

TOWN OF NEWLAND

3/4/2025

PUBLIC HEARING – LIVESTOCK



ATTENDING:

MAYOR: Derek Roberts

ALDERMAN: James Johnson, Gail Haller, Christie Hughes, Dave Calvert, Kenan Foxx

GUEST: Vicki Caraway, Kenny Caraway, Christy Ray, Butch Hughes, Nathan Gittner, Christian Gardner, Theresa Foxx, Vanessa Angrisani, Drema Hayes, Crystal Wise, Donetta McKinney, Lauren Turbyfill, Melodie Johnson, Luke Johnson, JD English, Phillip Banner

STAFF: Town Manager/Finance Officer Sandy Lewis, Police Chief Michael Fields, Police Officer Dylan Isaacs, Town Clerk Jessica Buchanan, Public Works Supervisor Gary Lewis, Town Attorney Gerald McKinney

Mayor Roberts called the public hearing to order at 5:00 p.m. He asked everyone to be respectful and not to run anyone down. If someone is speaking, let them finish, and please raise your hand so he can acknowledge you. He said he does not like to cut people off, but if he needs to, he will because he realizes this has been a highly charged subject.

Vicki Caraway stated that when this subject first came about several months ago, she researched ordinances that many North Carolina municipalities have regarding livestock and chickens specifically. Most municipalities allow chickens, regardless of their size, with restrictions. Most restrictions are that chickens must be in enclosures and/or the property must be fenced. A definite number or maximum per acre cannot be exceeded for all owners, and commercial egg production cannot be involved. Ms. Caraway suggested that this ordinance be amended to include chickens and some of those restrictions. Mayor Roberts said he had spoken with the majority of the board and believes that is what they would do.

Vanessa Angrisani stated that whether she likes chickens or doesn't like them, she is a bit offended by the fact that we have had a no-fowl ordinance, which was voted for back in 2007 and 2018. The fact we are revisiting this is fine, but she feels like the reason why they are revisiting it is a bit much. Going forward, we should talk about the expenses. If we adopt more governance and more oversight at this time, and to her understanding, this all falls on the Police Chief, who is going to enforce the ordinance. Mayor Roberts said the Town Manager. Ms. Angrisani then asked what the Town Manager does to implement it. Sandy said her suggestion would be to have people apply for permits like most municipalities. As far as enforcing it, she wasn't sure yet, and it was going to be one of those things we figured out as we went, and she knew that it was a terrible answer. She said, of course, we will need oversight. Will we have to go from house to house; that will be up to the Town Council and whatever they would like us to do. If she or Chief Fields has to be the chicken officer, then that's just something we will have to do. Ms. Angrisani asked if we are already under strain because she didn't believe anyone received a cost of living raise or minor adjustment because our budget wouldn't allow it, but now we will extend ourselves out more for chicken policing. She's trying to understand the oversight and asked questions such as, can I go on their property, or what if they are on my property? When we already have a budget issue, why are we adding more things that actually do not generate revenue? Mayor Roberts asked if anyone had an answer, but nobody responded.

Vicki Caraway stated that regarding this ordinance and all other ordinances in the future, there needs to be some discussion about how they will be enforced, who will enforce them, and what the penalties will be. She said this is

not the only ordinance discussed, but also junk vehicles, trash, and other things. Ms. Angrisani asked if the board had considered a public referendum much the same way that we voted liquor by the drink into the Town. Have they thought that the Town itself should have the opportunity to vote on it versus the board on their behalf? Mayor Roberts said he had spoken with four other towns within the County that do not allow chickens, so he understands where she is coming from. He said, ultimately, they were going to end up changing this ordinance. He asked the board to start making suggestions to get this over with. Drema Hayes said that this has been an ongoing issue since she started coming to these meetings almost a year and a half ago. From what she sees, only a few people have a problem with this, and when someone has a problem with one ordinance, they don't change it. Alderman Calvert said he agreed with Ms. Hayes. He asked when the ordinances went into the books, and Sandy said it was 2015. He asked prior to this, and Christy Ray said 1978. Alderman Calvert said that before this particular ordinance was changed in 2015, it had been on the books for years. He said there are definitely some economic differences with this issue, and he believes it is a great question. We shouldn't be changing ordinances all the time, but unfortunately, that is part of what happens when you vote for somebody on the board. We represent you all, and if you don't like what is happening, maybe you shouldn't vote that person back on again.

