

MINUTES OF HARRISONBURG PLANNING COMMISSION
January 13, 2016

The Harrisonburg Planning Commission held its regular meeting on Wednesday, January 13, 2016 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh; Gil Colman; MuAwia Da'Mes; Judith Dilts; Deb Fitzgerald, Chair; Jefferson Heatwole; and Henry Way, Vice Chair.

Members absent: None.

Also present: Adam Fletcher, Director of Planning and Community Development; and Alison Banks, Senior Planner/Secretary.

Mr. Fletcher opened the regular meeting of the Planning Commission and called for nominations for Chair of the Planning Commission for 2016.

Mr. Way nominated Deb Fitzgerald for Chair. Dr. Dilts seconded the nomination and moved to close the nominations for Chair.

All voted in favor of Deb Fitzgerald as Chair of the 2016 Planning Commission.

Chair Fitzgerald then opened nominations for 2016 Vice Chair.

Mr. Heatwole nominated Henry Way for Vice Chair. Dr. Dilts seconded the nomination and moved to close the nominations for Vice Chair.

All voted in favor of Henry Way as Vice Chair of the 2016 Planning Commission.

Chair Fitzgerald asked for nominations for Secretary of the 2016 Planning Commission.

Mr. Da'Mes nominated Alison Banks as Secretary. Dr. Dilts seconded the nominations and moved to close the nominations for Secretary.

All voted in favor of Alison Banks as Secretary of the 2016 Planning Commission.

Chair Fitzgerald called the meeting to order and said there was a quorum with all members in attendance. She then asked if there were any corrections, comments, or a motion regarding the December 2015 Planning Commission minutes.

Dr. Dilts moved to approve the minutes as presented.

Mr. Colman seconded the motion.

All members voted in favor of approving the December 2015 minutes as presented (7-0).

Public School Off-Street Parking Approval Requests – Garbers Church Road Elementary School and Pre-Kindergarten Learning Center along Linda Lane

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said Harrisonburg City Public Schools (HCPS) currently has two projects in review through the City's Comprehensive Site Plan Review, they are: the Garbers Church Road Elementary School and the Pre-Kindergarten Learning Center. As part of the review, they must receive approval of their parking plan, per Section 10-3-25(12) of the Zoning Ordinance (ZO), for both facilities. The process includes for HCPS to determine the amount of parking they feel

is adequate for their site based on division and state agency recommendations and then Planning Commission must review, and if confident that enough parking has been proposed, approve the off-street parking plan so that it is considered in compliance with the ZO.

The new elementary school site is situated on 10.8 +/- acres of R-1, Single Family Residential property located along Garbers Church Road, across the street from the athletic facilities at Harrisonburg High School. Parking is proposed throughout the site, with a majority of the spaces situated to the north of the building. There are 135 parking spaces shown on the site plan, with a separate entrance and drop-off area for school buses. HCPS state that approximately 120 staff members will be employed at the school; but not all would be in the building at the same time.

The Pre-Kindergarten Learning Center will be located along Linda Lane on the Smithland Elementary School/Skyline Middle School property, situated adjacent to the elementary school side of the building. The facility is estimated to have a staff of 28; however, as noted above for the elementary school, not everyone would be in the building everyday or at the same time throughout the day. For this facility, no new parking is proposed and all employees and visitors will park in the existing 150 parking spaces provided for the elementary school. The existing elementary school parking lot is consistently at 50 percent capacity on a daily basis. The entire elementary/middle school complex has a total of 334 parking spaces on site.

Staff has no concerns with either proposal and supports the parking plan for both projects.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes said can you explain the difference in the parking lot landscaping for the two sites.

Mrs. Banks said the new elementary school on Garbers Church Road meets all the landscaping regulations such as street trees, landscaping islands, and no more than 12 parking spaces in a row without an island; therefore, you see much more landscaping. The Early Learning Center is not providing any new parking and because Smithland Elementary was constructed prior to the new landscaping regulations, no new landscaping is required.

Mr. Da'Mes said if an existing business was looking to expand their square footage and occupancy, would we require that they meet the landscaping regulations?

Mrs. Banks said that would depend. If the addition would require new parking be installed on the site, then the new parking area must meet all the requirements of the landscaping regulations; as well, they would be required to install street trees if the landscaping border between the front property line and parking area is five feet or greater. If the area proposed for new parking is an area that is already graveled, just not paved or marked for parking, that area could be paved and striped for parking and not have to meet the requirements of the landscaping regulations.

