

because he thought it was really not necessary. Mr. Townsend agreed that it was not necessary. No further discussion. The motion passed unanimously.

**3. PV09-03 Master Works Atlanta, LLC, 210 West Crossville Road, Land Lot 366**

Planning and Zoning Director Brad Townsend stated the applicant requested deferral until the December 7, 2009 Mayor and Council meeting.

Mayor Pro Tem Igleheart invited public comment. No public comments or questions were heard.

**Motion:** Councilmember Dippolito moved to defer **PV09-03 Master Works Atlanta, LLC, 210 West Crossville Road, Land Lot 366 until the December 7, 2009 meeting.** Councilmember Orlans seconded. No further discussion. The motion passed unanimously.

*Note: Agenda Item #4 was heard as the first item during the meeting.*

**4. RZ09-11 Text Amendment to allow for the keeping of companion animals and poultry in the backyard of single-family residential areas. First Reading**

Planning and Zoning Director Brad Townsend stated this proposed text amendment will allow backyard poultry in residential areas. Mayor and Council reviewed this item at Committee. The proposed text amendment includes a definition of poultry; allows for the keeping of roosters; a maximum number of twenty-five (25) poultry; a provision is included for the allowance of keeping up to an additional fifteen (15) birds on their backyard. Mr. Townsend noted the proposed text amendment includes a definition of livestock and poultry; poultry must be kept in a pen or fenced area and cannot roam free; the keeping of poultry is only for personal use and not commercial use; a prohibition for nuisance; Table 5.1 Uses Permitted in Residential Districts section which showed poultry and hogs were struck through because the Court found that to be inadequate for enforcement. Mr. Townsend stated the non-conforming section of the Code would allow an additional fifteen (15) birds to be kept, not to exceed a maximum of forty (40) birds; a permit will be required within 90 days of the approval of this ordinance in order to keep those additional birds; staff recommended the permit fee for the additional birds be set at \$50.00 to cover the administrative costs to process the permit.

Mr. Townsend reviewed each of the following:

**Planning Commission Recommendations**

1. Exclude geese and turkeys from the poultry definition.
2. In chapter 10.41, all provisions other than letter b shall remain.
3. In (b), number of poultry allowed, recommend permitting the number of chickens allowed based on the size of the lot. The larger the lot, the more chickens are allowed.
4. In (d), personal use only, the homeowner should be allowed to sell the eggs at a Farmer's market.
5. In (e), poultry enclosed, a homeowner on a large lot should be allowed to have the mobility to move the chickens around on the property.
6. In (f), nuisance prohibited, the motion-activated lighting in the fenced area shall not be a violation of a nuisance.
7. Some kind of grandfathering system should be allowed for homeowners with existing chickens which exceed the maximum number allowed. It should work that when the chickens die, they come into conformity with the maximum number.

Mr. Townsend stated staff recommended approval of the first reading of this text amendment.

City Attorney David Davidson conducted the first reading of the ***ORDINANCE TO AMEND THE CITY OF ROSWELL CODE OF ORDINANCES AND THE ZONING ORDINANCE REGARDING KEEPING OF LIVESTOCK AND POULTRY WITHIN THE CITY LIMITS OF ROSWELL*** stating pursuant to their authority, the Mayor and City Council adopt the following ordinance:

1.

The Zoning Ordinance of the City of Roswell is hereby amended by adding new definitions to Article 3, of the *City of Roswell Zoning Ordinance*, Section 3.1 *Definitions*, for “livestock” and “poultry” as follows:

**Livestock:** Any animals of the equine, swine or bovine class, including goats, sheep, mules, horses, cattle, hogs, pigs and other grazing animals and all ratites, including but not limited to, ostriches, emus and rheas raised in an agricultural setting to produce commodities such as food, fiber, or labor. **Poultry:** Any domesticated bird, including but not limited to, chickens (including roosters), ducks, geese, guineas, quail, pigeons and turkeys.

2.