Ms. Angrisani stated there used to be a chicken yard that belonged to Mrs. Yates, where Yellow Mountain Treasure Chest is now. She said during her childhood, her backyard was filled with chickens, and at some point, it changed. Why would it need to be written off the books as it is not permissive in Town right now, but now we will bring it back. She asked if this was taken off the books because of Mrs. Yates' chickens. Alderman Calvert said he wouldn't know that because he was not on the board then. Ms. Angrisani said she understood that, however, it is their responsibility to understand where the community was then and where we are now. If they are going to vote as a board versus opening it up for a public vote, then she believes they need to find out what happened prior. Alderman Calvert said he believed the issue before that time was particularly roosters crowing at 6:00 in the morning. Sandy asked Donetta McKinney if she remembered why it had been changed. Donetta said they never had a problem with people having chickens other than Phillip having some. However, she does not remember when it was changed. She said her concern is whether she has chickens if it impacts my neighbors and the value of their home and the entire Town. She and Trish are in real estate, and if you are trying to sell your home where your next-door neighbor has a ton of chickens, dogs, cows, or whatever, it impacts your home's value. If you open the door for chickens, will other farm animals come into play, and we start allowing sheep, pigs, and whatever? Alderman Calvert said no. Mayor Roberts said to play devil's advocate why Alderman Calvert was such a hard no. We were just hit with a hurricane, and he lost his embankment and would love to put a goat up there because he can't get up there to weed eat.

Donetta McKinney stated they had an incident when they first bought their home. Lois Ray and her daughter owned the field beside them, and they put a horse there. She said it's fine until spring and summertime come around, and they couldn't sit on their deck because of the smell of the horse manure. They were in violation and removed the horse, but those are the kinds of things you don't really think about. Mayor Roberts asked Attorney McKinney his opinion on doing a referendum and letting the Town vote on this. Alderman Hughes said it would cost a lot of money, and Mayor Roberts asked how much it would cost. Alderman Johnson said \$16,000, and Alderman Hughes said it wouldn't cost that much. The Board of Elections bills us for printing and putting it on the ballot. Ms. Angrisani asked what we would do about people who live by the river and the runoff that might go into it. She said this isn't just about not wanting chickens in her backyard, she loves them. Some people in this Town will probably have chickens, and she doesn't know who they are. She doesn't see or smell them and believes that will be the hard part about this one. We could say yes to Phillip, Jess, or someone else and then no to Donetta and Kenny. Are we prepared to have that level of oversight and be that sophisticated about all of this while we are already facing a ton of pressures? The roads still aren't fixed, the signs aren't up, we are still recovering from Helene, and there are an innumerable number of things that we have going on to focus our time, attention, and money on. She said Donetta was right, and it may make a difference in someone's property value, and that's not a vote six people should be able to make. Alderman Foxx added to her point by saying he would like to point out to everybody in the room and on YouTube that the planning board would have helped them through many of these decisions to the point where he thought they wouldn't even be having this meeting. Christy Ray stated that her dad has chickens and would like to know if he will have to remove them or if he is grandfathered in. Mayor Roberts said he was grandfathered in. She asked if she wanted to get some chickens or ducks and where we were going from there. Mayor Roberts said that it's a hard no at this point, but the board is talking about changing that. They are trying to decide if they want to make that decision tonight or put it on a referendum, but you will have an answer shortly.

