

VIRGINIA: MINUTES OF THE REGULAR MEETING OF THE DINWIDDIE COUNTY PLANNING COMMISSION HELD IN THE BOARD MEETING ROOM OF THE PAMPLIN ADMINISTRATION BUILDING ON THE 10th DAY OF JUNE 2009 AT 7:00 P.M.

PRESENT:	SAMUEL W. HAYES	CHAIRMAN	AT-LARGE
	BUTCH CUNNINGHAM	VICE CHAIRMAN	DIST #4
	DR. MARK MOORE		DIST #1
	PATRICIA HAMILTON		DIST #3
	DANIEL LEE		DIST #5

ABSENT:	THOMAS TUCKER		AT-LARGE
	DEAN McCRAY		DIST #2

OTHER:	MARK BASSETT	PLANNING DIRECTOR
	AMANDA RAY	DEPUTY COUNTY ATTORNEY

IN RE: CALL TO ORDER

Mr. Hayes called the meeting to order at 7:00 p.m.

IN RE: PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

Mr. Hayes asked everyone to stand for the pledge of allegiance and remain standing for a moment of silence.

IN RE: ROLL CALL

Mr. Hayes asked for the roll to be called and Mr. Tucker and Mr. McCray were not present.

IN RE: MINUTES

Mr. Hayes said the members have before them the minutes from the January 14, 2009 regular meeting. He asked if there were any corrections. He said since there are none he would entertain a motion to accept the regular meeting minutes as presented.

Upon a motion by Dr. Moore and a second by Mr. Cunningham with, Dr. Moore, Ms. Hamilton, Mr. Lee, Mr. Cunningham and Mr. Hayes voting "Aye" the regular meeting minutes for January 14, 2009 were approved.

Mr. Hayes said the members have before them the minutes from the February 11, 2009 Workshop meeting. He asked if there were any deletions or corrections. He said since there are none he would entertain a motion to accept the Workshop meeting minutes as presented.

Upon a motion by Mr. Cunningham and a second by Mr. Lee with Dr. Moore, Ms. Hamilton, Mr. Lee, Mr. Cunningham and Mr. Hayes voting "Aye" the workshop meeting minutes for February 11, 2009 were approved.

Mr. Hayes said the members have before them the minutes from the April 8, 2009 regular meeting. He asked if there were any corrections. He said since there are none he would entertain a motion to accept the regular meeting minutes as presented.

Upon a motion by Dr. Moore and a second by Ms. Hamilton with, Dr. Moore, Ms. Hamilton, Mr. Lee, Mr. Cunningham and Mr. Hayes voting "Aye" the regular meeting minutes for April 8, 2009 were approved.

IN RE: APPROVAL OF AGENDA

Mr. Hayes said the members have before them the agenda and asked if there were any corrections. He said since there are none he would entertain a motion to accept the agenda as presented.

Upon a motion by Mr. Cunningham and a second by Dr. Moore with Mr. Lee, Ms. Hamilton, Dr. Moore, Mr. Cunningham and Mr. Hayes voting "Aye" the agenda was accepted as presented.

RE: CITIZEN COMMENTS

Mr. Hayes opened the citizen comment portion of the meeting and asked if anyone had signed up to speak. He said since no one has signed up to speak he was closing the citizen comment portion of the meeting.

IN RE: PUBLIC HEARING

To: Planning Commission
From: Mark Bassett, Planning Director
Date: June 2, 2009
Subject: Companion Bird Ordinance Amendment - Amendments to Chapter 22

On March 6, 2008, the Codes Compliance Officer, Mr. Harris, observed a zoning violation occurring at 25610 Walkers Landing Court further defined by the Commissioner of Revenue's office as tax map parcel 9J-1-8. Mr. Harris sent a zoning violation letter citing that the Dinwiddie County ordinance does not allow the keeping of livestock associated with agriculture within the Residential Limited, R-1 zoning district.

The property owners, Qi and Xiu Xia Huang, request a zoning violation determination from the Zoning Administrator stating that the pigeons kept on the property were not for agricultural purposes but rather were companion birds.