The Zoning Ordinance of the City of Roswell is hereby amended by adding a new Chapter 10.41 “Poultry” to Article 10, Specific Use Requirements to read as follows:

Chapter 10.41 Poultry

(a) Purpose

The purpose of this section is to authorize and to provide standards for the keeping of poultry in the rear or side yard of a single-family detached residence. It is intended to enable residents to keep poultry on a non-commercial basis, while limiting the potentially adverse impacts on surrounding neighbors. See Section 3.1 of this Zoning Ordinance for the definition of “poultry.”

(b) Number of poultry allowed

The maximum number of poultry allowed is twenty five (25) birds per single-family detached residence located in any residential zoning district.

(c) Housing Types Allowed To Keep Poultry; Adult Residents Deemed Keepers or Owners

Only those residing in single-family detached residences may keep poultry as authorized in this Chapter. Each adult residing at any single-family detached residence at which poultry are kept shall be deemed a keeper or owner of the poultry.

(d) Personal Use Only

The keeping of poultry pursuant to this Chapter is for non-commercial, personal use only.

(e) Poultry enclosed

Each keeper of poultry is required to have an accessory structure and/or fenced area to house and control said poultry. Such accessory structures shall meet all requirements for accessory structures set out in Chapter 10.4 of this Zoning Ordinance, including those for setbacks and location. Poultry shall be kept only in the rear or side yard and must be within a fenced area. No poultry shall roam free.

(f) Nuisance Prohibited

The keeping of poultry authorized under this Chapter shall not create a nuisance as defined by Chapter 8.8 of the Roswell City Code. The keeping of poultry shall be conducted in a manner that does not disturb the use or enjoyment of adjacent properties. Odor generated shall not be perceptible at the property boundaries, and noise generated shall not disturb people of reasonable sensitivity at the property boundaries. Only motion-activated lighting shall be used to light any fenced area.

3.

The Zoning Ordinance of the City of Roswell is hereby amended by deleting in Article 5 part of Table 5.1 the words *not including poultry and hogs* to the permitted use in E-1 and conditional use in E-2 for livestock and adding as a permitted use in residential zoning districts the keeping of Poultry to Table 5.1.

4.

Non-conforming number of poultry

For the first 90 days following the adoption of this ordinance by Mayor & Council, anyone having more than the maximum 25 poultry allowed may obtain a permit for the excess number of poultry, up to a limit of an additional 15 poultry, so that the total number of poultry kept will not exceed 40. Such permit will allow the permit-holder to keep the excess number of poultry for their lifetime. However, if a keeper of poultry fails to obtain this permit within the 90 days allowed, then he or she shall not have the right to keep more than the maximum 25 poultry allowed. The fee for the permit shall be \$\_\_\_\_\_.

Mr. Davidson stated that if approved by Mayor and Council, this would be the first reading of the ordinance.

**Public comment:**

**Keith Badalamente**, 355 Alpine Drive spoke on the following:

- Supports the text amendment; encouraged Mayor and Council to make the text amendment “stiffer.”
- Twenty five chickens is more than enough in a residential neighborhood; forty chickens should be considered the same as someone having “forty cats in their house, an issue for animal control to investigate.”
- Roosters should be limited in number to control noise.

**Ted Gum**, 610 Boulder Way spoke on the following:

- Concern regarding his neighbor raising a turkey and pheasants in his backyard.
- Lot size restriction is critical.
- Suggested fence design requirements for enclosing the chickens to restrict viewing chickens from his property.
- Concern regarding the noise; how will it be judged and enforced.
- Overall, does not support the ordinance.

**Jodi Easter-Smith**, 720 Hembree Road, spoke on the following:

- Roswell school teacher; owns four (4) chickens as pets on two (2) acres of land.

- Supports the ordinance but understands the concerns; would not want a neighbor who has hundreds of chickens.

