

COUNCIL OF TRAPPE
TRAPPE TOWN HALL
November 2, 2016

Public Hearing – 6:45 pm

President Fegel opened the public hearing for Ordinance 14-2016 at 6:45 pm. President Fegel read Ordinance 14-2016 – An Ordinance of the Town of Trappe amending the Trappe Zoning Ordinance, Title III and Section 2 to add a definition of “farm animal” and to amend Title IV, Section 12 to prohibit the keeping of farm animals in all zoning districts other than the Agricultural (“A”) zoning district and to prohibit the keeping and maintaining of any exotic animals as defined by state law; and to amend Article IV, Section 7 to permit an animal shelter or animal sanctuary in the “A” Agricultural district by special exception. President Fegel opened for public comment. Tommy Blades from 3884 Harrison Court stated that he has 4 hens and had them for almost 7 months before receiving a notice from the Town stating that he had to get rid of them. Mr. Blades said that prior to getting the chickens he reviewed the Town Code and didn’t find anything in there that stated he was not allowed to have them. Mr. Blades stated that he has the chickens to produce eggs for his family, the hens are in a pen and are not running loose, they do not stink and they do not create a mess. Mr. Blades stated that while he understands the Town wanting to put conditions on having chickens he doesn’t feel that 4 hens cause a problem but if someone had roosters then he could understand the issues. Mr. Blades stated that he has looked into other Towns and they allow chickens with some regulations and conditions and he would like Trappe to do the same and not ban them completely. George Meyer from 5050 White Marsh Rd stated that he is concerned with the language in the Ordinance concerning farm animals. Mr. Meyer stated that the farm animal portion of the Ordinance states “shall include but not limited to” which means the Town can at any time decide what they consider a farm animal and ban it from Town. Mr. Meyer asked the Council to consider removing that portion of the Ordinance due to vagueness. Robert Croswell from 4180 Main St submitted comments in writing prior to the meeting which are filed with the records. Mr. Croswell stated that he is not concerned with the chicken portion of the Ordinance but doesn’t understand why the Town is considering banning exotic animals when it is already against the law to possess an exotic animal in the state of Maryland. Mr. Croswell stated that he looked up the reference to the State Criminal law that is referenced in the Ordinance and didn’t find where it mentioned exotic animals by that name; he only found a list of the actual animals that are prohibited. Mrs. Blades stated she understands the Town’s concern about the avian flu but the avian flu is only spread by migratory birds and her chickens are not exposed to them. Bill Anderson – Attorney for Wye River Bee Keepers stated that they are concerned because this Ordinance is so vague and open ended with the statement of “shall include but not limited to” and they are concerned that this Ordinance could eventually prohibit honey bees in Town. Mr. Anderson stated that he feels that because it is so open ended that it could be hard to enforce if ever taken to Court because a Judge could rule the Ordinance void for vagueness. Mr. Anderson asked the Council to consider striking the “shall include but not limited to” portion and be specific in what animals are prohibited. Mr. Anderson stated that he has no interest in banning chickens but does urge the Council to consider limiting the number that is allowed. With no further comments the public hearing for Ordinance 14-2016 was closed at 6:57 pm.

Council of Trappe Meeting:

President Fegel called the meeting order at 7:00 pm. Council members Rose Potter, Tonya Pritchett, RD Diefenderfer and Don English were present. Other attendees: Tommy and Lauren Blades, Shirley and Bobby Quidas, George Meyer, Charles and Mary Rae Adams, Robert Croswell, Bill Anderson, Chris Polk – Star Democrat, Planner Shull, Chief Ball, Attorney Booth and Clerk Braband.

Amendments to the Agenda:

The agenda was approved as submitted.

Presentation of Minutes:

Commissioner English made a motion to approve the minutes as presented. Commissioner Potter seconded the motion. All approved.

Clerk's Report:

Clerk Braband presented the Clerk's report that is filed in the records. Clerk Braband also presented the current budgets for both the general and the enterprise funds.