Alderman Johnson stated that Attorney McKinney had read this ordinance and said several times that it was unclear. Attorney McKinney said that was correct. Alderman Johnson said there is nowhere in the ordinance that says laying hens or chickens of any kind are mentioned. Attorney McKinney said that was correct. Mayor Roberts asked if we were back on the fowl question. Alderman Foxx said the ordinance states, "Or any other livestock within the corporate limits." Christy Ray said livestock has many different definitions when you look it up. Alderman Calvert said it is stated as fowl, and fowl is defined as mainly chicken. Melodie Johnson said a chicken is a fowl, but why wasn't it mentioned? Attorney McKinney said he was concerned that the only place he sees the word fowl is in the title, which says, "No person may keep any livestock and/or fowl within the Town except in accordance with this section." Section 10.05 of our ordinances says the underlying headings of the several sections of this code are intended as mere catchwords. They indicate the contents of the section and shall not be deemed or taken to be titled of these sections nor as any part of the section unless expressly so provided shall they be so deemed when any of these sections, including catch lines, are amended or redacted. He said what that is saying is that the title is not determinative of what the ordinance says. It's what it says under A, B, C, and D, and for whatever reason, the powers that be never put chickens in there. He said you could make an argument with a judge who might agree with you and might not. To add ambiguity to this, there is a little sticky note in the section that says it's supposed to apply to chickens, but it is not typed in there. That is his best opinion about where we are, and somebody could have an argument. Whether a judge and jury would agree with you, that he could not tell you. Ms. Angrisani said it also does not state if you can have a rooster, how many chickens you can have, or how they must be kept. Are we saying it's a free-for-all if we just adhere and hold on to the existing ordinance? She is trying to figure out which side we are leaning towards: either voting in a more aggressive ordinance or throwing it out as a public referendum.

Phillip Banner said it didn't hurt Florida property values with roosters running around and that this was getting stupid. He said he thought we had half a million dollars that had been stolen, and this was all a gas light. Mayor Pro Tem Haller said she had been Mr. Banner's neighbor for twenty years and wouldn't even know he had chickens. He said he knew they were an eyesore to people and had been working longer than that to hide them. MPT Haller said she's glad Mr. Banner has his chickens and has never thought about complaining about them. Mr. Banner said he knows you can hear them early in the morning, and his neighbor Scott used to love to hear them. He apologized if it offended people and said he and Alderman Johnson had been trading chickens since Alderman Johnson was five years old. Alderman Johnson said he would bring his son up and open up to the board so they could ask him anything they wanted. He said the price of eggs is really high and asked his son if he gives eggs to people who need them and don't have the money to buy them. His son Luke replied yes, sir. He asked his son if he would give someone one of his laying hens if they needed something to eat, and his son replied yes, sir. Alderman Johnson said it used to be a thing of pride in this area to raise your own food. Who are we as a board to come in and tell someone what they can have on their property? He told Ms. Angrisani he grew up below her house, and her grandpa had chickens. She said she could assure Alderman Johnson that he wouldn't have been born in the time he would have had them. He did not have them in the 70's and forward because we didn't have to have them. He said his dad tended to the chickens at Shomaker Bottom when he was a little boy. Ms. Angrisani said there has never been a chicken coop in her backyard, and he could look through all of her photos, and there is not a single chicken in them. Alderman Johnson asked if she lived here full-time. She said yes, she has been here full time and has owned that house for several years.

Alderman Johnson asked Mr. Banner if someone needed some eggs and didn't have the money to buy them would he give them some. He said if it wasn't one of his hatching eggs. He breeds chickens and eggs, which can be very valuable. Mayor Roberts asked Mr. Banner if the USDA wouldn't let you sell a hatching egg, and he said they weren't buying his. Drema Hayes asked if we should do away with the entire 81.09 animal ordinance. Mr. Gittner said his concern was like everyone else's: noise at 4:30 in the morning. Christy Ray asked who was going to place anything around the Shady Lawn that he was so concerned about, and he said roosters. She asked where there is placement to put them, and he said it was behind the motel and one house over. Mayor Roberts said the board has made it very clear to him that they are more than willing to make this change, and they need to come up with a new idea so we can get this thing over with. He asked Alderman Hughes if she had any suggestions, and she said she didn't care if people had chickens. She believes they need to be limited to so many per acre, and the individual should buy a permit. Having the names of those who purchase a permit will make it easier to oversee. Mayor Roberts asked how many chickens people should be able to have, and she said she wasn't sure how many were allowed per acre. Vicki Caraway said she has read no more than twenty hens per acre, and that may sound small, but we are talking about residential users, not commercial.

