

Meeting Minutes

City Council Work Session

January 13, 2022 | 4:30 p.m.
Council Chambers Conference Room
88 E. Chicago St., Chandler, AZ



The meeting was called to order by Mayor Kevin Hartke at 4:30 p.m.

Roll Call

Council Attendance

Mayor Kevin Hartke
Vice Mayor Mark Stewart
Councilmember OD Harris
Councilmember Terry Roe
Councilmember René Lopez
*Councilmember Christine Ellis
Councilmember Orlando

Appointee Attendance

Josh Wright, Acting City Manager
Debra Stapleton, Assistant City Manager
Dawn Lang, Deputy City Manager/CFO
Andy Bass, Deputy City Manager
Kelly Schwab, City Attorney
Dana DeLong, City Clerk

*Councilmember Ellis attended telephonically.

Staff in Attendance

Matt Burdick, Communications and Public Affairs Director
Derek Horn, Development Services Director
Kevin Mayo, Planning Administrator
David De La Torre, Planning Manager
Lauren Schumann, Senior Planner
Stephen Erno, Neighborhood Preservation Manager
Steven Turner, Assistant to the City Manager

Discussion

1. Discussion on Urban Chickens in Residential Areas.

MAYOR HARTKE called for a staff presentation.

JOSHUA WRIGHT, Acting City Manager, introduced the discussion item and said multiple Councilmembers asked about this issue over the last several months. The last time the City discussed this was in 2013 and Council elected not to move forward with any changes to the Code regarding urban chickens. Mr. Wright said staff would present some pros and cons to the issue and some options for Council to consider.

LAUREN SCHUMANN, Senior Planner, presented the following presentation.

- Topics
 - Background
 - Potential Issues
 - Other municipalities' regulations
 - Possible Code Amendments
- Background
 - AG-1 (43,000 sq ft) & SF-33 (33,000 sq ft) residential lots permit chickens
 - Unlimited amount
 - No roosters are permitted in any district
 - Required fence enclosure; no closer than 100 ft to front property line
- Homeowner's Associations
 - HOA's can prohibit raising, breeding, or keeping chickens
 - Residents living in HOA's must comply with their CC&R's
 - 71.5% of neighborhoods within an HOA

VICE MAYOR STEWART asked if that was in the hatched areas.

MS. SCHUMANN said the hatched areas are the County and the blue and green parts are the City that allow for chickens.

COUNCILMEMBER ORLANDO asked if the HOA would set up a legal issue because the Code would allow for them.

KELLY SCHWAB, City Attorney, said the HOAs can be more restrictive than the City because someone is entering into a residential contract when buying a house governed by an HOA. If the CC&Rs prohibit chickens then there is no legal right to have them even if the City allows them.

MAYOR HARTKE said last time that was a big question in 2013 but there is no legal challenge by right and the HOA would need to amend their CC&Rs.

MS. SCHWAB said yes if they prohibit chickens in the CC&Rs which most HOAs do.

MS. SCHUMANN continued the presentation.

- Background
 - Resident Initiated Code Amendment 2013
 - Planning and Zoning Commission recommended approval 4-2
 - City Council Denied 4-3; concerns cited included ability and timelines of enforcement
- Urban Chickens
 - Pros
 - Health eggs
 - Free pest control
 - Chicken droppings excellent garden fertilizer
 - Connection to nature/sustainably
 - Educate children in the family
 - Therapy for special needs residents
 - Cons
 - Noise
 - Odor
 - Health

- Trespassing/roaming
- Building safety
- Enforcement

STEPHEN ERNO, Neighborhood Preservation Manager, continued the presentation.

- Enforcement
 - Misdemeanor vs. Civil Citation
 - Enforcement challenges
 - Distinguishing roosters from hens
 - Ability to verify number of chickens
 - Identifying owner of “free roaming” chickens
 - Currently average 4 complaints per month

VICE MAYOR STEWART asked if it was the same resident regarding the complaints.

MR. ERNO said multiple residents.

COUNCILMEMBER ORLANDO asked what the process was when they receive a complaint.

MR. ERNO said if they go the property, and they admit to having chickens then they are written a notice.

COUNCILMEMBER ORLANDO said if the person has more than five chickens they cannot verify that unless the owner permits them to go into the yard.

MR. ERNO said yes, that is correct.

MR. ERNO continued the presentation.

- Code Enforcement Process
 - Complaint received or proactive case initiated
 - 10-Day notice to comply issued
 - 7-Day Final Notice Issued
 - Court civil citation issued; initial court appearance is 30-45 days later depending on service
 - Attempt personal service
 - Attempt service by certified mail
 - Service by posting at the property
 - Criminal cases referral: 45-60 days

MAYOR HARTKE said those four complaints a month could disappear if the chickens were legal. Mayor Hartke said he was not sure if more people would have chickens and asked if there would be more or less code enforcement involved.

