

**VILLAGE OF JOHNSBURG
APRIL 5, 2022, REGULAR MEETING
OF THE PRESIDENT AND BOARD OF TRUSTEES**

President Hettermann called the meeting to order at 7:00 p.m. in the Village Hall.

Attendees

Trustee Tom Curry
Trustee Beth Foreman
Trustee Kyle Frost
Trustee Josh Hagen
Trustee Greg Klemstein
Trustee Scott Letzter
Village Administrator Claudett Sofiakis
Assistant Administrator Vinny Lamontagna
Police Chief Keith VonAllmen
Village Attorney Michael Smoron
Village Engineer Tim Hartnett (absent)
Special Projects Coordinator Rick Quinn

AUDIENCE PARTICIPATION – Taylor Espinosa of 4706 Lake Dawnwood Drive attended to express support for the keeping of chickens on residential property. She remarked that during the past year people have been attending meetings to show their support to allow the activity. She added that people that do not want to allow the use are going to want the most restrictions.

Bobbie Fosket of 2526 Knob Hill Road attended to express his concern with allowing chickens in residential subdivisions. He explained that he has been in the Village for more than 30 years and has an agricultural background having grown up on a large farm that raised chickens. He remarked that chickens are nice and cute during Easter, but they take a lot of care and responsibility. Mr. Fosket explained that they are an agricultural bird that create sanitation problems and attract predators such as coyotes, raccoons and foxes and even though the predators are currently found in the Village, they have not had a major food base but once they do, they will be more prevalent. Mr. Fosket added that the coop needs to be cleaned frequently and discussed the noise and odors associated with the activity. He stated that keeping chickens is an agricultural activity and although he has seen cases where they are allowed on three plus acres, allowing them on 1/4-1/2 acre lots does not make sense because of how the activity can negatively impact neighbors.

Ty Barack of 3406 Cove Court stated that he also grew up on farms that had chickens. He remarked that they are great animals but they belong on farms not in residential subdivisions as they are an agricultural bird.

Jim Barrett of 3310 Chellington Drive attended regarding the keeping of chickens on residential properties. He stated that he believes allowing the activity on three plus acre parcels is acceptable. He explained that he lives on a one acre parcel which is pie shaped and therefore significantly more narrow at the rear of his property. He stated that he would not want to be impacted by chickens housed on neighboring properties as there is no location that the activity could take place without his property being impacted. He pointed out that in the case of subdivisions with smaller lots, a property housing chickens could impact as much as five adjacent yards. Mr. Barrett expressed concerns regarding the negative odors associated with keeping chickens and the challenges of enforcing nuisance restrictions associated with them. He added that his neighbor's dog was already attacked by coyotes and if chickens were allowed in his subdivision, it would provide an added food source further attracting coyotes.

Ken Calhoun of 2719 Sunnyside Beach Drive stated that he believes he has the only farm within the Village limits. He discussed his experiences in the past with chickens on his farm remarking they they are noisy and their waste will create odors and attract flies. He stated that they attract predators and discussed an experience in which coyotes attacked the chickens on a neighboring farm killing many of them. Mr. Calhoun stated that chickens typically lay eggs for about two years but have a life span of approximately 10 years. He questioned what the owners will do once the chickens are no longer producing eggs. Mr. Calhoun stated that chickens are dirty animals often afflicted with lice, mites and ticks and they need to be dewormed and vaccinated. He added that they also can pass along bird flu, e-coli, and salmonella to those handling them. Mr. Calhoun stated that he is not against chickens but they need an area of at least three to five acres so as to not impact adjacent properties. He explained that he lives on a waterfront property on which the lots are only 60 feet wide and the back yards are located on the road side of the lot. He remarked that he does not want to drive down his road and see rows of chicken coops and added that if the activity is allowed, the Village is going to need to hire additional employees to administer and enforce it. He questioned if chickens are allowed, what prevents people from pursuing sheeps, cows and other argricultural animals.

Jim Eichhorn of 1414 W. Lakeview Street expressed his concurrence with the concerns raised regarding the keeping of chickens and he stated that he does not support allowing them on residential properties.

