulations delineate coop size based on count of 4-6 chickens. As a result of having a larger number of chickens, the chicken coop structure would need to be larger, the space per chicken would need to be taken into account and the lot size would also need to be greater.

Dr. Fantus asked if the chicken coop would be considered an accessory building. Chairman Krusinski said yes.

Commissioner Meluso asked if the diseases from chicken were from mouse droppings rather than the chickens feed. No one was able to answer this question. Village Attorney Rhodes said during his research he read that the US Department of Agriculture website listed provisions regarding the caring and handling of backyard chickens. Village Administrator Irvin added Lake Bluff does provide information from the Center of Disease Prevention regarding handling chickens.

Village Administrator Irvin said another factor in limiting chickens is due to the number of eggs they lay. The Village prohibits the sale of eggs as a commercial use.

Chairman Krusinski said another factor to consider is that Mettawa does not have regulator components as other municipalities. Mettawa does not have a police department in which inspections can be completed.

Resident, Brett Wiegman (14697 W. Old School Road) requested that the Village not place a restriction on the acreage requirement to be 5-acres minimum lot size. Mr. Wiegman currently lives on 4.25 acres and they own 6 chickens. Village Administrator Irvin responded a 5-acre minimum is a standard lot.

Commissioner Clark asked Mr. Wiegman and Kristine Preiser a veterinarian, how often she cleaned her chicken coop. Mr. Wiegman stated they cleaned the coop once a month. Ms. Preiser replied they have a compost pile, the coop is well ventilated, the coop and the water is heated to handle the winter cold. Ms. Preiser said the chickens have a fenced in pen too. Commissioner Meluso asked if the coop was heated and if they used straw. Mr. Wiegman said they used pine to void a fire hazard.

Village Attorney Rhodes asked Wiegman's where the chicken coop was located from their lot line. Mr. Wiegman's estimated 60 feet from the cul-de-sac located behind them.

Commissioner Leonard stated Mr. Wiegman's lot is still considered a 5-acre lot. Commissioner Leonard's said Lake Forest Meadows subdivision lost land due to eminent domain and roads built by the Village. However, it was agreed upon with the Village, these homeowners would also be grandfathered and would still be considered a 5-acres property. Village Administrator Irvin said the Village agreement would fall under the zoning code not the animal control ordinance. Village Administrator Irvin concluded the animal control ordinance should include

these property owners as lost land to eminent domains.

Village Attorney Rhodes asked the Committee if they were going to establish a minimum lot size or allow poultry on all residential properties.

Village Administrator Irvin said the animal control definition for which animals are being included needs to be refined.

Mr. Wiegman commented that maybe we don't need to define a minimum lot size and allow those subdivision who are regulated by their HOA to dictate their lot size. Village Administrator Irvin said even if the Village changed their restriction the HOA regulations still supersede any Village ordinance changes.

Commissioner Hirsch asked for a clarification between a covenant, regulation and ordinance. Village Attorney Rhodes said Village regulations are memorialized with an ordinance. In terms of HOAs, their rules and regulations are adopted by the Board of Directors.

Commissioner Meluso asked for clarification on what the ZPAs participation will be. Chairman Krusinski said the first matter at hand; the Mayor and Board of Trustees will need to approve the raising and feeding of chickens. Once approved, this matter will not be handled under the zoning code but moved to the animal control section.

Chairman Krusinski said we will need to consider if our program will be a pilot program for 2-years. Other matters to discuss will include: will a permit be required, is the chicken coop considered an accessory structure, consideration of a review on an annual inspection and conformance architecture compatibility and who will inspect. Our Village does not have this type of staffing to perform the inspection. Chairman Krusinski added some chicken specific regulations to consider will be the lot size, no sales of eggs or chickens. One benefit in moving this amendment into the animal control ordinance is that it will simplify future modification to be accomplished. Modification will allow the regulations to be revised or revoked without a public hearing to be held.

