

**City of Salem Planning Board & Salem City Council  
CORRECTED Meeting Minutes  
Thursday, September 11, 2014**

A continuation of a joint public hearing of the Salem Planning Board and the Salem City Council was held on Thursday, September 11, 2014 at 7:00 p.m. at City Council Chambers, City Hall, 93 Washington Street, Salem, Massachusetts.

City Council President Bob McCarthy opened the meeting at 7:08pm. City Council business preceded this agenda item whose discussion began at 7:37pm.

### **Roll Call**

Planning Board members present were: Chuck Puleo, Ben Anderson, Randy Clarke and Kirt Reider. Absent: Helen Sides, Dale Yale, Matthew Veno, Bill Griset and Noah Koretz.

City Councillors present were: Robert McCarthy, President, William Legault, Elaine Milo, Arthur Sargent, Heather Famico, Josh Turiel, Beth Gerard, Joseph O’Keefe, Thomas Furey and Todd Siegel. Absent: David Eppley.

Also present: Lynn Duncan, City Planner, Dana Menon, Staff Planner, Cheryl LaPointe, City Clerk, and Pamela Broderick, Planning Board Recording Clerk.

### **Agenda**

**A continuation of the joint public hearing, opened on July 29, 2014, with the City Council to amend the City of Salem Zoning Ordinance to add a definition for “Urban Agriculture”, “Hens”, “Run”, “Coop”, “Livestock”, and “Customary agricultural, horticultural and floricultural operations” under Section 10; to amend the *Table of Principal and Accessory Use Regulations* under Section 3.0 to add a new “Urban Agriculture” use, to be allowed by-right in RC, R1, R2, R3, B1, B2, B4, B5, I, and BPD zones; and to add a Section 3.2.7 “Urban Agriculture” under Section 3.2 Accessory Uses.**

President McCarthy introduced the agenda item by briefly summarizing work to date on this matter and reminding the Council that this is a continuation of a joint public hearing. The public hearing has been kept open to enable all stakeholders (Board of Health, Planning Board, interested members of the public and City Council, appropriate City departments, etc.) to collect and review information. Once the public hearing is closed, the Planning Board has 21 days to make recommendation to the City Council. The Council may then choose from a number of actions based on their comfort with the recommendation and suggested ordinance language from the Planning Board.

President McCarthy resumed the hearing and invited City Planner Lynn Duncan to address City Council. Ms. Duncan suggested the chair of the Planning Board introduce its members in attendance and suggested staff planner Dana Menon provide an overview of the research conducted regarding other community practices and the approach to drafting the ordinance.

Planning Board Chair Chuck Puleo introduced the members of the Planning Board in attendance. He noted that Ms. Menon has gathered quite a bit of additional information since the last meeting and invited her to provide a summary.

Ms. Menon reported that several cities were contacted: Marblehead, Reading, Peabody, Boston and Somerville. The information collected included copies of ordinances and/or regulations. She also solicited feedback regarding “lessons learned” from the appropriate contact; most often a health department agent.

- No city or town on the list allows the keeping of roosters.
- Common issues with rodents but seems to be comparable to similar issues for composting.
- Towns with new regulations did a lot of research up front.
- Not as many enforcement issues as feared, fewer applicants than expected.
- Peabody wanted to be inclusionary so implemented 2-tiers of setbacks based on lot size.
- Boston not all zones eligible, they have recently updated their regulations but still does not allow hens across all zones.
- Onsite slaughter is either not allowed, or was not addressed at all by the regulations/ordinance.