Mr. Fletcher said you may recall the amendment this body approved in March of last year that clarified just that scenario – anytime you add parking to an existing parking area you only need to meet landscaping that is proportionate to the new parking. Further, we treat all private and public developments equal.

Chair Fitzgerald asked if there was anything further.

Mr. Colman moved to approve the parking requests for the Garbers Church Road Elementary School and the Pr-Kindergarten Learning Center along Linda Lane as presented by staff.

Mr. Heatwole seconded the motion to approve.

Chair Fitzgerald asked if there was any further discussion. Hearing none, she called for a voice vote on the motion.

All voted in favor to approve the parking requests as presented (7-0).

Special Use Permit – 680 North Liberty Street (Section 10-3-40 (7) Increased Occupancy)

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area, which could be combined in the same building or on the same street. The gross residential density in areas outside downtown should not exceed an average of 15 units per acre, though all types of residential units are permitted: single family detached, single family attached and apartments. Apartments are permitted only if single family detached and/or attached units are also provided and together cover a greater percentage of the project site. Residential densities in downtown may be higher than an average of 15 units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

The following land uses are located on and adjacent to the property:

- Site: Single-family dwelling, zoned R-2
- North: Single-family dwellings, zoned R-2
- East: Single-family dwelling and industrial uses (George’s Food LLC), zoned M-1
- South: Vacant lots and multi-tenant dwelling, zoned R-2
- West: Across North Liberty Street, single-family and multi-family dwellings, zoned R-2

The applicants are requesting a special use permit (SUP) per Section 10-3-40 (7) of the Zoning Ordinance to allow occupancy of up to four persons within a single-family detached dwelling, zoned R-2, Residential District, located in the 600 block of North Liberty Street. The property is located on the east side of North Liberty Street between Kratzer Avenue and West Washington Street. If approved, one off-street parking space per tenant must be provided.

The R-2 zoning district shares the same occupancy restrictions as the R-1, Single Family Residential District. Owner-occupied single-family dwellings may include rental of space for occupancy by not more than two persons. Nonowner-occupied single-family dwellings may include rental of space for occupancy by not more than one person. In other words, when a unit is nonowner-occupied, by-right, property owners can rent to a family (regardless of the number of individuals in the family) plus one other person or they may rent to two boarders.

This block of North Liberty Street is a mix of single-family and multi-tenant residential uses, both, owner occupied and non-owner occupied; as well, there are commercial parking lots and parking lot entrances along this section of the street. The rear of the property is adjacent to M-1,

General Industrial District zoning and currently serves as parking and storage for George's Food. The Comprehensive Plan designates the subject parcel as Mixed Use Development. This designation most closely aligns with the B-1, Central Business District which allows by right occupancy of four persons.

The applicants stated the property was purchased as an investment and do not reside in the dwelling. If approved, they intend to rent the four bedroom house, on a per bedroom basis, as affordable housing for single residents. Four off-street parking spaces, one per tenant, would be required if the SUP is approved. The parcel has an existing large parking area in the rear, which can accommodate the required four parking spaces.

Staff does not believe approving the request will have negative impacts to the surrounding neighborhood and supports the applicant's request.

Mrs. Banks continued saying the neighbor directly next door to the site visited with staff this week to discuss parking along North Liberty Street. The neighbor does not have any off-street parking and has to rely on the on-street parking in front of her home. Although she is not opposed to the request of additional tenants, she would just like to be assured that the tenants would park on their site and not in front of her home. She has written a letter and a copy has been provided for each of you this evening.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Colman said one of the things we discussed during the site visit yesterday was the issue of parking and if the tenants or guests were to park on the street. If they were to park right in front of their house there would not be an issue; but, if they are parking in front of the neighbor it would be an issue for me.

Dr. Dilts said we had talked about putting a condition in here that the persons that would live in the home be required to park in the rear and it would be cause for revoking the SUP if there was a complaint about the loss of a parking spaces in other areas. I do not know if we want to entertain that idea.

Mr. Way said a condition that the tenants park in the on-site parking only.

Mr. Colman said they should have a right to park in front of their own house as long as they are not taking on-street parking away from others. It would be hard to enforce that.

Mr. Heatwole said because it is hard to enforce would it be good then to have some type of a mention of the concern within the SUP?