COMMITTEE AND DEPARTMENT REPORTS

Public Safety – Chief Ball read his report which showed 637 calls for service so far for this year. Chief Ball stated that his 10th anniversary with the Town was November 1st and he presented the Council with a certificate thanking them, the employees and citizens for their support for the last 10 years.

Public Works – President Fegel stated that the water tower has been painted and the company will be back in the spring to do the maintenance on the inside of the tank. Commissioner Diefenderfer stated that the Town had 3 major water leaks on Main Street but they have all been repaired. Bobby Croswell stated that he would like to suggest that the Council require property owners to mark their water and sewer hookups prior to demolishing a house so the connections are not lost. President Fegel thanked Commissioner Diefenderfer for stepping in and cutting the Town's grass free of charge while the Town was down 1 employee.

Planning and Zoning – Planner Shull stated that the Planning Commission did not meet in October but will meet in November to continue working on the conditions to permit commercial poultry houses in Town.

Planner Shull stated that the Ordinance that is up for adoption tonight is a result of the Council declining to take action on the previous proposed Ordinance that did allow chickens with certain restrictions.

Planner Shull stated that the rental program is going well and there are currently 166 units registered. Inspections are expected to be completed by Thanksgiving.

Parks and Recreation – As Commissioner of Parks, Commissioner Potter stated that the Town is in the process of gathering bids for the Nace's Park project. There is a pre-bid meeting on Nov. 10th and bids are due back on November 29th.

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Commissioner Potter stated that a flag pole, a flag and the installation of the pole was donated to the Town by the VFW and a dedication was held tonight. The Town Council thanks the VFW for their generosity.

Economic Development – Commissioner Pritchett stated that she attended the MML Fall Conference in Solomon’s Island and attended many beneficial classes. Commissioner Pritchett reported that she has become a member of the MML Conference Planning Committee. Commissioner Pritchett suggested that the rest of the Council attend the Basic Risk Management training whenever it is available. Commissioner Pritchett stated that at the risk management training large events in towns were discussed and what needs to be done to protect the Town from any liability. Commissioner Pritchett would like the Council to explore this further and possibly come up with a standard for the Town to follow.

Communications – Planner Shull stated that the Talbot County Economic Commission will be holding a Coffee and Conservation event on November 11th should the Council like to attend.

President Fegel stated that November is Municipal Government Month and the Town is pursuing ways to promote the Town and Municipal Government. Commissioner Pritchett will be visiting the White Marsh Elementary School 4th graders to speak about Municipal Government.

Attorney Updates – Attorney Booth stated that she didn’t have anything in addition to what is on the agenda.

Executive Session – An executive session was held on October 5, 2016 at 6:30 pm to discuss a personnel issue.

ORDER OF BUSINESS BEFORE THE COUNCIL

Ordinance 14-2016 – An Ordinance of the Town of Trappe amending the Trappe Zoning Ordinance, Title III and Section 2 to add a definition of “farm animal” and to amend Title IV, Section 12 to prohibit the keeping of farm animals in all zoning districts other than the Agricultural (“A”) zoning district and to prohibit the keeping and maintaining of any exotic animals as defined by state law; and to amend Article IV, Section 7 to permit an animal shelter or animal sanctuary in the “A” Agricultural district by special exception was read by President Fegel. A public hearing was held this evening prior to the Council meeting. Attorney Booth stated that this issue came up several months ago because the Town realized that there is nothing in the Town Code regulating chickens. The Planning Commission spent roughly 3 months working on a poultry ordinance which would have allowed chickens in Town with certain restrictions. The Ordinance came before the Council and the Council failed to take action and sent the Ordinance back to the Planning Commission to clarify that farm animals could not be kept in Town. The Planning Commission then worked through the Ordinance that is available for adoption this evening. This Ordinance has been worked on for quite some time and the Planning Commission looked at other Town’s policies when drafting this Ordinance. Attorney Booth stated that in regards to the concern over bees, an insect is not animal and therefore this Ordinance does not regulate them. Attorney Booth stated that the phrase “shall include but not limited to” is standard language and a Court will look at the

whole definition, use common sense and not void the Ordinance for vagueness. The proposed Ordinance says farm animals, to include fowl and hooved animals, but it does not include bees. Attorney Booth stated that she prefers to have inclusive language than try to name every animal that could possibly fit under the classification of farm animal, fowl or hooved animal.