In the letter dated April 15, 2008, the Zoning Administrator found that “agriculture” is not a permitted use in the R-1 zoning district. Section 22-1 of the Zoning Ordinance defines “agriculture” as “the tilling of the soil, the raising of crops, horticulture, forestry and gardening, including the keeping of animals and fowls, and including any agriculture industry or business, such as fruit packing plants, dairies or similar uses.” By definition, the current activities on your property constitute an agriculture use. Agriculture is not a permitted use in the R-1 zoning district.

The applicants were told they could apply for an amendment to the Zoning Ordinance in order to provide for the keeping of companion birds. Our ordinance does not currently distinguish between the keeping of fowl and companion birds.

The property owner filed an Ordinance Amendment application and fee and proposed the following changes to Chapter 22, Zoning of the Dinwiddie County Code:

1. Amend to add *companion bird* and *domestic fowl* as definition in ARTICLE I. In General, Sec. 22-1. **Definitions.**

Companion bird is any bird kept for companionship and enjoyment not raised for food or fiber; or not used for livestock, laboratory, or working purposes; or not as sporting birds kept for economic reasons. This definition excludes domestic fowl and shall include but not be limited to African greys, amazons, budgies, canaries, cockatiels, cockatoos, finches, lorries/lorikeets, lovebirds, macaws, parakeets, parrots, and pigeons.

Domestic fowl is any bird of the order Galliformes, including but not limited to chickens, turkeys, pheasant, partridges and quail; birds which are hunted or kept for food and also waterfowl of the order Anseriformes such as ducks, geese and swans.

2. Amend to add new section titled “**Keeping of companion birds**” to ARTICLE V. Supplementary District Regulations.

Sec. 22-244. Keeping of companion birds.

(a) It shall be unlawful for any person to keep or cause to be kept any kind of companion bird outdoors within 50 feet of any structure owned by another person and used for human habitation, occupation, or assemblage.

(b) The aggregate number of companion birds kept by persons within the dwelling and on the premises owned by such persons shall not exceed 50.

(c) Persons who keep companion birds shall not permit them to run at large on the premises, in the streets, public places, or anywhere outside of an enclosed structure.

(d) Persons who keep companion birds shall not permit them to depredate the property of any other person.

(e) Persons who keep companion birds outdoors shall provide them with a house or shelter. Such house shall be shielded from the right-of-way or public view, shall be kept dry and well-ventilated, and shall be cleaned at least once a week, between November 1

and May 1, and at least twice a week, between May 1 and November 1, of each year, and more often if necessary or required.

(f) Persons who keep companion birds shall keep their property clean and free from all decaying feathers, feces or vegetable matter or odors.

(2) *That this ordinance shall become effective immediately upon adoption.*

**AN ORDINANCE TO AMEND THE
CODE OF THE COUNTY OF DINWIDDIE, 1985, AS AMENDED,
BY AMENDING SECTION 22-1, DEFINITIONS
CHAPTER 22, ZONING, ARTICLE I, IN GENERAL
AND ADDING SECTION 22-244, KEEPING OF COMPANION BIRDS
CHAPTER 22, ZONING, ARTICLE V. SUPPLEMENTARY DISTRICT
REGULATIONS.**

BE IT RECOMMENDED by the Planning Commission of Dinwiddie County:

(1) *That Chapter 22 of the Code of the County of Dinwiddie, 1985, as amended, is amended by inserting the following language shown underlined and deleting the following language marked as strikethrough:*

Section 22-1. Definitions.

Companion bird is any bird kept for companionship and enjoyment not raised for food or fiber; or not used for livestock, laboratory, or working purposes; or not as sporting birds kept for economic reasons. This definition excludes domestic fowl and shall include but not be limited to African greys, amazons, budgies, canaries, cockatiels, cockatoos, finches, lorries/lorikeets, lovebirds, macaws, parakeets, parrots, and pigeons.

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Sec. 22-244. Keeping of companion birds.