Mr. Da'Mes said I do not think it is an obligation of this body to guarantee a parking space in front of your house along a public street. As long as adequate parking is provided off-site we are not creating a situation whereby parking becomes an issue or makes a dangerous situation. Sometimes a homeowner has to park a little further down than from the normal spot. I would not be in favor of a parking condition like that.

Mr. Colman said do you feel we should just leave it alone?

Mr. Da'Mes replied yes, I would.

Chair Fitzgerald asked if there was anything further. Hearing none, she opened the public hearing and asked if there was anyone desiring to speak in favor of the request. Hearing none,

she asked if there was anyone desiring to speak in opposition of the request. Hearing none, she closed the public hearing and asked Planning Commission for more discussion or a motion.

Mr. Baugh said the thing I am wondering is how is this request materially different from the same type of request that we had for a property on Broad Street? We absolutely did not approve that request.

Mrs. Banks said that particular house, which we received via an occupancy complaint from a neighbor, was within a Neighborhood Residential land use designation. As well it was along a neighborhood street.

Mr. Baugh said I am not saying I am not capable of distinguishing between the two, but essentially the arguments made by the two applicants were the same. There is a sense that the Broad Street neighborhood is really on the “up-swing” to some extent, in a way that this one is not.

Mr. Colman said that this one fits within the Comprehensive Plan.

Mr. Fletcher replied that the land use designations are quite different with the two locations. There was a discussion that you may not have heard when Mrs. Banks commented about the street network. Broad Street is an internal local street; whereas this one is a collector street that is acting very differently. Staff does not take this type of use lightly at all and if you notice we do not recommend in favor of this type SUP very often. This one seemed to fit for us, which is why we gave it a favorable recommendation.

Mr. Baugh said I do not have a problem with this, but I wanted to get this out on the table. Among other things, it would not surprise me if this did not come up at City Council.

Mr. Way said I agree with Mr. Da’Mes in the fact that you can ensure that off-street parking is provided; however, you cannot force people to park there.

Mr. Colman said but we have the ability through this process to require that the parking be in the back.

Mr. Fletcher said the requirement is that the parking be off-street, not that it has to be in the back specifically. To obtain the SUP they have to have the area to provide four off-street parking spaces. If you start to designate the parking spaces you start to take away the feel of the single-family home with four occupants.

Mr. Da’Mes said I believe that human nature would be to park your car in a safe place off the street as opposed to along the street. There is the idea of creating permit parking in the area.

Mrs. Banks said the neighbor was not interested in having permit parking for the neighborhood.

Chair Fitzgerald asked if there was a motion

Dr. Dilts moved to recommend approval of the SUP for 680 North Liberty Street, Increased Occupancy, as presented.

Mr. Da’Mes seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor (7-0) of the motion to recommend approval.

Chair Fitzgerald said this will go before City Council on February 9th, 2016.

Special Use Permit – 98 Pleasant Hill Road (Section 10-3-40 (6) MFDH)

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said the Comprehensive Plan designates this area as Low Density Residential. This designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

The following land uses are located on and adjacent to the property:

Site: Single family detached home, zoned R-2

North: Single family detached homes fronting Middlebrook Street, zoned R-2

East: Single family detached homes fronting Middlebrook Street, zoned R-1, and other single family detached homes fronting Pleasant Hill Road, zoned R-2

South: Across Pleasant Hill Road, single family detached homes and undeveloped parcels, zoned R-2

West: Single family detached homes, zoned R-2

The applicant's representative, Ms. Tara Koontz, is requesting a special use permit (SUP) per Section 10-3-40 (6) to operate a major family day home (MFDH) at 98 Pleasant Hill Road, which is zoned R-2, Residential District. The subject site is currently for sale and Ms. Koontz has the property under contract to purchase. Ms. Koontz is hopeful that both her real estate contract and SUP application are approved so she can easily transition her family and her existing MFDH child care operation located at 627 South Mason Street to the subject site.

As noted, Ms. Koontz currently operates a MFDH at 627 South Mason Street, where the property is zoned U-R, Urban Residential District and has the R-P, Residential Professional District Overlay. In May 2010, after going through the public hearing process and receiving favorable recommendations for approval of a SUP to allow a MFDH from both staff and Planning Commission, City Council approved her SUP with no conditions at the Mason Street location. Prior to receiving her MFDH SUP, Ms. Koontz operated a minor family day home at the same property.

The subject site at 98 Pleasant Hill Road is located within the block bounded by Willow Hill Drive to the west and Central Avenue to the east, where it is just over one half acre in size and is improved with a single family detached dwelling with a large, fenced rear yard. The property is accessible via Pleasant Hill Road by a paved single lane, almost 80-foot in length driveway, leading from the public street to the garage.