Chairman Krusinski said he will work with the Village Administrator and the Village Attorney if there is a consensus with the outline presented as the ZPA's recommendations. The Village of Mettawa will encounter some regulatory issues. The Village may need to consider hiring these personal to support our regulations requirements.

Commissioner Leonard added it has been mentioned at the Village Board meeting several times that some type of animal inspector is needed in the town.

Chairman Krusinski restated we are providing the Mayor and Board of Trustees an outline of all the regulations that should be considered if keeping chickens were approved.

Commissioner Meluso stated this process may be too complicated. A permit is not needed for a cat. If a resident inquires to have chicken, they should apply for a permit, we inspect their coop and the resident is told the chicken regulations. However, who is going to do all the paperwork and enforce the rules on each resident. The Village does not have the manpower, therefore, anything we approve to be an ordinance can not be enforced.

Commissioner Murphy said the Village should include within their regulations, the right to yearly inspections.

Chairman Krusinski said the Village needs to be clear with their regulations for the resident's protection. It is best to set the rules in order to have the residents be compliant.

Village Administrator Irvin said his preference is to establish the eight regulations for the chickens. The Village should not require a permit but a registration of some type for the chickens. The registration would confirm the resident has read and signed the guidelines to raising chickens.

Commissioner Clark said the benefit of requiring a resident to register would heighten the Village's awareness of those chickens' owners.

Village Attorney Rhodes said it is important for the residents to comply with the chicken regulations. The registration or permit could be a one-time requirement to provide the chicken owner the compliance information. Village Administrator Irvin said unless an inspection is completed at the resident's lot, it will not be known if the chicken coop is in compliance.

Commissioner Leonard said the registration or permit fee would cover the administrative cost for the inspection to be completed. The fee would only be a one-time expense. Village Administrator said the one-time fee can be labeled either registration or permit.

Chairman Krusinski said every municipality called the initial submittal a license, permit or registration. More importantly, the initial submittal will include a survey or plan where the chicken coop will be built and it will indicate they will be in conformance to the Village's regulations. The setback will need to be addressed due to the great diversity of lot sizes. Commissioner Leonard said the standard setbacks could be applied as an accessory structure. Chairman Krusinski added his concern included that the current setback standards are too close to the neighboring homes. Village Attorney Rhodes indicated the setbacks are a zoning codes issue.

Village Attorney Rhodes asked the Commissioners if they all approved that the minimum house lot would be stated as 4 acres. All of the Commissioners agreed.

Village Attorney Rhodes stated the Board asked the ZPA Commission to provide them direction and recommendations from the received feedback from residents regarding in this matter. Commissioner Leonard stated the Commissioners should provide the Board an outline prior to discussing each regulation.

Chairman Krusinski asked the Commission for a consensus on having a pilot program. The Commission said a pilot program was not needed.

Chairman Krusinski asked if permit fee would be required. A permit would include a site plan, the location of the chicken coop and the structure would-be built-in conformance with the setback standards. The Commission agreed to a one-time permit is required.

Chairman Krusinski asked about neighbor notification of the chicken coop. The Commissioners said no notice was necessary.

Chairman Krusinski stated the chicken coop will be considered as an accessory structure.

Chairman Krusinski asked if inspection should be included. The Commission indicated yes. The inspection would include chicken specific regulations; the number of chickens, the size of coop, annotation and nuisance. No state registration would be required.

Chairman Krusinski asked about the process of revoking the permit if the resident did not comply with the regulations. Village Attorney Rhodes asked if the Commissioners were looking to mirror the Lake Bluff current pilot programs. Village Administrator Irvin said several of their standards should be included for the Village.

Commissioner Murphy stated given the 4-acre lot size is being decided, this would exclude Deerpath Farm residents from raising chickens. Village Administration Irvin said Deerpath Farm residents are allowed to have 4 dogs and cats and any other household pets; however, chickens are not considered household pets. Village Administrator Irvin said Deerpath Farms is governed by their set of CCRs which indicate pets are not allowed in the common area. Commissioner Murphy asked if residents with smaller acres were going to be denied raising chickens. Commissioners Clark remarked the surrounding Villages have the same lot size standards.

