# Minutes of the Veneta Planning Commission
# April 1, 2014

Present: Chairman James Eagle Eye, Len Goodwin, Kevin Conlin, and Calvin Kenney

Absent: Lily Rees

Others: Kay Bork Community Development Director; Lisa Garbett, Associate Planner, Ric Ingham, City Administrator; Darci Henneman, Assistant City Recorder, Wayne Wymore, Anthony Clemons, Annette Kersenbrock, John Russell, Clifford Thorne, and Priscilla Clemons

## I. REVIEW AGENDA

Chairman James Eagle Eye called the Veneta Planning Commission to order at 7:01 p.m. and reviewed the agenda.

## II. PUBLIC COMMENT

**Wayne Wymore, 25311 Hunter Rd., Veneta, OR**

Mr. Wymore said there is a huge pothole on Hunter Rd., just as you turn from Territorial. He said it wouldn't take much to fix.

**Anthony Clemons, 25156 Cherry Ln., Veneta, OR**

Mr. Clemons said the culvert that crosses Oak Island is clogged and it needs to be cleaned. He said it floods there every year.

## III. APPROVAL OF MINUTES

**MOTION: Kevin Conlin made a motion to approve the March 11, 2014 minutes. Len Goodwin seconded the motion which passed with a vote of 4-0.**

## IV. Public Hearing – Land Development Ordinance 493 Amendment A-1-14

a. Amendments to Land Development Ordinance 493 – additional provisions for chicken keeping and adding related definitions.

(1) Chair James Eagle Eye opened the Public Hearing at 7:04 p.m.

(2) Declaration of Potential Conflict of Interest and Ex-Parte Contacts
None

(3) Staff Report (Lisa Garbett)
Garbett said if amendments are adopted, staff will create a permit form and a fee schedule for the City Council to review. She said starting with the approval criteria, the Planning Commissioners can amend Land Development Ordinance No. 493. She said on February 24th, staff was directed by the City Council to draft amendments in regards to chicken keeping and vet that through the Planning Commission for recommendation to the City Council. She said the public hearing notice was published in the Fern Ridge Review and posted in the outside bulletin board at City Hall at least 10 days prior to today's hearing. In addition the Department of Land Conservation and Development (DLCD) was notified on January 15, 2014. Staff received public comments from the last meeting, two additional comments were received and attached as Exhibit I. She said after the packets were mailed, a comment was received which she emailed to the Commissioners as well as provided a hard copy. She said possible actions taken by the Planning Commission include recommended approval of the proposed amendments, recommend the amendments

be revised, recommend approval to the City Council; or request staff to provide additional research to be brought to the May 6th Planning Commission meeting. Garbett asked the Commissioners if they would like to go through the proposed amendments in detail. Garbett also said Teresa Warrick, the City's Code Compliance Officer is here to answer any additional complaint questions the Commissioners may have.

In response to a question from James Eagle Eye, Garbett said as part of the amendment process, the Commissioners asked for information regarding impacts to code enforcement which she reviewed.

Bork said instead chose to insert the code provision section in the supplemental standards. She said it was just a little formatting difference from previous staff reports.

Garbett reviewed the amendments with Commissioners.

Bork said these ordinances are written in a way that can address a complaint and allow the animal control officer to visually inspect the coops to determine if the requirements are being met. She said the ordinance should balance any possible nuisance and make it quantifiable in a way that makes it enforceable.

Garbett said the definition for fowl is "domesticated birds kept for eggs but limited to chickens". She said it's optional if the Planning Commissioners want to include other birds. Also included was a definition for a chicken run as "an enclosed area in which fowl are allowed to run or walk about and is attached to a coop".

Len Goodwin said it seems the clause in section (1) (b) "shall be kept on properties greater than 5000 sq. ft. in area" doesn't seem necessary if the other language states 4500 sq. ft. is the maximum size lot. Also, section (3) (d) "asking people to keep the chicken coop clean" may be challenging if the coop height is only 6 ft. He understands it's relevant to the fence height but we need to accommodate residents taller than 6 ft.

Bork said a provision can be included that the coop shall comply with Veneta Land Development ordinance so necessary structures are included, making it 8 ft. so we're not conflicting with current code.

In response to a question from Len Goodwin, Bork said a coop and run or a coop and a fenced backyard is required.

In response to a question from Calvin, Len Goodwin said if we look at the whole of the ordinance, there are a number of instances where "coop and run" are associated with one another. He said as long as we clarify "coop and run" or "coop and backyard" so there's no confusion.

Bork said the code refers to coops and runs together if they're attached. She said there's no restrictions on the coop as long as it complies with the standards.

In response to a question from Len Goodwin, Bork said to address the issue of neighbor dogs being attracted to free range chickens the code requires a set back from a fence.

In response to a question from Calvin Kenney, Bork said all residents with automatic sprinkler systems are required to have a back flow test done annually.