After thorough review, staff has only one concern with the application and is recommending approval of the request with one condition. Although Pleasant Hill Road no longer maintains the same traffic volumes it once carried prior to the opening of Erickson Avenue between South Main Street and South High Street, the street remains designated a collector street and holds relatively high traffic counts. (After Erickson Avenue was opened, there was almost a 45 percent traffic reduction on Pleasant Hill Road.) Because the traffic numbers remain relatively high, staff does not want to allow new or additional uses that would promote vehicles backing into Pleasant Hill Road when exiting properties.

To help prevent this from happening, staff is recommending approval of the MFDH only with the following condition:

A vehicle turnaround shall be provided on site. The turnaround shall not simply be additional space for the storage of vehicles for drop-off and pick-up of children, but rather a designated area, where vehicles can safely turnaround on site to eliminate the need to back into Pleasant Hill Road when exiting the property.

Mr. Da'Mes asked when the applicant would need to comply with the condition.

Mr. Fletcher replied if this is approved at City Council, we will coordinate with Ms. Koontz as to a timeline, probably within or about thirty days of approval of the SUP.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she opened the public hearing and asked if there was anyone wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked for discussion or a motion.

Mr. Da'Mes moved to recommend approval of the request for a MFDH per Section 10-3-40 (7) at 98 Pleasant Hill Road with the recommended condition of a vehicle turnaround.

Dr. Dilts seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion to recommend approval (7-0).

Chair Fitzgerald said this will moved forward to City Council on February 9th with a favorable recommendation.

Zoning Ordinance Amendment – Sections 10-3-196 & 197 to Modify Concealed Wireless Telecommunications Facilities Minimum Setbacks

Chair Fitzgerald read the item and asked staff to review.

Mr. Fletcher said staff is proposing to modify the Wireless Telecommunications Facilities ordinance, Article CC, by eliminating the setback regulations for collocated concealed wireless telecommunications facilities. As a reminder, concealed wireless telecommunications facilities are defined as: “Any wireless telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the facility or support structure for providing wireless telecommunications services is not readily apparent to a casual observer. Examples include but are not limited to: bell towers, clock towers, faux trees, flag poles, minarets, monuments, parapets, religious symbols, smoke stacks, steeples, or structures intended as art.” After applying the recently adopted regulations for the past five months on several properties throughout the City, an unintended regulatory situation presented itself at 23 Toni Street. Staff would like to amend the code to alleviate the unplanned prohibition as described below.

For the past couple of months, staff has been assisting a representative with Network Building and Consulting, LLC—a wireless site development firm contracted by Verizon Wireless—to erect several wireless telecommunications facilities on B-2 zoned property throughout the City, where the intent was to install camouflaged macrocells and industrial microcells as well as concealed wireless telecommunications facilities. Of the locations that were evaluated,

preliminarily, the only property that became problematic for them was the site at 23 Toni Street, which is improved with a structure that is non-conforming to setback regulations.

At the time of their initial site analysis, their desired installation was to erect a facility by mounting it to a side of the building that is non-conforming to setback regulations. During the analysis, staff pointed out that, oddly, depending upon whether the facility was categorized as a camouflaged industrial microcell or a concealed wireless telecommunications facility, there could be an issue with whether or not the wireless facility could meet the code provisions associated with setback regulations. This is because the code states that by right concealed wireless telecommunications facilities in the B-1 and B-2 districts, and others, shall meet the minimum setback regulations of the base district (even if they are collocated) while all other by right wireless telecommunications facilities (i.e. industrial microcells, DAS, macrocells, and others) do not have minimum setback regulations because such facilities shall be collocated. In this particular case, since their desired installation was to reach above the roofline of the building, the facility had to be classified and designed as a concealed wireless telecommunications facility, which then triggered the application of setback regulations, and therefore the facility could not be mounted on the side of the building they desired. Staff believed this created an odd situation because if camouflaged industrial microcells could be located anywhere on the non-conforming structure, but concealed wireless telecommunications facilities—those that are intended to be less obtrusive than the camouflaged facility—could not, then the existing regulation was overly burdensome.