In regards to exotic animals Attorney Booth stated the Planning Commission wanted to use the word exotic because when just referring to the Criminal law section about animals it is harder to find what is prohibited. The proposed Ordinance does not say defined by the State Criminal law, the Ordinance says described and regulated by the Criminal Law Article. The Planning Commission used the State Criminal Law and made the decision that if the animal is described and regulated under the State Criminal Law Article then it is prohibited in the Town's residential districts.

Attorney Booth stated that in regards to the chickens and whether to allow them in Town or to prohibit them; it is a policy decision that the Town Council has to make.

President Fegel stated that chickens have proved to be quite a controversial issue and it has been discussed for many months. President Fegel stated that the Planning Commission tried to look at the long term and the new subdivision that is supposed to come to Town.

Bobby Croswell asked if the Council considered permitting up to 6 chickens by special exception so individual property owners could be heard and a decision would be made based on their property and not a broad net. Attorney Booth stated that this was talked about but special exceptions are expensive and quite a process so it was decided against however this is something that the Council could choose to do if they wanted to. Mr. Croswell stated that there is an election next year so it could be placed on the ballot as a referendum.

Mr. Blades asked what happens to the people that currently have chickens. Can they be grandfathered? Attorney Booth stated that would be up to the Council. Mr. Blades asked if there were many complaints received regarding chickens. Planner Shull stated that she received less than 5 complaints on this side of the highway but has received several complaints about the other side of the highway. Commissioner Diefenderfer stated that the complaints for the other side of the highway were about a rooster, not hens. Commissioner Diefenderfer stated that he is for chickens and highly doubts that if the Council were to allow chickens in Town that there would 10,000 chickens in Town the next day. Mr. Blades stated that he talked to his neighbors and they have never had a problem with his chickens and he had them for over 7 months before the Town said anything.

Mr. Anderson stated that the Town has an adequate nuisance ordinance and could enforce the chicken issue with that law. Attorney Booth stated that the Town does have a nuisance ordinance but they are hard to enforce. Attorney Booth stated that because the Code is silent in regards to chickens the Town should have something in the Code so they can enforce any issue that arises.

Attorney Booth stated that the Council can choose to permit chickens with all these conditions that were in the previous Ordinance and a special exception has to be granted if they want but the Council needs to decide and give direction so it can be prepared. Mr. Croswell stated that the Town could

require a permit with conditions the property owner must comply with but not have to get a special exception. Attorney Booth stated that Ordinance with everything Mr. Croswell is describing was already drafted and died for lack of a second when it was introduced to the Council. Planner Shull stated at that time the Council instructed the Planning Commission to come up with an Ordinance to prohibit farm animals in residential districts which is what the Planning Commission did and that is available for adoption tonight.

President Fegel asked if a grandfather clause could be added. Attorney Booth stated that a motion could be made to adopt this Ordinance with a grandfather clause added to allow existing chickens to remain for the rest of the natural life. Planner Shull suggested clarifying that clause to include not allowing those chickens to be replaced if that is what the Council wishes to do. Planner Shull suggested that those residents with chickens that would fall into this grandfather clause have to register them with the Town so if the Town receives a complaint they will know if those chickens were permitted or not.

Mr. Croswell stated that he agrees with Commissioner Diefenderfer and the Town should allow chickens by a limited number and require the resident to obtain a permit. If a problem occurs then deal with that problem and possibly revoke their permit. Mr. Croswell suggested that the Council table the adoption of this Ordinance until next month and take time to think about the comments that were made tonight.