MR. ERNO said there would probably be an initial spike in people complaining and then upset that people are allowed to have chickens and then it would probably level out.

COUNCILMEMBER ROE asked how many people have chickens in the surrounding cities and what the chicken population was.

MR. ERNO said they do not know how many chickens there are as they can only track the complaints.

COUNCILMEMBER ORLANDO asked out of the four complaints, how many were reconciled.

MR. ERNO said they would all be reconciled but did not know how many chickens would be removed. There are times code enforcement goes out and are unable to determine if there are chickens. The cases could be resolved with or without a violation.

COUNCILMEMBER ORLANDO asked for the data regarding how many receive violations and which ones did not.

COUNCILMEMBER ORLANDO said it would be helpful to know how many complaints other cities are receiving.

COUNCILMEMBER LOPEZ said none of these complaints have gone to a criminal complaint.

MR. ERNO said that was correct.

COUNCILMEMBER LOPEZ said this process is the same for any type of animal that is not allowed.

MR. ERNO said that is correct, this is the process regardless.

MS. SCHUMANN continued the presentation.

- Surrounding Municipal Regulations
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- Common Regulations
 - Require enclosure to prevent chickens from running at large (backyard fence or chicken run)
 - Weekly maintenance
 - Public nuisance laws (odor, noise, health)

COUNCILMEMBER LOPEZ said a lot of them allow roosters.

MAYOR HARTKE said that Glendale is similar to Chandler and asked if there were other cities that has a restriction on chickens.

MS. SCHUMANN said Avondale does not permit chickens.

MAYOR HARTKE said the rest permit for chickens.

MS. SCHUMANN said yes.

COUNCILMEMBER HARRIS asked if anyone in Chandler could have a dog.

MAYOR HARTKE said yes.

COUNCILMEMBER HARRIS asked if they have a lot of complaints about dogs in the community.

MR. ERNO said barking dogs is a common complaint.

COUNCILMEMBER HARRIS asked if Mr. Erno knew how many.

MR. ERNO said he did not have the exact number.

COUNCILMEMBER HARRIS asked how long dogs have been allowed in the community.

MR. ERNO said probably since the beginning.

COUNCILMEMBER HARRIS asked if they receive complaints about the cats in the community.

MR. ERNO said they do, especially feral cats.

COUNCILMEMBER HARRIS asked if they have a resolution process for cats.

MR. ERNO said they do not have a process really for cats except for the trap, neuter, return program.

COUNCILMEMBER HARRIS asked if anyone has come to any Council in any city about dogs or cats in the community.

MR. ERNO said not that he is aware of.

COUNCILMEMBER HARRIS said they are debating whether people can have an animal, and it is someone's right to have the animal they want as long as it does not violate the rules. Councilmember Harris said he has dogs and did not want to debate if the animals should be here or not. Councilmember Harris said dogs and chickens are kind of the same in that they have to be regulated to make sure everyone feels comfortable and safe.

MS. SCHUMANN continued the presentation.

- Possible Code Amendments
 - If City Council wants to proceed, staff recommends the following:
 - Chapter 35 Zoning Code
 - Chickens permitted all single-family lots
 - Maximum 5 hens, no roosters
 - Chickens must be contained by enclosure, no trespassing upon other properties or street
- Assuming 1 hen/1,500 sq ft map
- Possible Code Amendments
 - Chapter 35 Zoning Code
 - Coops exceeding 120 sq. ft. or 9-ft in height require building permit
 - Coops connected to utilities (water, electricity) require permit regardless of size

COUNCILMEMBER LOPEZ asked if that was the same requirement we have when someone builds a shed.

MS. SCHUMANN said that was correct, but the possibility for adding an additional ancillary building to have a storage shed and a coop.

COUNCILMEMBER LOPEZ said they would be separate, but it would be similar to the requirements of the shed.

MS. SCHUMANN said yes, it would be similar to how they regulate storage sheds.

COUNCILMEMBER ROE asked if a tough shed would not require a permit.

MS. SCHUMANN said they do require a permit.

COUNCILMEMBER ORLANDO asked why they have that code.

KEVIN MAYO, Planning Administrator, said it is derived from the building codes of the past from a life safety standpoint. As building codes have migrated away from that, they have still kept ancillary storage sheds there.

COUNCILMEMBER ORLANDO asked if someone wanted to put a gazebo in their yard if they would need a permit.