(4) Proponents

**Wayne Wymore, 25311 Hunter Rd., Veneta, OR**

Mr. Wymore said it would be good to have an opportunity to make this a vote. He suggested putting it on the next ballot so there would be a wider input if people want to start a new regulation that would include a lot of extra fees and layers of government. He said a person should be able to clean all the chicken stuff up but chickens aren't like dogs, they make a constant mess. He just can't imagine how it can be cleaned up. He said it seems like a person should be able to have at least one chicken so maybe there should be a minimum.

**Annette Kersenbrock, 88039 Eighth St., Veneta, OR**

Ms. Kersenbrock said her back yard is fully fenced and she is very glad the City is looking into allowing chickens. She asked if a fee would be associated with the permit, and if so, to please consider low income residents. She said there's a lot of families in the area that already have chickens.

**John Russell, 24784 Terra Ln., Veneta, OR**

Mr. Russell said a law is in place but that doesn't always make it right. He said some times laws do need to be changed and at times, breaking laws is the way to do it. He said he didn't know he was breaking the law until City staff told him he was. He said he understands that people who want chickens are going to tell you great things about chickens and people that don't like chickens are going to tell you all the bad things about chickens. He said chickens stink when they're not well cared for. Not all chicken owners should be punished because of one bad chicken owner. He said his chickens don't defecate where they sleep. He has split his yard for personal use and chicken space. One small area is used but he cleans it up and his neighbors didn't even know he still had chickens.

**Clifford Thorne, 88045 Eighth St., Veneta, OR**

Mr. Thorne said spoke at the last meeting and said Veneta is a rural area. He has a USDA rural home loan and lives in City limits. He asked why a permit should be required to have chickens, we don't need a permit to have dogs or cats. He said there are many loud things in the neighborhood and he doesn't understand why permits are needed for chickens.

(5) Opponents

**Priscilla Clemons, 25156 Cherry Ln., Veneta, OR**

Ms. Clemons said she does not want to have chickens in the city. She said they attract flies, predators, and rats. She said her neighbors are so close to her and her neighbor's dogs stink. She said chicken manure cannot be used as fertilizer right away and it seems like it doesn't matter what she wants. She said what's going to happen to the old chickens? She said when they stop laying people will just get more.

**Anthony Clemons, 25156 Cherry Ln., Veneta, OR**

Mr. Clemons said he presented a letter earlier today. He said he wants to keep Ordinance 493 as it is which states currently chickens are not allowed. He said he's at a disadvantage and it's a false premise. He said instead of having overwhelming numbers to change the ordinance to allow chickens, people against chickens need to

provide enough information to get the ordinance to stay as it is. He said people are already breaking the law. If the City would enforce the ordinance that's in place now, everything would be fine. He said the City Council and Administrator changed the law. He said as far as education for children; what lesson are they learning? That if there's a rule that says you can't have chickens but you do it anyway, there's no penalty so the law can just be ignored.

(6) Questions from the Planning Commission
Len Goodwin said after thinking about it, 20 chickens is a lot for residents living in Veneta. He said he would not be supportive of a maximum of that many and suggested it should be less than 20.

James Eagle Eye said there are still five to 10 acre lots in Veneta and it's not an issue for that size lot but he does understand as the City develops we are creating something that we'll have to address down the line.

Len Goodwin said he assumes that five acre lot are zoned as Rural/Residential so they could have 20 chickens.

Bork said it's hard to determine what the maximum should be. She said staff could recommend to the City Council that they set a maximum number of chickens and staff could do some research to see what other cities' maximums are.

Len Goodwin said if we were to the point to make a positive recommendation it would be no more than 10 chickens.

James Eagle Eye said if you do the math to find out what size lot could accommodate 20 chickens, you'd end up with a Rural/Resident lot.

Len Goodwin said 16 hens would lay well over a dozen eggs a day and it becomes hard to use that many eggs without giving some away or selling them. Then does it become a home occupation?

Calvin Kenney said or is it considered a commercial business and then it's outside the boundaries of the ordinance.

James Eagle Eye said for the smaller residential lots 10 chickens is a comfortable number.

Bork said there's not many 15,000 sq. ft. lots in City limits.

James Eagle Eye said there will be another public hearing to offer residents another opportunity to make the argument that the number should be higher.

Bork said staff is not recommending there be a fee associated with the permit but is recommending the permit be required so staff can monitor that residents with chickens are in line with the code, the coop is the right size, and that it meets code standards.

James Eagle Eye suggested the City Council may decide to add a small dollar amount just to cover staff time.

Teresa Warrick said a one year dog license is $15.

Bork said if we charge for the permit, it would not be a yearly fee but a one-time fee.

Len Goodwin said he has raised chickens for several years and he finds it very beneficial. He said the eggs are far superior and easier to get. Our society is changing to a point where we are recognizing the need to have more local food production and know where it comes from. He said he sees the value children can get from having chickens. He said having managed a coop for a number of years, his coop does not have a foul smell and one of his hens is over 10 years old and she still lays eggs, not every day but she still lays. He said he has not lost chickens to predators except for those that escaped. He said he understands there's a lot of discomfort with having farm animals in an urban setting but Veneta is a rural area. This is not New York City and even then, as a child, he grew up with neighbors that had chickens and goats. He thinks we are flying in the face of reality when we think we can somehow tell people that they cannot grow some of their own food. He is recommending the Planning Commission direct staff to take this to the City Council for review.

