

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

April 4, 2012

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the City Council Conference Room on the 4th day of April, 2012, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Kovach, Spaulding and Chairman Griffith

ABSENT: Councilmember Dillingham

OTHERS PRESENT: Councilmember Roger Gallagher, Ward One
Councilmember Linda Lockett, Ward Seven
Ms. Jeanette Coker, interested citizen
Ms. Kami Day, interested citizen
Mr. Ed Kessler, interested citizen
Mr. Gabe Wingfield, interested citizen

STAFF PRESENT: Ms. Susan Atkinson, Planner I
Mr. John Bowman, Animal Welfare Superintendent
Ms. Susan Connors, Director of Planning and
Community Development
Mr. Terry Floyd, Development Coordinator
Mr. Rick Knighton, Assistant City Attorney
Mr. Jim Maisano, Deputy Police Chief
Ms. Syndi Runyon, Administrative Assistant IV

Item 1, being:

DISCUSSION REGARDING CHICKENS IN URBAN AREAS.

Ms. Susan Connors, Director of Planning and Community Development, said the City of Norman has an ordinance, adopted in 1975, that allows chickens in any residential zoning category; however, chicken enclosures must be at least 100 feet from the nearest dwelling other than the owners and 25 feet from the nearest property line. She said this has effectively banned chickens in many of the dense urban dwelling areas where those distances cannot be met resulting in chickens in agricultural zones or large residential estates. She said there is a growing interest with citizens to allow chickens in more urban areas. She said there are many cities that currently allow chickens in urban areas.

Ms. Connors said opposition to allowing urban chickens include noise; odor; the potential spread of disease; hazards from chickens running loose; and the attraction of vermin and predators. Opponents also assert that chickens are not pets and are not appropriate in an urban environment. She said citizens interested in raising chickens want to locally produce food. She said three or four hens can produce one to two dozen eggs per week, which would meet the needs of an average family. She said eggs are a relatively cheap source of protein.

Ms. Connors said a University of New Mexico graduate, K.T. LaBadie, explored chicken keeping ordinances across the country in a 2008 article entitled, "Residential Urban Chicken Keeping: An Examination of 25 Cities." Mr. LaBadie also interviewed several primary sources in the urban chicken movement and reviewed media coverage of a number of communities as they deliberated on the regulation of urban chickens. He found that while no two community's ordinances were identical, common regulatory themes emerged such as the number of birds permitted per household; regulation of roosters; permits and fees

required for keeping chickens; chicken enclosures/containment restrictions; nuisance clauses related to chickens; slaughtering chickens; and coop distance restrictions in relation to homes or property lines.

Ms. Connors said, for local comparisons, City Staff looked specifically at how the study views those 25 cities and expanded that study to cities in Oklahoma as follows:

- Oklahoma City only allows chickens on lots that are one acre or larger;
- Tulsa allows six adult chickens and fourteen chicks less than eight weeks old and chickens must be contained in a building or pen that at its nearest point is no closer than 50 feet from an adjoining residence;
- Del City requires a Special Use Permit for the use of animal raising and has regulations on the location and design of coops, which are considered an accessory structure requiring a building permit and are subject to lot coverage restrictions; and
- Town of Bixby reviews chicken keeping on a case-by-case basis as in incidental activity in a single-family use.

Ms. Connors said Norman does not ban raising chickens, but regulates the place and manner in which chickens can be kept inside the city limits. She said broadening the allowable place and manner would move Norman into a growing circle of American municipalities that are successfully regulating chicken keeping and recognize that urban chickens are one of a number of strategies that communities can use to promote environmental sustainability.

Ms. Connors said Norman can broaden the ordinance by considering a limit on the number of birds allowed; whether or not roosters should be allowed; type of enclosure required; nuisance clause; outdoor slaughtering; coop sitting restrictions; and other issues such as property line setbacks, storing feed, and adoption of a temporary trial basis ordinance to evaluate conditions and refine ordinance where needed.

Chairman Griffith said he would like Council to move forward with changes. He said a 50 foot setback would still restrict many urban lots from having chickens and asked the Committee's input. He said whatever number was selected, he would like to include the option of a case by case review if someone wanted an exception. He liked the idea of a building permit which would require an inspection to manage the quality of the coop, especially in town.

Councilmember Spaulding said there is not much difference between a dog and a chicken and requiring a building permit for a chicken coop, but not a dog house seemed unfair. He said restricting roosters because they crow is also unfair considering the number of complaints the City receives for barking dogs and Chairman Griffith agreed. Councilmember Kovach felt that setbacks of 40 feet or less would be appropriate and said some constituents were requesting less than 40 feet, which would still eliminate a lot of the urban backyards. He said he did not know if there was data on how far sound and odor permeates, but he would rather see the opportunity made available to more citizens. He did not want the issue to become a cost issue by requiring a building permit and inspections. He said he was not sure allowing roosters that crow at 5:30 a.m. in the morning, but if the neighbors have problems with roosters they can file a complaint and the rooster may have to be removed. Councilmember Lockett said roosters crow all the time, not just in the morning. She said the City needs to be as lenient as they can; however, citizens that keep roosters need to understand that if neighbors complain the rooster may have to go, but they can keep hens.