***City Council/Planning Board Discussion:***

- Councilor O’Keefe had several follow-up questions:
  - How many hens could be kept in 120 square feet of space? Ms. Meno advised 6 would generally be considered the maximum based on her research; but this level of detail will most likely be addressed in the Board of Health regulations not the zoning ordinance.
  - He noted a possible language discrepancy for items A-I; “shall” vs. “may” in the draft ordinance, specifically at item D.
  - Asked if the coop and run will be roofed to prohibit pests. Ms. Menon advised this detail will be addressed in the Board of Health regulations.
- Councilor Siegel spoke against allowing hens in all zones. Specifically he recommended the City not allow them in BPD zones (business park development). Personal consumption doesn’t fit here and companies have invested lots of money in their office locations; chickens are inappropriate.
- Councilor Turiel spoke to clarify section E regarding setbacks. He recommended we have a process for people to request a variance for unique lots such as the current property owner on a large lot that has a coop built against a stone wall on the property line. He also indicated he is in favor of accommodating mobile coops. Ms. Menon advised the variance requests may be providing for through the existing zoning code.
- Planning Board member Kirt Rieder followed up on Councilor O’Keefe’s question about quantities of hens; is this most appropriately addressed in the zoning ordinance or Board of Health regulations? President McCarthy suggested this distinction might be addressed in the Planning Board recommendation.
- Councilor O’Keefe asked if coops are completely enclosed with roof/top. Ms. Menon confirmed yes, some type of roof/top cover would be part of the structure.

**President McCarthy invited public comment:**

- Jennifer Bovey, 14 Beach Ave—has had chickens at this address since 2000. Hens are strictly pets, they do use the eggs but they have names and at end of life are not used for meat. Brings them into the house during very cold weather. Would like the ordinance to address chickens that are strictly pets, or health department/zoning board guidelines to address pets.
- Lyle Barrett, 37 Broad St—regarding setbacks. His coop is only 8' from adjacent property and abuts the neighbor's shrubs—can there be a provision made for how far the chickens are from the neighboring house rather than the property line?
- Nicole Williams, 37 Broad St—has 6 chickens and interested in getting more please do not restrict the number of hens allowed.
- Michele Conway, 69 Orchard St—commented she finds the process of separate deliberations by the Planning Board and Health Board very confusing; suggested joint meetings would be more productive. The Health Department process seems very cumbersome and discriminatory towards chickens vs. dogs/cats. The height restriction is prohibitive. New ordinance should have a grandfather clause. Chicken coop waste allowed in composting bin recycling, not dog/cat waste.
- Kristen & Kevin Cordy, 1 Orchard Terrace—in MA state regulations require a minimum of 6 chickens be purchased; no fewer. Inquired if the proposed ordinance would permit coops in a side yard parallel with the front of the house (lot has no front yard, the front step/porch is on the sidewalk/street). Lynn Duncan offered to further discuss and clarify the question with them outside of the meeting. They disagree with any increase in allowed height for coops on the basis the likely increase waste crossing property lines and the eyesore factor. Extended sincere thanks to the Planning Board for their research.
- Kathy Karch, 76 Memorial Drive—thanked the City Council and Planning Board for openness and communication with the public. Complimented the thoughtful research on practices in other communities. Specific comments:
  - Lack of a grandfather clause is a problem for those with existing coops/runs that do not meet the new standards
  - Disconnect between Planning Board and Board of Health. The Board of Health chair indicated there are overlapping points where the two groups differ; and that the Board of Health regulations will trump any zoning ordinances.
  - Draft Ordinance 3.2.7.e: Somerville has a setback of only 3 feet, why can't we use this in Salem?
  - Draft Ordinance 3.2.7.f: the proposed height restriction bans walk-in units; why can sheds be taller than coops?
  - Draft Ordinance 3.2.7.i: directs applications to the Board of Health. Concerned the Board of Health is not drafting a permitting process that is reasonable. Requested City Councillors and Planning Board members to question the Board of Health regulations carefully. During the recent Board of Health meeting, during public comment period the Board was asked to explain the science behind their draft regulations. The Board refused to provide this level of detail. She urged the Planning Board to direct applicants elsewhere, noting that dog and cat permits are not routed through the Board of Health.
- Pat Gazemba, 17 Sutton Ave—in support of all points made by Kathy Karch. Criticized the Board of Health; the draft regulations were not released until the day of the public hearing; leaving no time to review. The Board insisted they would not share their scientific research. Urged City Council and Planning Board to ask the questions of the Board of Health; regulations must be scientifically based.