James Eagle Eye said he supports the intent of the ordinance but the key aspect will be enforcement. There is potential for problems but it's the same potential for dogs and cats and other things. He said hopefully requiring a permit and having an enforcement person, he is comfortable the City can handle chickens in City limits.

Kevin Conlin said all the benefits he just heard described can be maintained under the existing law. He said people just need to make sure they purchase the right piece of property. He said it can still be local under the existing law. He said Mr. Clemons letter was right on point and he supports it. He said he is going to vote in favor of sustaining the existing law because after all, if we're having trouble with enforcement now, with prohibition, what's it going to be like if we allow chickens and deal with the noise and smell. He said people have different levels of tolerance. He said the law has served the City well and he can't see the great harm being done unless it can be shown that there is significant harm or some great dysfunctional thing, that for the common good, requires the law be changed. There is a small number of people that are inconvenienced by the current law but he felt it has served us well and he is voting to sustain it.

James Eagle Eye said obviously there's been enough interest from the community that puts us in the direction to recognize the fact that this came from the City Council, and that it warrants a possible code change.

Calvin Kenney said he sees both sides of the argument; the social economic impact is they can't afford the right piece of property but we also are in a rural area. People grow gardens to feed their families. He said with the correct number of chickens he sees no problem. He said he encourages enforcement and fines to be on an escalating scale, increasing dramatically for repeat offenders. He said he has no doubt some will abuse it and the way to get their attention is an economic impact on their own wallet.

Bork said it's a common practice for the judge to assign fines based on the history of repeat offenders. She said he won't set the maximum fine amount for the first offense.

Teresa Warrick said dog at large fines are as follows: the first offense is $167, second is $257, and the third goes up to almost $400. She said the City can also declare an animal a nuisance and require it be removed from City limits. She said that occurs typically with aggressive dogs.

**MOTION: Len Goodwin made a motion to recommend City Council adopt Section 530 of Land Development Ordinance 493 and amendments to sections 4.02, 4.03, and 4.04 as proposed by staff with the following changes that the maximum limit be 10 chickens and the coop or run shall not exceed 8 ft. in height. Calvin Kenney seconded the motion which passed with a vote of 3 to 1.**

(7) Chair James Eagle Eye closed the Public Hearing at 7:44 p.m.

(8) Deliberation and Decision

James Eagle Eye said the amendments will go to the City Council for approval and a public hearing will be held.

Bork said a notice will be sent to everyone that has commented and the hearing notice will be published in the Fern Ridge Review.

Bork provided the Commissioners with an update on the City Council's decision not to enact a temporary moratorium on medical marijuana dispensaries (MMDs). She said the Council is interested in looking at provisions to regulate MMDs further by making possible changes to zoning regulations and business license criteria. She said the Council will hold a Work Session on April 14th at 6:00 p.m. and the Commissioners are welcome to attend. She said any amendments the Council may initiate will come to the Planning Commission.

Kevin Conlin asked to be sent an email.

In response to a question from Len Goodwin, Bork said to date staff has not notified the Department of Land Conservation & Development (DLCD) about the possibility of any land development code amendments with regard to MMDs. She said if the Council approves any amendments at the April 14th Work Session, she will notify DLCD.

In response to a question from Len Goodwin, Bork said the MMD applicant got his business license but has not been approved by Oregon Health Authority (OHA). She said MMDs cannot locate within 1000 ft. from any schools or other MMDs so it looks like most of Territorial Rd. is prohibited except for the southern end of the City limits. She said a MMD could also locate in the Cornerstone area and the Broadway/Commercial zone. She said when the Council reviews these gaps, they may decide to tighten them.

In response to questions from Len Goodwin, Bork said the Council thought about what would happen if they didn't enact the temporary moratorium; meaning that a MMD could set up shop in one of the permitted zones and future zoning regulations would not apply. The business would be considered to have a non-conforming use in that zone but they would still be allowed to stay and operate. The Council felt it was a risk

they were willing to take because there's not many places MMDs are allowed, it's an expensive process, and the OHA regulations are very thorough. She said the MMD on Highway 126 posted their sign prior to OHA allowing applications on March 5th. She said so as far as we know, that MMD is not regulated under the authority of OHA. She said Lane County authorities and Lane County Sheriff's Dept. are aware of that facility. She said they could be operating just for card holders and growers and not to the public because apparently, you can still transfer medical marijuana for up to four patients.

## VIII. ADJOURN

Chairman James Eagle Eye adjourned the Veneta Planning Commission at 8:10 p.m.

James L Eagle Eye

James Eagle Eye, Chairman

ATTEST:

Darci Henneman

Darci Henneman, Assistant City Recorder