Councilmember Lockett felt it would be safer for chickens to have a coop or enclosure that could be secured at night to protect them from the elements as well as predators such as cats. Ms. Connors said if coops are required she would like them to be considered an accessory structure and meet the same setback requirements so they are not located along a fence line. Councilmember Spaulding asked why that should be a requirement of a coop, but not a dog house and Ms. Connors said the structure would only be considered an accessory structure if it met size requirements. Councilmember Spaulding asked what the minimum size requirement is and Ms. Connors said 160 square feet.

Chairman Kovach asked if the Committee wanted to limit the number of chickens and Ms. Connors said Staff is recommending four hens, which could produce a couple of dozen eggs per week. Chairman Griffith suggested requiring a permit for more than four chickens. He said some yards are extremely small so a 25 foot setback from border to border would probably work. Councilmember Lockett suggested requiring a permit just so the City would know who has chickens and their locations.

Chairman Griffith asked Ms. Connors her opinion on the setback distance and she said an accessory structure can be five to ten feet from a neighboring home. Ms. Lockett asked the citizens in the audience their opinion. Mr. Gabe Wingfield, an interested citizen and chicken owner, said he has four chickens and the standard rule of thumb for coop size is two to four square feet per bird and yard space would require approximately ten square feet per bird. He said chickens scratch the ground and tear up yards so some type of bedding would need to be laid. He said he uses a "chicken tractor," which is a mobile structure that can be moved from place to place within the yard. He said there is no reason to have roosters unless you want to raise chickens. He said chickens can jump or fly up to four feet so they might be able to get into neighboring yards if the owner does not have the appropriate fencing. Councilmember Kovach asked if four hens was a fair number and Mr. Wingfield said it would be for an average family, but it all depends on how many eggs the family consumes per week. He said chickens eat food waste, which helps with feed costs and lowers household waste. He said the combination of chicken excrement and scratching is similar to composting for gardens and the chickens eat bugs.

Councilmember Gallagher asked what happens to the chickens in the winter and Mr. Wingfield said chickens tend to keep themselves regulated fairly well in a small coop. He said he has used heat lamps on particularly cold nights. Councilmember Gallagher said a casual owner could lose chickens in the winter and Mr. Wingfield said that is possible if the owner is not careful. Councilmember Gallagher felt there would be problems with chickens tearing up yards as well as odor and waste problems. He said the droppings would stream into the watershed and chicken droppings are high in nitrates. Councilmember Gallagher felt the City would be busier dealing with complaints because, like lawn mowing, not everyone takes care of their property or animals and not cleaning coops and yards constitutes a health hazard.

Councilmember Spaulding felt there would not be that many families that will take up raising chickens and those that do will find out how much care and costs are required and will get rid of them. He did not feel that quantity would be an issue. Councilmember Kovach agreed and said citizens that will want to raise chickens will probably research the issue and take care of the coops and yards. He said he liked the idea of four hens and no roosters, which will minimize complaints. He said variance language can be added for someone with a large yard that wants to raise more. Councilmember Lockett felt raising chickens would be like other hobbies in that people will be excited to have chickens until they find out they are not nearly as easy to care for as they thought.

Councilmember Spaulding asked how many and how often chickens are seized for various reasons and Mr. John Bowman, Animal Welfare Superintendent, said none so far, but Animal Welfare has picked up two turkeys. Councilmember Spaulding asked what would happen to the turkeys and Mr. Bowman said they were adopted by a family that lives in east Norman. Councilmember Spaulding asked if Animal Control would contact farmers in Norman to adopt seized chickens and Mr. Bowman said there is currently no place to house chickens so it is hard to say what the procedure would be plus disease has to be considered. He said someone that wants to have free range chickens might be interested in taking seized chickens, but that would probably be a limited number as most farmers raise a specific type of chicken. Mr. Bowman said another problem would be culling roosters from the chicks once its sex is known and finding a place for them.

Mr. Ed Kessler, interested citizen and chicken owner, said, in an urban area you must keep chickens in a pen otherwise cats or dogs will get to them. He said his pen is 128 square feet for six chickens and has hot panels on each end. He had suggested a 40 foot setback to the Committee; however, 25 feet seemed to be a fair distance. He said feed can be expensive and maintaining the chickens, coop, and yard is time consuming. He said the eggs are more expensive than what you buy in the store, but they are fresh and you know where they came from.

Chairman Griffith said he liked the idea of an enclosed pen so that might be the only restriction made on the enclosure rather than requiring a building permit for a coop and having it inspected. He said with enclosed pens, chickens will not be flying around and getting into neighbors yards. Councilmember Gallagher said it would be an exceptional owner that kept everything in order and felt the number of chickens should be regulated by the size of the yard. Chairman Griffith said the size of the yard would be considered for those wanting to keep more than four chickens. Councilmember Gallagher suggested having a minimum dimension on the yards as some yards are too small. Ms. Kami Day, interested citizen and chicken owner, said she has a large backyard and no enclosure except for her regular fence. She said she clips the chickens wings so they cannot fly. She said she supports not keeping roosters. She said the current ordinance already allows domesticated animals as long as you meet the setback requirements. She felt there needs to be a requirement for a coop so the chickens have somewhere to go at night.