Commissioner Leonard said if the Village is really going to change the way people live and determine if chickens are intrusive to the neighbors, maybe we should consider having the residents complete a survey.

Village Attorney Rhodes asked if any of the 3 residents who attended the moratorium meeting owned a 1-acre lot. Village Administrator Irvin said one

approach with setting the regulations is to initially indicate 4-acres are required. This would allow the regulation to be changed at a later time if need be.

Chairman Krusinski said the Commissioners will provide their outlined recommendations; however, the Village Board may have some additional factors to consider. Village Administrator Irvin said if the ZPA recommended the maximum number of chickens, the remaining issues will be addressed with the set number.

Chairman Krusinski said he will work with the Village Administrator and Village Attorney to outline the recommendations. If the Village Board approves the raising and feeding of chickens, they would need to be regulated under these conditions. Village Attorney Rhodes agreed the maximum number of chickens needs to be set at 6 and the remaining regulations would be established.

Chairman Krusinski stated the pen size should be set 4 square feet and a run requirement would be 8 square feet per hen. Chairman Krusinski asked the residents in attendance if they believed the criteria being discussed should be standardized for each hen. Mr. Wiegman agreed the size is ideal for the chickens. Mr. Wiegman said he appreciated all of the research the Commissioners have completed to discuss this matter.

The Chair asked for a motion to be authorized to work with Village Administration and the Village Attorney to draft a recommendation to the Village Board outlining the requirements, if chickens are to be allowed.

The motion was moved by Commissioner Leonard and seconded by Commissioner Clark.

Commissioner Murphy asked if the Commissioners could read the final recommendation prior to the Board receiving the draft. Village Attorney Rhodes said the recommendation will be drafted according to the regulations proposed in the memorandum and as discussed tonight.

Upon a call of the roll the following voted:

Aye: Commissioners Clark, Leonard, Hirsch, Meluso, Murphy and Chairman Krusinski

Nay: None

Absent: Commissioner Pickell

Chairman Krusinski said the motion carries.

VIII. **NEW BUSINESS:**

Village Administrative Irvin said no cases have been submitted. Village Administrative said he along with the Village Attorney Rhodes have completed the

review of the zoning draft. The next step is to discuss the changes with Arista Strungys from Camiros. Arista is currently out of the country until mid-April. A meeting will be held between the three of them to review and discuss these comments. The goal is to provide the Commissioners the modified document 10 days prior to the June 4th ZPA meeting. Commissioner Leonard asked that the Chairman attend the meeting with Camiros to ensure the final draft is aligned with the Village. Commissioner Leonard added the initial report included changes that were not recommended by the Commissioners. Village Administrator Irvin added the initial report from Camiros included the recommendations Arista received from her interviews with the Trustees. Village Administrator Irvin said the few items remaining on the technical report are those amendments the Commissioners had already approved. Camiros recommendations have resulted inserting charts to organize information, refining areas that were duplicated in other sections and addressing issues that would not otherwise been on our radar, such as bees. Another example of Camiros suggested changes includes discussing of the animal regulations sections.

Chairman Krusinski asked the Village Administrative if Camiros has amended any of Commissioners final recommendations. Village Administrative Irvin said the only recommendation Camiros suggested was on accessory structures. The definition will require to be clarified to determine what is included as an accessory structure.

Chairman Krusinski concluded that the May ZPA meeting will be cancelled. The June meeting will consist of reviewing the final technical report from Camiros. Chairman Krusinski asked the Village Clerk to print the zoning report and any other June materials for the Commissioners.

IX. ADJOURNMENT:

With no further business to discuss, it was moved by Commissioner Hirsch seconded by Commissioner Murphy that the meeting be adjourned.

With unanimous consent, Chairman Krusinski declared the motion carried and the meeting adjourned at 9:17 pm.

Sandy Gallo, Village Clerk