The amendment described herein would modify the code to treat collocated concealed wireless telecommunication facilities equal to all other collocated facilities. Rather than only making the change in the code for the facilities that could be located on B-1 or B-2 property, staff is also proposing to make the change for collocated concealed wireless telecommunications facilities that could be located on any residentially zoned property and for properties zoned MX-U. Staff does not believe there would be negative consequences in making the change for facilities that could be located on residentially zoned property because any wireless telecommunications facility to be located in any of those districts must be approved by a special use permit and therefore be subject to public review.

Specifically, the proposed amendments would occur within Section 10-3-196 (2) (a) (ii), where the regulation would be amended as shown below for residentially zoned properties and the MX-U district:

- ~~Unless collocated, minimum~~ Unless collocated, minimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by city council.

And then for the changes necessary for facilities located on B-1 or B-2 property, the modifications would occur within Section 10-3-197 (1) (a) (ii), where the regulation would be amended as shown:

- ~~Unless collocated, minimum~~ Unless collocated, minimum setback regulations shall be controlled by the district in which they are located.

Staff recommends approving the proposed Zoning Ordinance amendments.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked if there was anyone wishing to speak in favor of the amendment. Hearing

none, she asked if there was anyone wishing to speak in opposition of the amendment. Hearing none, she closed the public hearing and asked for discussion or a motion.

Mr. Colman moved to recommend approval of the amendment to Sections 10-3-196 and 197 in order to modify the minimum setback regulations for concealed wireless telecommunication facilities as presented by staff.

Dr. Dilts seconded the motion.

Chair Fitzgerald asked if there was any further discussion. Hearing none, she called for a voice vote on the motion.

All voted in favor of the motion to recommend approval (7-0).

Chair Fitzgerald said this will move forward to City Council on February 9th.

Unfinished Business

None.

Public Input

None.

Report of Secretary and Committees

Mr. Baugh said last night City Council took up the Spotswood Country Club Comprehensive Plan amendment and the rezoning request, the R-7 amendment, and the request for public utilities extension to the Carr property in Rockingham County; all were approved by Council.

Mr. Way said Plan Our Park met yesterday. There was further discussion on fundraising and the idea of penning names to things if you pay money for them. I had to leave for a class after that, perhaps Mr. Baugh can finish the second half of the meeting.

Mr. Baugh said the next part of the discussion at the Plan Our Pak meeting regarded the architectural design for the extension of the Farmers Market; which has been the near term fundraising focus. Blue Ridge Architects offered their design services for free. It is being looked into, but everyone expects it will be okay. It would alleviate a near term fundraising need in the order of about \$10,000 to \$15,000. Hopefully that will all fall into place.

Chair Fitzgerald said she attended the Rockingham County Planning Commission meeting last week; as always, very interesting. They had a couple of rezonings that moved forward smoothly. Four ordinance amendments were discussed, code amendments as well; they were all basically housekeeping matters. Two amendments that were most interesting to me were tabled and will be revisited for further discussion. They were about the idea of allowing in agricultural zones, small businesses, maybe retail businesses, that are agriculturally related. For instance, if you have a farm and you need nails you would not have to drive all the way into Harrisonburg for nails, there would be a retail business that could help you. We also heard a lot about runoff from pressure treated lumber into the water shed and all kinds of other interesting things that I had not heard of before. It was a very interesting meeting.

Mrs. Banks said proactive zoning has returned. There has been a little “tweaking” of the program while it was on hiatus. Proactive zoning is in its fifth rotation of its three year cycle. Zoning inspectors will be visiting two areas for the next several months in order to catch-up after the hiatus. This month North Main Street and North Liberty Street were visited. Along

with tweaking the proactive zoning areas slightly, we have also added the areas to GIS so that we can have a close-up view of the area. In this cycle, North Main Street had 38 violations and North Liberty Street had 31 violations of inoperable vehicles.

Mr. Fletcher said we also changed some of the names for areas, so you may see that in the future. These ideas were brought to us by the zoning inspectors and we really appreciate the changes.

Other Matters

Mr. Fletcher said Dr. Don Hopson, Virginia State Veterinary Supervisor with the Virginia Department of Agriculture and Consumer Services, is here tonight to speak with you and present a PowerPoint presentation about avian influenza. He will answer questions after the presentation. I have also told citizens that were directly interested in the conversation that the Planning Commission was going to hold this discussion and invited them here as well.

Dr. Hopson thanked everyone for the invitation. I am here tonight to educate you on the events of the 2015 Highly Pathogenic Avian Influenza (HPAI) event that took place in the United States and how that reflected in the backyard poultry. During the 2015 HPAI event 232 total flocks were affected; 211 of those were commercial flocks. A commercial flock is one that is being raised by an owner for the main purpose of income and a non-commercial flock is considered all others.