- Patrick Scanlan, 42 Dearborn Street—served on the Salem Board of Health in the 1980s. Attended its meeting this week. Recent personal experience with new neighbors who added a 6-foot+ high coop in his backyard with no introduction or discussion. They have since worked it out. Common sense tells you there will be hygiene issues and predators coming into the neighborhood regardless of how well managed; but it can be worked out. To own chickens is not presumptive right; he encouraged Councillors and Planning Board members to be sensitive to non-chicken property owners.
- Patricia Scanlan, 42 Dearborn St—spoke before the Board of Health; she is concerned the general quality of life in Salem will be affected by this decision. The Board of Health doesn't have the resources to deal with regulating this matter. Somerville has a rat problem. Ordinance draft is excellent, Board of Health regulations are tight but they should not be changed; if anything the City should increase the setbacks. Looking for City government to protect property values. Leave the setbacks as proposed. Was able to obtain the Board of Health draft regulations well in advance of its public meeting so if anyone was interested they were available from city hall.
- Susan Harrison, 18 Naples Road—indicated she is more impacted by the proposed SSU parking garage which is huge; chicken coops are not such a problem. Emphasized the need to contact neighbors if adding chickens. There are problems with neighborhood cats. Compost pickup will not take cat/dog waste but will take chicken waste. Cannot effectively clean a coop that is only 6' tall. Requested a grandfather clause be added to the draft ordinance. Chickens covered by USDA. Some backyard people don't realize that USDA regulations will affect them; most commonly USDA testing requirements.
- Pamela Bardini, 3 Larch Ave—the keeping of chickens and the public concerns regarding the proposed SSU garage seem to be silly comparisons in the same City Council meeting.

***Additional City Council/Planning Board Discussion:***

- Councilor Famico attended the recent Board of Health meeting and urged people to get a copy of the regulations and review. She also urged Planning Board members to carefully review the draft Board of Health regulations.
- Councillor Gerrard offered contacts at the Health department to get in contact with for questions: Heather Paul and/or Larry Ramden.
- Councillor O'Keefe asked for clarification regarding ordinances vs. regulations for benefit of public questions. He explained that laws supersede regulations. Ordinance is the law; regulations are the interpretation of how to manage the law.
- Councillor Turiel—offered clarification regarding the timing of the Board of Health in publicizing the draft regulations. City health agent Larry Ramden circulated an early draft version to City Councillors and City departments but it was not posted publicly until after the Board of Health meeting agenda was posted. The actual regulations were posted late in the day.
- President McCarthy—indicated the Council will not be commenting on the administrative practices of the Board of Health and encouraged concerned individuals to take it up directly with the Board of Health.
- City Planner Lynn Duncan—advised the Planning Board will work with the Board of Health to identify overlapping areas and ensure the proposed zoning ordinance and Board of Health regulations have no conflicts.

**Motion and Vote:** Councillor Turiel made a motion to close the public hearing. The vote was unanimous with nine (9) in favor (Mr. McCarthy, Mr. Turiel, Mr. LeGault, Ms. Milo, Mr. Sargent, Ms. Famico, Ms. Gerrard, Mr. Furey, Mr. Siegel and Mr. O’Keefe) and none (0) opposed.

The public hearing was closed at 8:27pm, with no further discussion among the City Council or Planning Board members.

**Motion and Vote:** Councillor Turiel made a motion to refer the matter to the Planning Board for their recommendation. The vote was unanimous with nine (9) in favor (Mr. McCarthy, Mr. Turiel, Mr. LeGault, Ms. Milo, Mr. Sargent, Ms. Famico, Mr. Furey, Ms. Gerrard, Mr. Siegel and Mr. O’Keefe) and none (0) opposed.

For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at: [http://www.salem.com/Pages/SalemMA\\_PlanMin/](http://www.salem.com/Pages/SalemMA_PlanMin/)

Respectfully submitted,  
Pamela Broderick, Recording Clerk

*CORRECTED minutes approved by the Planning Board on 10/16/2014*