Attorney Booth asked the Council if the consensus of the Council is to allow some chickens. Commissioner English stated no, Commissioner Potter stated no, she does not believe chickens or farm animals belong in Town, Commissioner Diefenderfer stated yes, Commissioner Pritchett stated that she likes the idea to allow the chickens by special exception, President Fegel stated that he would like to allow chickens by special exception and grandfather the chickens already in Town. Attorney Booth stated that an amendment to include a special exception would have to go back to the Planning Commission, the Ordinance would have to be re-advertised, another public hearing would have to be held, etc. However, this is something that can be done if the consensus of the Council is to do so.

Commissioner Potter made a motion to adopt the Ordinance as written. Commissioner English seconded the motion.

VOTE:

Potter – Y Fegel – N Pritchett – N Diefenderfer – N English – Y
Motion failed.

Commissioner Pritchett made a motion to send the Ordinance back to the Planning Commission to come up with an Ordinance to permit chickens based on the initial Ordinance by special exception and to prohibit farm animals, hooved animals and exotic animals. Commissioner Diefenderfer seconded the motion.

VOTE:

Potter – abstain Fegel – Y Pritchett – Y Diefenderfer – Y English – N
Motion approved with 3-1 vote.

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Attorney Booth stated that she will work with the Planning Commission and bring back a new Ordinance at the Council's December 7th meeting.

Resolution 7-2016 – A Resolution of the Town of Trappe authorizing the renewal of a line of credit promissory note with Shore United Bank in the principal amount of \$100,000.00, of which the sum of \$85,372.53 has been drawn and borrowed for various Town expenses pursuant to prior legislative acts of the Council of Trappe was read by President Fegel. Commissioner English made a motion to adopt Resolution 7-2016. Commissioner Potter seconded the motion. No discussion held.

VOTE:

Potter – Y Fegel – Y Pritchett – Y Diefenderfer – Y English – Y

All approved, motion carried.

Resolution 8-2016 – A Resolution of the Town of Trappe authorizing the renewal of a line of credit promissory note with Shore United Bank in the principal amount of \$200,000.00, of which the sum of \$168,183.99 has been drawn and borrowed for various Town expenses pursuant to prior legislative acts of the Council of Trappe was read by President Fegel. Commissioner Diefenderfer made a motion to adopt Resolution 8-2016. Commissioner Pritchett seconded the motion. No discussion held.

VOTE:

Potter – Y Fegel – Y Pritchett – Y Diefenderfer – Y English – Y

All approved, motion carried.

Other Business:

President Fegel stated that the Town received one bid for the sale of 29428 Sullivan Street from Blue Sky Properties, Jay Endleman, in the amount of \$53,770.00. The payoff on the property is currently \$102,000.00. Commissioner English made a motion to reject the bid. Commissioner Diefenderfer seconded the motion.

VOTE:

Potter – Y Fegel – Y Pritchett – Y Diefenderfer – Y English – Y

All approved, motion carried.

Mr. Croswell stated that the property was initially bought to expand Town hall if the need ever arose. Mr. Croswell stated that the Town should be able to make a small profit renting the property and if not able to do so then the Town should look into hiring a company to manage it. Mr. Croswell stated that the Town should not sell their assets as a way to balance the budget. Clerk Braband stated that the previous tenants that were in the apartments did over \$12,000 worth of damage to the property, were not paying their rent and it took a while to have them evicted. Clerk Braband stated that there was not enough money in the rental account to cover the repairs so funds from the general fund had to be used. This is the reason the Town Council chose to explore the option of selling the property.

Announcements – President Fegel read the announcements.

Executive Session – No executive session to be held after the meeting.

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There being no further business to discuss, Commissioner Potter made a motion to conclude the meeting at 8:02 pm which was seconded by Commissioner English and unanimously approved.

Erin Braband, Town Clerk

Norm Fegel, Council President