This disease is spread by people not practicing good bio-security; when boots and other equipment are not being disinfected on and off the farm. It is also spread by feathers, dust, moisture, and wind. It is resolved through rapid detection within a flock and rapid containment (depopulation). Only a few viral particles will cause poultry to get sick and die. When the 2015 HPAI virus showed up in the United States it showed up in backyard flocks first. If a virus can be kept away from backyard flocks we have a much better chance of not having the virus affect our commercial flocks.

It is imperative to have good bio-security, which is the set of preventive measures designed to reduce the risk of transmission of infectious disease onto an operation. As well, there needs to be a system of bio-containment, which is the control of the disease agents already present in a particular area, thus working to prevent inter-operational transmissions from flock to flock.

Dr. Hopson said I do have some considerations that I would like to share with you as you review your ordinance.

- The Virginia HPAI response plan requires depopulation within 24 hours of diagnosis and on-site disposal of poultry by composting.
- Composting must take place for 14 days and then the pile is stirred and composted for another 14 days, for a minimum of 28 days.
- Do Harrisonburg properties provide the necessary square footage to depopulate and compost their carcasses on site?
- Risks – Backyard poultry flocks versus the Harrisonburg/Rockingham County commercial poultry industry and their contribution to the local economy.

Dr. Hopson said I would be glad to answer any questions you may have.

Dr. Dilts said I was struck by your statement that the owner had to bring in samples from the flock for testing. What did you all do here in this area for testing when the outbreak happened? Are you all proactive in this area?

Dr. Hopson said yes, we are proactive; however, most backyard flock owners do not want to have us come in and test their flocks knowing they may have to be put down. We will not turn away anyone who wants to submit a sample for testing.

Dr. Dilts said you stated that you must follow the Federal guidelines for containment and disposal; but you were also clear that there is a difference between Virginia and West Virginia. Is there a difference?

Dr. Hopson said yes. It is because of manpower. For the USDA to come into Virginia the State Veterinarian has to invite them in and one reason we would do so is if we were overwhelmed and needed the extra manpower and supplies. That brings the Federal agents in and then they become the “boss” in charge and we do things their way. So until we invite the USDA in, if there is a case that spills over into West Virginia, the State Veterinarian in West Virginia would take the lead role for the state until they saw fit to bring in the USDA.

Dr. Dilts asked if the trucking of birds across state lines is also an issue.

Dr. Hopson said yes, anytime a bird, or any animal, crosses a state line it must have a health certificate and it must have some form of official identification. This is for traceability so that the state knows where the birds are coming from and where they are going.

Mr. Baugh said it is my understanding that the trend has been for more and more places to begin allowing backyard chickens. I have not heard of any places that have gone the other direction of once allowing them and now taking that right away. How are you seeing that?

Dr. Hopson said the State Veterinarian has no authority to say you cannot have backyard poultry; that is completely up to the localities. My opinion is, and I am obviously swayed, I am with the State Veterinarian to do three things – to protect the food supply, to promote agriculture, and to regulate our regulations. It is difficult for me to say “bring on the backyard flocks,” because I know folks with backyard flocks that have absolutely no bio-security whatsoever. We have more humanitarian issues with backyard flocks as we do with avian flu; backyard flocks where the birds are not properly cared for and do not properly dispose of waste or carcasses. This creates issues for your animal control officials.

The avian influenza can be spread by waterfowl and this is where backyard flocks can be susceptible to contamination. Commercial flocks are contained within a building and bio-securing is practiced.

Chair Fitzgerald asked if there were any further questions for Dr. Hopson. Hearing none, she thanked him for the presentation and asked if there were any comments.

Quillon Hall said he is a resident of Harrisonburg and he is interested in acquiring backyard chickens. One of my questions would be what measures have been taken to protect commercial flocks? The couple of instances that were discussed tonight were from 1983 and 2002, but this is 2016 and there were new measures taken after the 2015 outbreak.

Dr. Hopson replied we have increased the amount of surveillance, even prior to 2015; every commercial poultry house in Virginia is sampled for avian influenza within 14 days of it moving off the farm. We have now intensified that surveillance, no poultry moves off of a premise in

Virginia until we know for certain that farm is negative for the virus. More so, we have done extensive educating of the commercial folks, growers, and so forth, on proper bio-security. That is probably the two most important things we have done.