Mr. Banner said it was hard to keep chickens between coyotes and minks around here anymore. They will wipe you out overnight. If a hen hatches 14-16 chicks at a time, what are we supposed to do about that when it comes to the limiting rule? He said rules are not a good thing in our nation right now, and they aren't going to be. If you want a chicken to eat, you better hope to find one someday. He said he used to let his chickens be free-range, but he has them all put up now. Alderman Hughes said that should be another stipulation, and they should not be free range. Mayor Pro Tem Haller reiterated what Alderman Hughes said by saying they needed to be in an enclosed area, and she liked the idea of a permit. Ms. Johnson said they have coops for their chickens but also have a large fenced-in yard. Two will fly over sometimes, but they stay right by the fence. Mayor Pro Tem Haller said 20 chickens per acre would be acceptable. Sandy said they would do the math and determine the number if it is less than an acre. Mayor Roberts said there would be no roosters allowed. Christy Ray asked when a chicken has from ten to sixteen chicklings, are you counting them as well? Ms. Johnson said the board said no roosters, so he couldn't breed his chickens. Lauren Turbyfill and JD English commented about Mr. Banner being grandfathered in so he could do whatever he wanted. Mr. Banner said it had been in their culture, and it's not only us but also throughout the South. Ms. Johnson said chickens are in these bigger cities where the real estate market is crazy, and it doesn't seem to hurt them. They went to a lawyer's office in downtown Charlotte, and there was a fence with fifteen little doghouses with a rooster set up in each one. She said the market constantly changes, and she didn't think chickens would change the market value of her house. Ms. Angrisani said it might change who wants to buy her house. Mayor Roberts said he had someone tell him today they were going to buy the house behind the Johnsons but elected not to because there were chickens in the backyard, and that's their right. JD English said it was their right to have chickens, and Mayor Roberts said right now it's not, but we are getting ready to change that.

Ms. Johnson said they try to be respectful, and she is always on to her son about making sure the pens are clean. She said they have rabbits on the back porch and are okay to have, but they stink worse than the chickens do. She said they dig the pens out and put lime and fresh bark out the first time they smell anything. Ms. Angrisani said in all seriousness that she had no idea who had chickens in the town. She doesn't go around doing a sniff test, but she would like to think everybody is going to own chickens in the same way and put as much attention into it as Melodie and Phillip are doing. Ms. Johnson said if someone has a complaint about the chickens and their neighbors are not doing what they should be doing, they should come down to the police department, file a formal complaint, and sign it. Then the police should go to the house like they would for anything else, and she doesn't think that is putting any extra work on them. Ms. Angrisani said she agrees, and there are many things on the books that we do not enforce, such as loud noise. She can speak from experience because her next-door neighbor is a perfect example. She can't count how many times the police have been there to enforce basic garbage removal from the property. There are times when the pile would literally come to her height, and she would have to call them once or twice a month. She said if there were people who took the best care of the animals and had access to doing this, that would be great. She didn't know if we could write a law that would say these standards are high enough to enforce. Until then, she looks at this wondering if we say yes to something like this today or move forward with something bigger without having something bigger in place; we are just opening ourselves up for silliness. The first person who doesn't know the difference between a peacock and a peafowl, and we find out about it when one is up in a tree screaming its head off.

Alderman Johnson asked his son Lucas to step up to the front. He asked Lucas if he was involved in a project that included his chickens, and he said yes, sir, they are an FFA project. Alderman Johnson asked Lauren Turbyfill if she was an agriculture teacher and if what Lucas said was correct. She said yes, this was a supervised project and agricultural experience all 700,000 (plus) FFA members in the United States have a choice of what kind of project they want to do between seventh grade and the age of twenty-one. She asked Lucas if he had proficiency awards for the project, and he said yes. She said he was earning credits and hopefully trying to achieve his State and American FFA degree. Alderman Calvert asked Lucas if he had options for other projects, and he said yes, sir. Mayor Roberts said you chose the one we had an ordinance against. Lucas said he didn't know there was one at the time. Mayor Roberts said that Lucas was the son of an alderman, and he should know the ordinances. JD English said maybe that was something they didn't sit down and talk about over dinner. Mayor Roberts said he had spoken to FFA National, and they said he has to have a waiver. He asked Lauren Turbyfill if that was correct. She asked what he meant by a waiver, and he said if Lucas was going to do this particular project, he was supposed to go to Town Hall, HOA, POA, or wherever he lives to ensure it was okay to do so. He had to make sure there were no rules or ordinances against it. Lauren said that was news to her, but she didn't know everything. Mayor Roberts said he has supported this young man from the very beginning, as well as anyone else doing anything that is valid. He has a problem that Lucas had other options and chose the one we had an ordinance against.