(g) It shall be unlawful for any person to keep or cause to be kept any kind of companion bird outdoors within 50 feet of any structure owned by another person and used for human habitation, occupation, or assemblage.

(h) The aggregate number of companion birds kept by persons within the dwelling and on the premises owned by such persons shall not exceed 50.

(i) Persons who keep companion birds shall not permit them to run at large on the premises, in the streets, public places, or anywhere outside of an enclosed structure.

(j) Persons who keep companion birds shall not permit them to depredate the property of any other person.

(k) Persons who keep companion birds outdoors shall provide them with a house or shelter. Such house shall be shielded from the right-of-way or public view, shall be kept dry and well-ventilated, and shall be cleaned at least once a week, between November 1 and May 1, and at least twice a week, between May 1 and November 1, of each year, and more often if necessary or required.

(l) Persons who keep companion birds shall keep their property clean and free from all decaying feathers, feces or vegetable matter or odors.

(2) *That this ordinance shall become effective immediately upon adoption.*

The Chairman asked the Commissioners if they had any questions for Mr. Bassett.

Mr. Lee asked how many birds the applicant has at present.

Mr. Bassett said the applicant has over fifty birds.

Mr. Hayes asked if the applicant had expressed any concern about not being present.

Mr. Bassett said the applicant did not seem concerned about not being present.

The Chairman said since there are no more questions from the Commissioners he is opening the public hearing portion of the case. He asked if there was anyone signed up to speak.

Mr. Tom Page, 6629 Cox Road, Dinwiddie VA said he wants to take off his journalistic hat and speak as a citizen of the County. He said he heard one of the Planning Commissioners quite clearly say "those people just eat pigeons". He said he thinks that was wrong for a Planning Commissioner to sit there and make a judgment indicating in some way that because they are Asian people they are sub human.

Moses Brown, 25421 Walkers Landing Drive, Dinwiddie VA said he has been living there for twelve years and he did not know what his neighbor kept in the house. He said it has not been a problem living next to Mr. Huang.

The Chairman said since there is no one else signed up to speak he was closing the Public Comment portion of the case. He asked the Commissioners if they had any comments involving the case.

Dr. Moore asked if we were doing this amendment to close a loop hole in the ordinance because we do not have anything in it that covers something like this.

Mr. Bassett said it is not necessarily closing a loop hole. He said this amendment helps a person in a residential district who wants to keep any type of bird in a structure that is not kept inside their residence.

Mr. Hayes asked if there is a limit to how many birds a person can have in their home or garage. He also asked if someone lives in an R-1 area is there a restriction on the number of other household pets that person could have.

Mr. Bassett said in the Zoning portion of the County's Code it does not give a limit to how many a person could have within their residence. He said as for the restriction of other household pets there is an ordinance for dogs and that is based on lot size.

Mr. Lee said one of his biggest concerns is persons picking a place to live and then trying to get that place to conform to what they want to do versus looking at what you want to do and then finding a place that allows it.

Ms. Hamilton said it bothers her that it is very close to other residential lots. She said if they were out in the county, she would not have any problem with it.

Mr. Cunningham said if this ordinance was to pass, everybody in a residential area would have the opportunity to have fifty birds in their backyard and he believes a residential area is residential for a reason and he would like to see it kept that way.

Mr. Bassett commented that the number in the proposed ordinance was requested by the applicant. He said staff has not seen any specific numbers in other ordinances. He said staff has, however, discussed making this amendment permitted under the Conditional Use Permit.

Mr. Cunningham said he would have an easier time passing a case such as this as a CUP than he would passing it as a county ordinance. He said he does not mind people having pets because he has pets of his own, he just does not want to make a blanket ordinance that will allow that many birds to every neighbor if they want to have that many.

Ms Hamilton asked if these are racing birds would that not be considered a business.

Mr. Bassett said they indicated to staff that they were not operating a business.

Mr. Lee asked what would happen if the CUP route is chosen.

Ms. Ray said because that would be a major change the case would have to be readvertised.

Mr. Hayes asked if staff, during their research, saw any other localities that had a Special Use Permit for this kind of case.