Mr. Hall said I do have some further comments. From what I am understanding most of the disease is spread from waterfowl. I lack to see the connection between how someone with four chickens contained in their backyard somehow increases the ability for commercial chickens to become sick. Does Planning Commission have any comments regarding that?

Chair Fitzgerald said what our intent is, was to get the presentation tonight and take time to think it through, then come back and consider several specific questions that City Council has tasked us with. At this point I do not know if the group is thinking they would like to do something different?

Dr. Dilts said I would actually like to have Dr. Hopson address Mr. Hall's comment.

Dr. Hopson replied there are a couple of things. Backyard poultry are not housed inside; they are exposed to the wild birds and waterfowl. The other thing is you have a lot of backyard poultry owners who do not have good bio-security practices, from what I have seen. Some actually try to fight birds, competitively. There are actually circumstances of owners that have mortalities place the carcasses in the household waste; they are not properly disposed of.

Mr. Hall said if people were educated on that would it be helpful.

Dr. Hopson replied yes, it would be helpful.

Mr. Colman said is bio-security practices something you feel could be achieved within the City for backyard chickens.

Dr. Hopson said how would the City ensure that a person is practicing good bio-security? Prior to your current poultry ordinance, when there was no ordinance in place and no poultry was allowed in the City, we were constantly called out because of poultry flocks. If it was not regulated then, what makes one believe a backyard flock can be regulated now? Who is going to oversee this within the City of Harrisonburg?

Dr. Dilts said the outbreak this past year affected both chickens and turkeys?

Dr. Hopson said yes along with some wild game birds as well. Waterfowl were affected as well; however, they are a-symptomatic. When avian influenza affects waterfowl it is more of a gastrointestinal problem. When it affects your gallinaceous birds it is more of a respiratory problem. Whenever your waterfowl contract avian influenza they are usually "pooping" all over the place; so when you see them fly over they are like flying flu factories spreading the virus.

Chair Fitzgerald said that is then a vector for the transmission of the avian flu.

Dr. Hopson said yes. Owners, growers, and workers walk in contaminated droppings, yet they are practicing bio-security at the door to the poultry house. This is not the same for backyard poultry.

Mr. Hall said can you describe the measures that are taken to go inside a poultry farm and house.

Dr. Hopson said you must contact the owner to make an appointment to come to the site, you must sign in, and you must also put on personal protection equipment (PPE) before you enter the house.

Mr. Hall said it is not like a person who owns backyard chickens could just walk into a commercial chicken house.

Dr. Hopson said I understand your point; however, there is no law enforcement making sure that doesn't happen. I do not believe that anyone is intentionally going to spread the disease; it is usually because people do not think about it.

Mr. Hall said education is a key.

Mr. Da'Mes asked Dr. Hopson to discuss vaccination.

Dr. Hopson said to vaccinate for the H-5 or H-7 Avian Influenza it must be approved by USDA. We did get that approved, but only to be used at the discretion of the State Veterinarian; however the State Veterinarian of Virginia is not going to allow that. If you vaccinate commercial poultry for H-5 or H-7 foreign countries will not take your poultry for consumption because they assume you are vaccinating because you have the virus and it is not controlled.

Mr. Da'Mes said how about for a private citizen with a backyard flock?

Dr. Hopson said that would be a class one misdemeanor if backyard flocks were vaccinated without the approval of the State Veterinarian.

Mr. Baugh asked for some clarification. What you are saying is why you would not vaccinate commercial flocks makes total sense. What I am understanding you saying is that even if I, as an individual backyard flock owner, wanted to vaccinate, I could only do so with approval from the State. Has that ever been explored for backyard flocks and whether there is any merit to vaccinating?

Dr. Hopson said if you vaccinate even one backyard producer you have now shut down all of the Virginia commercial poultry.

Mr. Baugh said that was the clarification I was looking for. It is looked at State wide whether it is a backyard flock or a commercial flock. Thank you.

Dr. Dilts asked if this strand of virus was stable or does it undergo a lot of mutations.

Dr. Hopson replied it undergoes numerous mutations. Life expectancy is roughly four years. It is going to circulate and it is going to mutate because these are single stranded DNA viruses that would like to marry up to another single strand to create an entirely new strand.

Dr. Dilts said that is very important. What we could get next could be even worse than what we have.

Mr. Hall said the City of Harrisonburg currently has an ordinance for chickens and the lot size is set at two acres. What I was hoping, would be to strike the requirement all together. What changes would you suggest to the existing ordinance?