MR. MAYO said yes, they need to make sure the setbacks are met and it is a life safety issue to make sure it is installed correctly and does not fly away.

COUNCILMEMBER LOPEZ said HOAs sometimes have more requirements.

COUNCILMEMBER ORLANDO asked when someone gets a permit if they have to notify their neighbors.

VICE MAYOR STEWART asked if the permits were free.

MR. MAYO said no, they are based on the estimated value of construction.

VICE MAYOR STEWART said if someone wants to have a coop over nine feet then they have to pay for the inspection.

MR. MAYO said the fee is for staff time to review and inspection. The fee is nominal, but it ramps up when someone is building a house.

MS. SCHUMANN continued the presentation.

- Possible Code Amendments
 - Enable Police to respond to noise complaints for unreasonably loud chickens
 - Change violation from misdemeanor to civil citation
 - Repeal Section 14-3 requiring written consent from neighbors within 200-feet to keep animals (Chapter 14)

VICE MAYOR STEWART asked if that was for any animal.

MS. SCHUMANN said yes.

MAYOR HARTKE said that did not apply to a dog or cat.

MS. SCHUMANN said not a dog or cat is classified as a domestic animal in the Code.

MS. SCHUMANN continued the presentation.

- Next steps if moving forward
 - Winter 2022
 - Prepare draft code amendment
 - Circulate among city departments to gather comments and concerns
 - Revise text if needed
 - Spring 2022
 - Posted within local newspaper and City's website for public comment
 - Summer 2022
 - Schedule Planning and Zoning Commission and City Council Meetings

COUNCILMEMBER HARRIS said he would prefer the police to not respond to chicken issues and that was a waste of their resources, and it should fall under code enforcement. Councilmember Harris said he would prefer the police to investigate real crimes instead of determining if the chicken was too loud. Councilmember Harris said he was not sure why this was a misdemeanor to begin with and did not want to overregulate the community.

COUNCILMEMBER LOPEZ said he did not think they should change the way they enforce, the police should not be called out for this, and it should stay with code enforcement.

COUNCILMEMBER ORLANDO said he was concerned with weekend enforcement and wanted to see more data on this. Councilmember Orlando said he did not want to create an issue between the neighbors and that most of the City already has chickens restricted by the HOA. Councilmember Orlando said there is already issues with enforcement in the non-HOA areas and did not want to add more to that. Councilmember Orlando said he understood property rights but if there is a neighbor who does not want chickens and asked about their rights. Councilmember Orlando said he was not for or against it but rather he needed more data. Councilmember Orlando said he wanted to know how bad the problem was currently and wanted to see a permit process and did not want to see neighbors fighting with neighbors. Councilmember Orlando also wanted to ask if it needed to be disclosed in real estate transactions.

COUNCILMEMBER ROE said it was an easy thing to support and wanted to see this resolved this year.

VICE MAYOR STEWART said he would choose the side of freedom and did want to see some encouragement to get neighbors input. Vice Mayor Stewart said if they have a bigger lot it may not be an issue but on a 10,000 square foot lot, having some discussion from the neighbors should be encouraged. Vice Mayor Stewart said this should not be criminalized, chickens are pets, and are less smelly than dogs.

COUNCILMEMBER ELLIS said she was concerned in over-regulating. Chandler has always been an agricultural City and people want to have chickens in their yard. Councilmember Ellis said she wanted to see more information but did not see why not at this time.

COUNCILMEMBER LOPEZ said this should be simple and every city in the valley has this. There are not droves of people fleeing those cities because of chicken problems.

MAYOR HARTKE said there was enough to move forward and there were a lot of questions to be answered.

COUNCILMEMBER ROE said he wanted to see a County overlay. Councilmember Roe said if they allow chickens then there should be less enforcement.

VICE MAYOR STEWART said there would be some things that happen but a phone call from code enforcement would be enough if there are noise complaints. Vice Mayor Stewart said for the smaller lots he wanted to see input from the neighbors around the house.

COUNCILMEMBER HARRIS said when you start regulating this then they start regulating other things that do not need to be regulated. Councilmember Harris said he wanted to really look at how much regulation is actually needed.

COUNCILMEMBER ORLANDO said all of these are good issues and wanted more data. Councilmember Orlando said he did not want to create a problem or have them concentrated in one area. There are bad actors out there and how do they protect those neighbors living next door and they need to find a balance.

Adjourn

The meeting was adjourned at 5:23 p.m.

ATTEST: _____
City Clerk

Mayor

Approval Date of Minutes: January 27, 2022

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the City Council of Chandler, Arizona, held on the 13th day of January 2022. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of January, 2022.

City Clerk