Mr. Bassett said he does not recall any during his research.

Dr. Moore asked Ms. Ray what would be the recommended course of action surrounding this case.

Ms. Ray said they should make a motion with respect to the amendment and possibly a secondary motion directing staff to pursue what you wish.

Mr. Cunningham asked Mr. Bassett if he would recommend this ordinance as written.

Mr. Bassett said staff certainly recommends the provisions that cover the structure used to house the birds, involving the standards that they will have to meet if they were to have it. He said staff believes it is a policy issues that should be decided by the Planning Commission and Board of Supervisors.

Dr. Moore made a motion and read the following WHEREAS, in accordance with Virginia Code Sections 15.2-2285 and 15.2-2286, the Dinwiddie County Planning Commission is of the opinion that the public necessity, convenience, general welfare or good zoning practice warrant the consideration of the following amendments.

NOW, THEREFORE, BE IT RESOLVED that Dinwiddie County Planning Commission does hereby disapprove and does not recommend to the Dinwiddie County Board Supervisors the zoning ordinance amendments as presented. It was seconded by Ms. Hamilton with Mr. Lee, Ms. Hamilton, Dr. Moore, Mr. Cunningham and Mr. Hayes voting "AYE." The Companion Bird Ordinance Amendment was disapproved and not recommended to the Board of Supervisors.

Mr. Hayes said he recommends we do what we can to encourage the applicant to come to the next Planning Commission meeting when the case comes back to the Commission. He said he feels a little uncomfortable making a decision with them not being present.

Mr. Bassett said that one of the applicants had to go out of town and will not be back until August and that is the reason for them not being present. He said that is the reason he wants to put them on the agenda for the August Planning Commission meeting.

Mr. Lee made a motion directing staff to pursue an ordinance that would make the Companion Bird Ordinance allowable with a Conditional Use Permit and bring it back to this Commission at a later date. It was seconded by Mr. Cunningham with Dr. Moore, Ms. Hamilton, Mr. Lee, Mr. Cunningham and Mr. Hayes voting "Aye." Staff has been directed to pursue an ordinance that would make the Companion Bird Ordinance allowable with a Conditional Use Permit.

IN RE: OLD BUSINESS

Mr. Bassett said relating back to the February 11, 2009 workshop meeting, where staff brought before the Commissioners a Shelter Care Ordinance that would allow shelter facilities as a Conditional Use Permit within certain zoning districts in the County. He said there was a lot of discussion at the February workshop about shelter facilities and there was a lot of good feedback that staff received. He said the consensus of the Planning Commission was to not recommend moving the ordinance forward to the Board of Supervisors. He said since that meeting staff has had a couple of conversations with Ms.

Angela Brown, who is with Yeshua House. He said staff informed her of the Planning Commission's concerns and she requested an appearance before the Planning Commission to explain and answer questions and concerns. He said it was his recommendation to put her on the agenda under old business, since it was business that was covered at the February workshop meeting.

Angela Brown – 25421 Walkers Landing Court – Petersburg VA said her husband would be passing out handouts covering the information she would be discussing. She said there is, however, one sheet addressing the concerns that the Commissioners had. She said Yeshua's House of Refuge (YHOR) will be a nonprofit transitional home for abused women and children. It is overseen by Yeshua's House, Too! It is a soon to be nonprofit organization founded in January of 2008. She said Dinwiddie County is a growing population and 50% of spousal abusers also abuse their children. She said to answer the question of whether she needs to be licensed, which she understands a Planning Commissioner asked at their last workshop meeting, the answer is no. She said the reason is because the women will be there with their children. They are free to come and go as they please. She said what does apply to them is any local regulations. She said what they intend on doing is seeking accreditation under the Virginia Sexual and Domestic Violence Action Alliance Guidelines.

Mr. Hayes asked Ms. Brown if she was saying there are no state and federal regulations that she would have to adhere to.