Dr. Hopson said to be honest I do not know your ordinance. I can appreciate your concern and your desire to have poultry in the backyard, but why did you move to your current location if you knew what the law about backyard poultry was?

Mr. Baugh said we all have a right to petition our Government to change our rules. If you have an infection and you are following appropriate protocol for disposal of the bird, would that correspond to any minimum lot size?

Dr. Hopson replied I do not believe so. There is nothing that tells us that we have to have so many square feet for each bird.

Mr. Baugh said I am asking about the composting area, is there a minimum.

Dr. Hopson said there is no minimum standard. It comes down to the Virginia Department of Environmental Quality (DEQ), those folks head that operation. The ideal way is of course to compost on site, by moving the carcasses there is a greater chance of spreading the virus.

Mr. Hall said I hope we can work together for a resolution.

Mr. Hobey Bauhan said he is the President of the Virginia Poultry Federation, which is based here in Harrisonburg and I also reside here. I just want to thank you all for your diligence in trying to learn more about avian influenza. The poultry industry is a large economic factor in Virginia and probably no locality has more impact on the industry than the City of Harrisonburg with the processing plants, feed mills, live jobs, and indirect jobs from businesses that provide goods and services to the poultry industry. So far, we are concerned about this issue here in Harrisonburg because of the density of the poultry in this immediate area and Rockingham County as well. If we can be of any assistance to you as you move forward through this process, let us know. Thank you for taking a cautious approach and trying to have all the facts presented.

Chair Fitzgerald thanked everyone. She then asked Planning Commission if there were further questions. Hearing none, she asked how Planning Commission would like to handle this next month.

Mr. Fletcher said believe it or not there are no new cases for next month's agenda, so you could take a very in depth look at this. We can check about drumming up some public input on the topic next month, perhaps some free media to get those folks interested to come out and participate. This was first brought to Planning Commission in October, so we are several months out at this point; being that there are no new business items for next month's agenda, it would be a great opportunity if you want to flush it out.

Dr. Dilts said when the current ordinance was under consideration, was there a conversation about the bio-hazard portion of it?

Mr. Fletcher said I would have to re-look at the minutes.

Dr. Dilts said perhaps you could just send the minutes. Do you remember why the two acre limit? It almost sounds like it had something to do with neighbors and neighborhoods.

Mr. Baugh said if I recall correctly, the two acres kind of evolved from averages of other communities. As for your first question, I would say nothing then rose to the level of debate here in any of the open sessions of discussion. I know that Council Members had people give us articles and data to review, but this conversation alone is at a higher level than anything that took place during the original discussions.

Dr. Dilts said part of it is that we just came off of the 2015 outbreak; therefore we are a bit more cautious about what we do and why we do it. The larger discussion of what an individual wants versus what is happening to a society is part of the conversation also.

Mr. Fletcher said if Planning Commission absolutely wants to talk about it next month it would be good to know so that we can prepare and we can get the opportunity to get this out to the public. This is not a public hearing so it is not advertised.

Chair Fitzgerald said it would be a public input session. We could also vote on recommendations to City Council.

Mr. Fletcher said this is not part of the zoning ordinance, and staff is not offering any recommendations; these are just the talking points that City Council has offered for this group to talk about.

Chair Fitzgerald said there was a lot of discussion in the materials that you gave to us previously about the number of times Animal Control got called out about chickens before the 2009 ordinance. Is there any sense as to whether that has changed? Or has this ordinance done nothing to the way people have chickens in the City. Do people who cannot meet the two acres continue to have chickens?

Mr. Fletcher said we can certainly contact Jetta Earhart regarding those questions; but my quick view is it is exactly the same.

Chair Fitzgerald said do we agree that we will think about this, advertise it through the media, but not as a public hearing just get the word out through social media, come back to it next month for public input and discussion, and then maybe decide what we would like to send forward to City Council.

Mr. Fletcher asked if the group was hoping the public input would speak to these four talking points. Because there are measures in place and we do not want to re-invent the wheel with the ordinance.

Chair Fitzgerald said perhaps the Public Information Officer could craft the outreach notice along those talking points.

There was a consensus among the Planning Commissioners that this was indeed the direction they wanted to take regarding the chicken ordinance discussion.

Adjournment

The Planning Commission meeting was adjourned at 8:50 p.m.

Chair Deb Fitzgerald

Secretary, Alison Banks