Shirley Hoguet 3333 Ivy Lane attended the meeting to express that she does not want the Village to allow chickens in town. She expressed that she is okay with allowing them on farms in a rural setting but they should not be allowed in subdivisions.

Jason Hettermann of 2219 Fairview Avenue expressed thanks to the board for listening to its residents. He stated that he is not against chickens, but is concerned with allowing them on smaller lots. He stated that he is not in a subdivision with a homeowners association to protect his interest and he also lives on a waterfront parcel with smaller lots on which homes are situated as close as 12 feet apart. He stated that if the Village is going to allow chickens they should only be allowed on larger lots.

Jennifer Ulrich of 1715 Rosewood Lane attended to express support for chickens. She stated that she previously lived in an unincorporated neighborhood in which people could have chickens and no problems were expressed. She added that one neighbor allowed their chickens to free range and they never got out. Ms. Ulrich stated that the popularity of backyard chickens is growing. She added that now smaller backyard chickens are available and many people pursue them as pets. She remarked that if someone is not taking care of their chickens, Animal Control can be contacted to take care of the matter. She stated that small chicken coops can be bought at Farm and Fleet and the waste can be thrown out in residential garbage.

George Braun of 3313 Oakdale Avenue stated that in the past he was employed as an administrator for a marketing research association. He discussed his experience in marketing and surveying and the benefit of using focus groups dealing in similar demographics. Mr. Braun remarked that the survey does not give a good indication without understanding the demographic of the respondents. He suggested that the Village pursue a resolution to be posted on the ballot if they wish to further pursue the matter.

Jeff Ullrich of 1715 Rosewood attended to express support for chickens. He remarked that many farmers have commented on the topic but he also grew up on a farm and chickens aren't what they use to be as they are bred differently. Mr. Ullrich added that the Village is located in more of a rural area and people in the unincorporated areas surrounding the Village already have chickens but you do not hear on the news about problems with predators nor do you hear about constant issues and yard damage. He stated chickens are lawn scratchers but they don't scratch that much. He added that he can see it being a problem on farms with lots of chickens but they are only talking about 6 chickens. He stated that there should be no impact to the Community Service Officer because any problems would be handled by Animal Control.

Holly Arnold of 2114 Church Street attended to express her support for chickens. She stated that there are only eight people interested in having them at this time so the impact will be minimal. She added that they are cute and bred differently and therefore won't be a hindrance.

Steve Freund of 1417 Charnbrook Drive attended to express concern regarding the keeping of chickens on residential properties. He stated that at the current time they are not allowed so everyone living in a residential area is protected by the current ordinance therefore if the board changes the ordinance and now allows a farm activity in a residential neighborhood, they are no longer protected.

OMNIBUS AGENDA – Trustee Hagen moved to approve the Omnibus Agenda. Trustee Foreman seconded the motion. All Trustees present voted aye on the roll. Motion carried.

- Move to approve the minutes of the March 15, 2022 meeting of the President and Board of Trustees
- Ordinance 21-22-34 An Ordinance granting a map amendment for the property commonly known as 2512 W. Johnsborg Road
- Move to approve Final Pay Request in the amount of \$164,632.62 to Bolder Contractors, Inc. for the North Sewer Extension Project.
- Move to approve MFT Resolution in the amount of \$300,000 for the 2022 Road Resurfacing Program
- **DISBURSEMENTS**
- General Fund \$119,748.00
- Motor Fuel Fund \$
- Waterworks & Sewage Fund \$188,201.89
- Golf Course Fund \$ 26.70
- Land & Building Fund \$ 147.50
- Debt Service/SSA Fund \$ 7,762.50
- Total All Funds \$315,886.59

PRESIDENT'S REPORT – President Hettermann reported that the dedication of the David G. Dominguez Municipal Center will be May 15, 2022 at 2:00 p.m. and the date and time has been confirmed with the family. He stated that he will be making committee appointments to begin effective May 1, 2022 and asked for recommendations to be submitted as soon as possible.