Ms. Brown said there is no licensing that they would have to go through. She said they would have to adhere to all local decisions and regulations concerning the house. She went on to say that has been an on going question that they have had. She said they have gone through a number of offices and no one could fit them in anywhere as having to be licensed. She said they finally found the office of Family Violence, where Ms. Nancy Fowler works, and she said because the women come and go with their children there is no licensing requirement.

Dr. Terrance Allen, who was in support of what Ms. Brown was doing, said he came in contact with Ms. Brown years ago and was impressed by their vision to provide a much needed service for the area. He said he has also been involved with the domestic violence group in the City Point area of Hopewell, Virginia.

Ms. Brown again handed out a list showing the organizational structure of Yeshua's House and a list showing the Board of Directors. She said the mission of YHOR is to enable abused women and their children to overcome fear, anxiety and low self-esteem and to assist their transition to independent living. She said the bylaws for YHOR is to promote community awareness and prevention of domestic and sexual abuse through teaching, directing individuals to local agencies and raising funds to serve abused women and their children. She handed out a list showing the programs that will be offered on the premises. She said as to the number and types of clients it will go up to 4 or probably 5 families. It will only be abused mothers and their children and most will be referred through emergency shelters. She said the facility will operate 24 hours a day and security will be

provided from 10:00 PM to 7:00 AM. She said counseling will be outsourced through Parent Education Network, Rev Dr. Terrence A. Allen and Family Resolution Services. She handed out some papers that addressed the method of supervision, the expectation and rules for enrollment and security features and emergency information. She concluded by saying their annual operating budget and sources of funding will come from several organizations. She said DHCD will pay per bed and for a child service coordinator. She said CACFP will pay for the daycare program. She said Central Virginia Food Bank will pay for residents and TANF will pay for a Child Care Specialist.

Mr. Bassett asked Ms. Brown who was it that would oversee the daycare program.

Ms. Brown said that Social Services would be the organization that would oversee the daycare Program.

Ms. Hamilton asked Ms. Brown if a location for the home has been selected.

Ms. Brown said they had a location one year ago, but they don't have one at present.

Dr. Moore asked Ms. Brown if persons have to qualify in some way to be accepted into this program and is that qualification income based.

Ms. Brown said she has not thought about it as an income problem because homelessness does not have to be related only to income. She said it could be a situation where although the mother may have money once everything gets settled in court, she has no money to go anywhere at present.

Mr. Lee asked Mr. Bassett what the Commissioners are looking at concerning Ms. Brown's presentation.

Mr. Bassett said what staff had initially proposed was the general provision for shelters with some limited conditions listed in the ordinance. He said that is what Ms. Brown used tonight to prepare her presentation, because those are the items the ordinance calls for under the Conditional Use Permit process. He said staff wants to know if the Commissioners want staff to continue forward with this amendment.

Mr. Hayes, speaking for all the Commissioners, said he believes there is a consensus that staff should move forward.

IN RE: COMMISSIONER'S COMMENTS

Mr. Lee said he went to the meeting that was at the Eastside Enhancement Center on May 28th and 29th. He said Friday was all about Economic Development and he is not quite sure that he is on the bandwagon of the County providing everything for the companies wanting to come and build in the county.

Mr. Hayes said he wants to be added to the distribution list for the Land Development Committee.

IN RE: PLANNING DIRECTOR'S COMMENTS

Mr. Bassett said he wanted to cover the July Planning Commission meeting. He said there are three cases that will be coming before the Commissioners. He said the first is a residential rezoning from A-2 to R-1 off of Blue Tartan Road by First Management Company. He said the second is a rezoning by Southside Electric Cooperative. They want to construct and operate a transformer substation in the Lake Chesdin area to help with their facilities needs. He said the new High School has put a very significant load on their system and putting one in the Northern part of the county would help. He said the third is a Conditional Use Permit for a new build of a cellular tower.

IN RE: ADJOURNMENT

There being no further business Mr. Cunningham made a motion to adjourn the meeting and Mr. Lee seconded it with all members voting "Aye", the meeting adjourned at 8:56 p.m.

Respectfully submitted,

Mark Bassett
Planning Director

Signed: _____
Planning Commission Chairman

Dated: _____