Councilmember Lockett asked if the City could try a temporary ordinance for six months with few restrictions to see how many complaints are received. Chairman Griffith said a twelve to eighteen month trial would be a good idea and if there are few complaints, the ordinance could be more permanent. Councilmember Kovach suggested creating a Council policy consisting of a six month waiver that goes through Staff and if that worked out the policy could be codified. Mr. Rick Knighton, Assistant City Attorney, felt it would be difficult to enact a temporary ordinance because citizens will have made an investment on chickens, coop, feed, enclosure, etc.

Councilmember Griffith said an ordinance can be repealed and suggested going through with adopting an ordinance. Ms. Connors highlighted the Committee's suggestions consisting of an enclosed pen; limit of four hens; no roosters; and chickens enclosures be 25 feet from a neighboring structure. Councilmember Kovach felt it would be a burden for someone to build an enclosed pen if they clip the chicken's wings instead. Ms. Connors said the City could give them the option, but did not know how it could be enforced and Chairman Griffith said it could be complaint based. Mr. Knighton asked if Ms Day if she had any problems with animals getting to the chickens and she said no. Ms. Connors had concerns about no enclosed pens because, in east Norman, there are large, feral cats the size of foxes. The Committee felt that decision should be made by the owner.

Councilmember Kovach said there had been a family in his ward that had a pygmy goat and the current ordinance would not allow the family to keep the goat. He suggested placing a provision in the ordinance that would allow a case by case review on other types of animals as long as they were not a nuisance.

Mr. Wingfield suggested reviewing the vicious animal ordinance because dogs and cats are predators, like to eat chickens, and they are just doing what they do. He did not see why the owner should be penalized if their animal killed someone's chickens. Councilmember Gallagher felt that would fall under the leash law. Mr. Wingfield said the dog should not be considered a vicious animal for eating a chicken. Mr. Bowman said, under the current ordinance, if a dog attacks another person's animal then that dog would be considered a vicious animal. Councilmember Kovach said the City receives complaints regarding cats getting into backyards and killing birds and has never prosecuted anyone for harboring a vicious animal. Mr. Knighton said, under the circumstance of chickens being eaten, there will be an irate chicken owner accusing a dog of eating his chickens and wanting the City to prosecute. Councilmember Lockett said if the dog gets inside the chicken enclosure, she would consider that a more serious offense than the chicken getting out of the yard and being attacked. Mr. Jim Maisano, Deputy Police Chief, said the City has a nuisance animal ordinance for animals that may get out of their yard into someone else's yard causing damage or making noise.

Ms. Day asked if citizens that currently own roosters would be required to get rid of their roosters or be grandfathered in and Ms. Connors said the current ordinance allows roosters. She said the amendment will ban roosters in urban areas so there needs to be a separation between urban and rural Norman and she was not quite sure how that would be worded. Mr. Bowman suggested banning roosters in areas zoned R-1, Single Family Residential District, which would solve the problem.

Councilmember Kovach asked if complaints received about roosters be considered under the nuisance ordinance. Mr. Knighton said if the dog gets into a person's yard and kills another animal it would be considered a vicious animal. Councilmember Spaulding said not all dogs, such as a Beagle, are vicious animals just because they kill and eat a chicken. He asked about the penalty for vicious animals and if vicious animals are euthanized and Mr. Bowman said they are usually not euthanized. Mr. Knighton said the penalty range for a conviction for harboring a vicious animal is up to \$750. He said if the Court determines an animal is vicious, the Court can either have the animal euthanized or removed from the City limits. He said in his thirteen years with the City, there has never been an animal euthanized for being a vicious animal. He said there are other processes such as mediation.

Deputy Chief Maisano said Animal Welfare is reviewing and revising the vicious animal ordinance and Council will probably be asked to reclassify that ordinance to "dangerous animal." In that case, the City will look at the circumstances of the attack and the animal will be prosecuted as a dangerous animal in Municipal Court, which will trigger the determination of what to do with that animal.

Chairman Griffith asked that the ordinance be drafted for Council's review in a Study Session or Conference.

Items submitted for the record

1. Memorandum dated March 1, 2012, from Susan F. Connors, AICP, Director of Planning and Community Development, to Chairman and Members of Council Oversight Committee with Attachment A, Residential Urban Chicken Keeping: An Examination of 25 Cities by KT LaBadie, University of New Mexico; Attachment B, Oklahoma City ordinance on chickens; Attachment C, Tulsa, Oklahoma, ordinance on chickens; Attachment D, and Bixby, Oklahoma ordinance on chickens
2. Petition to Allow for Backyard/Urban Chickens in Norman

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Item 2, being:

MISCELLANEOUS DISCUSSION.

None

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ADJOURNMENT.

The meeting adjourned at 6:25 p.m.

ATTEST:

City Clerk

Mayor