President Hettermann recommended that the Village Board reject all bids received on the S.Solon Road as only one bid was greater than the minimum recommended bid but it included contingencies and therefore it does not meet the criteria specified in the notice. Trustee Letzter moved to reject all bids. Seconded by Klemstein. Trustee Foreman questioned if the Village could counter on the higher bid. Attorney Smoron explained that the bid included contingencies and therefore does not meet the criteria. President Hettermann added that the Board would need to reject all of the bids and consider soliciting bids again in the future. He added that at this time he does not believe the other bids reflect what we should be getting for the property. Trustee Klemstein concurred. All Trustees voted aye on the roll. Motion carried.

KEEPING OF CHICKENS - President Hettermann thanked audience members for showing up and voicing their position. He explained that the Board represents the public at large and has a responsibility to represent everyone in the Village on all lots sizes. He noted that while 152 people support keeping chickens on ¼ acre lots, 233 feel that the lot size should be at least 1 acre or more. He added that though 170 survey respondents support a 10 foot setback, 206 feel that setback should be 50 feet or more. President Hettermann asked each of the trustees to provide feedback on whether or not they support the activity, on what size lots it should be permitted and what the setbacks should be.

Trustee Letzter stated that he does not believe chickens should be allowed on residential properties. He remarked that the matter was considered in 2012 when he was on the zoning board and he did not support it then either. He remarked that it is difficult to provide feedback on lot size and setbacks since he does not support the activity but if it is allowed it should be restricted to larger lots of one acre or more.

Trustee Curry stated that he supports the keeping of chickens on residential properties but has changed his thoughts on lot size and believes it should be lots of ½ acre or more rather than ¼ acre which he previously expressed. He added that he supports a setback from neighboring properties of 10 feet.

Trustee Foreman stated that she still does not support the keeping of chickens on residential properties however if they are to be allowed it should only be allowed on lots of 3 acres or more with significant setbacks.

Trustee Klemstein stated that he supports the keeping of chickens on residential properties measuring 3 acres or more and on agricultural properties with setbacks of at least 25 feet because of the concerns raised.

Trustee Hagen expressed that he is in favor of allowing chickens on residential properties measuring ¼ acre with restrictions and he believes a setback of 15-20 feet is appropriate. He added that the Village should limit the number of permits issued initially to see how it goes. Attorney Smoron stated that there is no legal authority to limit the number of permits issued and he does not believe there is case law to support limiting the activity.

Trustee Frost expressed his support to allow chickens on residential properties measuring ½ acre or more with setbacks of 20-25 feet.

Trustee Letzter questioned if Animal Control would handle issues that come up with chickens in residential neighborhoods. Mr. Lamontagna stated that he would check into the matter.

Trustee Letzter stated that he is concerned with the impact the activity could have in a neighborhood and he would not want to see it result in neighbors feuding.

President Hettermann suggested that if the activity is going to be allowed, it only be allowed as a conditional use requiring a hearing before the Planning and Zoning Commission for which neighboring property owners would be notified as was done with Short term rental properties. Trustee Frost expressed his support for requiring a conditional use permit as it is likely that only residents serious about keeping chickens on their property will pursue it.

President Hettermann stated that direction needs to be given to define on what size lots it can be considered.

Trustee Curry remarked that several subdivisions with active homeowners associations prohibit the activity and the Village should let the homeowner's association handle it. He questioned Mr. Foskett if the Dutch Creek Woodlands Homeowner's Association prohibits the activity. Mr. Foskett stated that it is not currently addressed in their covenants and it would be costly and involved to change the covenants.

He added that he does not believe it should be the responsibility of the homeowner's association as resident's rely on the Village to represent them and the Village should regulate the activity.

Trustee Foremann questioned if the Village should be establishing regulations to allow chickens on residential properties based upon people who are illegally doing so. She questioned if Ms. Espinosa's chickens are on her property. Ms. Espinosa stated that she just found out that they are not on her property. She added that if she had to get a permit to have them she would have found out and moved them on her property.

President Hettermann stated that the board needs to develop some language that may be more palatable to the Planning and Zoning Commission otherwise the recommendation will again be to deny the activity.

Brian Hellstrom of 1517 Sunnyside Beach Drive questioned setback restrictions from septic fields. John Huemann of 2610 Tivoli Trail was in attendance and explained that there are setback restrictions from septic fields for some farm animals but he is not aware if chickens are included in those restrictions. It was pointed out that structures cannot be built on septic fields therefore the coup will need to be setback from the septic field which will typically direct it towards the property line and likely be viewed negatively by adjacent property owners.