Alderman Johnson asked Lauren Turbyfill how old her daughter was, and she said five. He asked if she came home one day and asked for a pony and if she thought her dad would get her one. Lauren said yes. He asked if she thought her husband would care about this ordinance. She said they are very fortunate that some of their lots are in Town, and several are out of Town, but they are grandfathered in as agricultural use. She said a section at the bottom goes over violations, but she doesn't think it needs to be taken away from people who aren't doing anything wrong and keeping things neat and tidy. If there are people who go about it the wrong way, there needs to be parameters in place that say if you are being negligent and they are disturbing, the police chief or town manager should be able to deem the chickens as an issue. Lauren said a ticket could be written as a first offense, the second offense could ask the citizen to remove the chickens, and the third offense could charge them a daily fine of \$250. There are ways to let people have their cake and eat it, too. People have chickens in New York City, Los Angeles, and other cities where there is no zoning, and they don't have issues with anything like this. She said she believes there needs to be some research before throwing a number out. She is an agriculture teacher but is also anti-the commercial agriculture industry because America is in a tailspin, and we have forgotten where we came from. If we were all eating backyard chickens, there would be no obesity, high cholesterol, or high blood pressure. She is a millennial and into all the things her grandparents and great-grandparents were into because that truly was a better way of life.

Mayor Roberts asked Lauren if Luke had chosen to do a project on a cow for his FFA class and wanted to raise, feed, and weigh it, and whatever you do, would she support him and the Town changing the ordinance to allow cows in his backyard? She said the backyard isn't a good answer because you need more acreage than that, but it's common sense. Phillip Banner said you need to have so much pasture room for animals, and nobody knows what is going on around here. He asked if anyone knew why there were so many deer in Town because everybody had been seeing them, and it was because the coyotes had them all herded in. Mayor Roberts said this was a dead issue and we were going to move forward with the chickens. Mr. Banner also said he had pigeons and asked if they would come after them. Alderman Calvert said that guineas are specifically stated in the ordinance they are not allowed to have. Mayor Roberts asked Alderman Calvert how many chickens he thought would be appropriate to have, and he said he didn't know because he didn't raise chickens. Alderman Calvert asked Attorney McKinney if the top line of the ordinance was removed, which mentions fowl, is that basically what the issue is. He said the title doesn't carry the force of an ordinance, and by taking that out, it's just for you to understand what is said after that. He said it strikes him odd that all of these specific types of fowl were named except for chickens, and he could see arguments going either way. Alderman Calvert asked what we would need to do if we decided to move forward and keep chickens. Attorney McKinney said below the letter C that section D states chickens may be kept within the Town limits within these parameters and specifications.

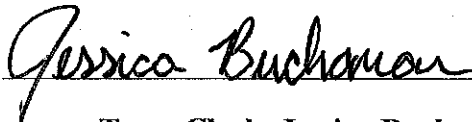
Lauren Turbyfill encouraged everyone to do their homework on what these specifications should be and understand how much space they need. Consider putting a ten-foot buffer zone between your yard and your neighbors, Sandy said, like a coop setback. Alderman Foxx said we should check with other towns of our size and see their rules about having chickens. Mayor Roberts said not to go to Banner Elk because their rules were so stringent that they practically made it impossible for anyone to have chickens. Alderman Johnson said he would like to get this over with tonight. The board will agree to let people have chickens; if not, people will have so many days to remove them. He said he was fine with buying his son a permit, but he doesn't think we need to tell people who own their home and pay taxes they can't have a laying hen. He said there might be a day where three board members don't like brick houses and push them over. Vanessa Angrisani said Alderman Johnson was talking about something he alluded to about grandfathering, and even if the board voted against it, they would still look into grandfathering. He said absolutely; however, when you read the ordinance, it doesn't say anything about chickens. He told Ms. Angrisani he understands they don't get along and go back and forth with each other, but he's looking at these other people, and most of them are in favor of changing the ordinance. He said he could assure her that the day his son goes to college, there will be no chickens at his house because he and his wife are not able to take care of them, and it isn't all about him. Ms. Angrisani said she understood that and just wanted to know what the oversight was going to be.

Lauren Turbyfill said her husband Casey's words were, is the problem that the people of the Town of Newland have chickens? Or is it because Jamey Johnson has chickens? That is the issue and reason we are all sitting here tonight. Mayor Roberts said she was 100% correct, and we wouldn't be sitting here tonight if we didn't have an alderman not abiding by an ordinance. He received information from FFA, the school superintendent, and the interim school superintendent that we do not have a class right now supervising these projects. However, Ms. Turbyfill is standing

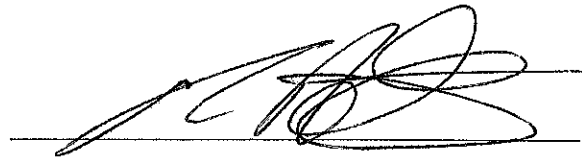
here telling me he is receiving credits. Lauren said she could promise superintendents usually know nothing about agriculture education and assured it was factual. Mayor Roberts reiterated that Casey Turbyfill was absolutely correct in his statement. He was disappointed in the young man who would bring a pony home even if an ordinance was against it. Lauren said they were grandfathered in for agricultural use so they could have a pony. Mayor Roberts said this all started with Jamey and chickens being considered a 'fowl' argument. Then, a letter popped up that Luke was in FFA, and they received the letter from Gretchen. He said it was fascinating that our attorney doesn't think the word 'fowl' counts, but he has more education. It came down to the point where he was having conversations about the school not having that teacher right now who teaches that particular area because there are logs that Luke is supposed to be doing and keeping up with. He may be doing satellite learning, and that's great, but get a waiver and come to the board with it. At some point, somebody in this Town decided they didn't want chickens, junked cars, and Clark Griswald RVs and were trying to clean it up. Mayor Roberts asked Lauren if they needed to talk to her about these parameters or to Phillip Banner about how many chickens people can have per acre. Lauren said we should reach out to Jerry Moody at the NC State Extension Agency or call NC State and ask for the poultry division.

Vicki Caraway said she believes the entire ordinance needs to be re-done and there needs to be input from the extension agents. Then the board could do a workshop to rewrite the ordinance and include everything that has been discussed and move forward. Alderman Calvert said there are several things in the ordinance that need to be changed, including the management and policing of it. Alderman Johnson said he would be happy to make a motion to suspend the ordinance until they can have a workshop. Mayor Roberts said there is nothing to suspend because the ordinance doesn't mention chickens and Alderman Johnson agreed with him. Alderman Hughes told Alderman Johnson she didn't agree with the way he went about it because he knew there was an ordinance but still got chickens. Alderman Calvert asked the board if they wanted to go ahead and schedule a workshop. Mayor Roberts said we should talk to Mr. Banner, Jerry Moody, Luke Johnson, and Lauren Turbyfill so we can have the best tasting chicken eggs we can get. Alderman Johnson said we would have a workshop before the next meeting. Alderman Haller asked Sandy to make sure we speak to Jerry Moody before having the workshop. She said she would speak with him, Phillip, Luke, and Lauren.

Alderman Johnson motioned to close the public hearing. Mayor Pro Tem Haller seconded the motion.
The public hearing adjourned at 6:01 PM.



Town Clerk, Jessica Buchanan



Mayor, Derek Roberts

81.09

Adopted April 7, 2015

No person may keep within the Town any Livestock and/or Fowl except in accordance with this section.

- (A) It shall be unlawful for any person to maintain, keep, house or stable any: horse, mule, pony, cow, sheep, goat, swine or any other livestock including ducks, geese, turkeys, guineas within the corporate limits of the Town
- (B) It shall be unlawful for any person to maintain, keep or house any cattle, goat, horse, swine, ducks, geese, turkeys, guineas or any other livestock within the corporate limits of Town.
- (C) Any existing farm areas will be grandfathered in to this ordinance. If nuisance laws are violated action can be taken to remove area's privilege.
- (D) Violation of this Ordinance: Penalties
 - (1) First Violation: Warning, written can be requested
 - (2) Second Violation: Notice of seven (7) days to remedy or rid property of violation animal.
 - (3) \$50 fine per day beginning eighth (8th) day that removal has not occurred until remedied.