President Hettermann expressed that he shares Trustee Foreman's concerns that the Village is contemplating a change to the rules for something that is currently being done illegally. Trustee Foremann explained that she believes it sets a bad precedent when we allow someone doing something outside of what is allowed to drive policy change.

Attorney Smoron stated that in the case of a conditional use, if the petitioner meets the criteria established for the use, the conditional use permit will be granted therefore it is important to put clear rules in the ordinance regulating the activity. He confirmed that once a use is allowed a precedence is set.

A question was raised regarding the impact to property values. Trustee Klemstein stated that the response is mixed based upon if a buyer wants to have chickens or if they prefer not to live adjacent to a home that keeps chickens. He added that how the activity is managed has an impact as well. Steve Freund stated that he believes if chickens were being housed on each side of his home it would negatively impact his home value.

Steve Hurckes of 4903 Lake Dawnwood Drive expressed his concern for allowing chickens on residential property. He stated that he has resided in Johnsburg for more than sixty years and has watched the community progress into a very desirable community. He explained that his daughter lived in a subdivision that allowed chickens which he found to be noisy and dirty. He questioned why we are doing all these things to make the community progressive but then are talking about allowing this activity. Mr. Hurckes stated that he lives on a lot where five lots back up to a pond and if someone residing on one of the neighboring lots were to pursue chickens on their property there would be no place they could be located where it would be shielded from the neighbors. He remarked that Johnsburg is a great community and he does not want to see the progress go backward.

Mr. Calhoun stated that there are two families in front of the board asking to change the regulations to allow chickens on residential properties out of more than six thousand people and there many that feel it should only be allowed on properties measuring three acres or more.

An audience member questioned if the matter goes to planning and zoning do they make the final decision. President Hettermann explained that the recommendation from Planning and Zoning would come back before the Village Board.

Bobbie Fosket remarked that the survey does not reflect a large representation of the Village. Sheryl Markunas suggested that the question be placed on a ballot.

President Hettermann stated that it appears requiring a conditional use permit is supported by the Board and the majority of the Board members feel the use should be on larger lots measuring 3 acres or more with 50 feet setbacks. Trustee Curry questioned the majority being considered. President Hettermann explained that Trustees Klemstein and Foreman support the activity on 3 acres or more and although Trustee Letzter does not support the activity he indicated that if allowed it would need to be on larger lots. President Hettermann stated that he also believes that the use should only be allowed as a conditional use in the E-3, E-5 and Agricultural zoning districts. Trustee Frost stated that given the larger lot requirements the setback should be 100 feet. Trustees Foreman and Klemstein concurred. Trustee Hagen stated that he does not agree with the 100 feet setback nor does he agree with the larger acreage. He pointed out that the survey information can be interpreted in many ways by combining results which alters the majority. He questioned the reason for doing the survey if the information was not going to be considered. President Hettermann stated that the survey provided good information to help establish regulations for consideration by the Planning and Zoning Commission. He asked Ms. Sofiakis to summarize what will be incorporated into draft text for the Commission's consideration. Ms. Sofiakis stated that based upon the feedback received the ordinance will reflect the use as a conditional use in the E-3, E-5 and Agricultural zoning districts with a minimum setback of 100 feet. She added that the Ordinance Committee developed helpful regulations that can be incorporated into text which will be brought before the Board at the next meeting so that they can act on directing the matter to a hearing before the Special Zoning Commission.

ORDINANCE 21-22-35 - Trustee Foreman moved to approve Ordinance 21-22-35 Authorizing the Merging of Parcels on Fairview Avenue in the Village of Johnsburg. Trustee Klemstein seconded the motion. Ms. Sofiakis explained the need for the Board to authorize the merger because one of the lots falls within SSA 27 and the other does not. All Trustees voted aye on the roll. Motion carried.

ADJOURNMENT - Trustee Frost moved to adjourn the meeting. Trustee Curry seconded the motion. All Trustees voted aye. Motion to adjourn was carried at 7:29p.m.

Respectfully Submitted

*Claudett Sofiakis
Village Administrator*