**Andy Schneider**, 4675 Hampton Square Drive, Johns Creek, GA, spoke on the following:

- Known as the “Chicken Whisper”; has a national radio show about keeping backyard poultry; is the founder of the Atlanta Backyard Poultry Meetup Group; contributes to *Mother Earth News Magazine*, *GRIT Magazine*, and *Farmers Almanac*.
- Works with municipalities across the nation developing backyard poultry ordinances; ordinances currently on the books at most municipalities are enough to enforce any problem regarding backyard chickens and roosters.

**Andrew Wordes**, 335 Alpine Drive, spoke on the following:

- Requested that he be allowed to grandfather in chickens under the “legal definition of “grandfathering” and that roosters be allowed.
- His miniature button quail species carried into Council chambers in a box used as a visual display; “twenty-five is a fine number going forward.”
- Ordinances currently on the books are enough to enforce any problem regarding backyard chickens and roosters which might arise.

Councilmember Dippolito clarified that Mr. Wordes lives on an acre of land; he was “okay with twenty-five” birds. He noted that the City of Roswell has lots which go down in size to as little as 6,000 square feet, which is much smaller than Mr. Wordes’ lot. He asked Mr. Wordes if it was reasonable to say the number should be scaled down from twenty-five, on an acre basis. Mr. Wordes answered “I don’t think so because if you add my pheasant, my quail, my chuckards, my partridge, my chickens, my miniature chickens, I have two hundred birds, probably. But twenty-five of them are in a ten-gallon tank in my living room, so at twenty-five, I would not be allowed to have anything outside of my house; the City has noise ordinances, smell ordinances, and Fulton County Animal Control for any health issue.”

**Carmen Ford**, 585 Upper Hembree Road, spoke on the following:

- Owns nine chickens on land in Roswell which had been a working farm off and on since before Roswell became a city; land is no longer zoned agriculture; feels forced “into the rules and progress of tomorrow without an accurate observation as to what that vision could be for Roswell.”
- Requested that Council carefully consider this; ordinances currently in place cover nuisances and noise issues.

**Tamara Barhar**, 445 Longleaf Drive, spoke on the following:

- Currently owns seven chickens including roosters but has owned as many as a dozen chickens on approximate acre lot.
- Roosters are not bad; responsible owners will take the roosters inside at night and not allow them out early in the morning.
- Confirmed for Councilmember Orlans that her roosters are moved to the garage or shed at night to prevent them from crowing in the morning.

**Mark Russell**, 4227 Harris Ridge Court, spoke on the following:

- Owns twelve pet chickens on a small lot but has no roosters; “chickens take up a very small amount of space when they are in a coop.”
- Move roosters to a coop to prevent noise, in consideration of neighbors.

**Alan Christian**, 415 Autumn Wood Court, spoke on the following:

- Owns ten hens on 1.2 acres of land; previously owned a rooster taking it at night and would not bring it back out until 9 a.m.
- Should not be a specific number of birds for lot sizes of 1.2 acre to half an acre in size; if birds are quiet and enclosed and there are no complaints about those birds.
- Goats near Mayor's house.
- Confirmed for Councilmember Orlans that he used an enclosed shed to put his rooster in over night; rooster is no longer on his property.

**Theresa Brown**, 1510 Oakfield Lane, spoke on the following:

- Lives in Mr. Wordes' neighborhood and is supportive; has had no problems with noise from the animals and was not aware that he owns 200 plus birds; only a few chickens have been loose since recent flooding destroyed his enclosure.
- Grandfathering is a good idea especially if a farm is currently involved.
- Appropriate to place restrictions on lot sizes or the number of animals as ordinance moves forward.

**Sheree Crow**, 325 Alpine Drive, spoke on the following:

- Neighbor to Andrew Wordes; has had no problems with the chickens or the roosters.

**Carol Costly**, 1586 Oakfield Lane, spoke on the following:

- Neighbor to Andrew Wordes; has had no problems with the chickens or the roosters.

**Andrew Wordes**, 335 Alpine Drive, stated he had not previously seen the text amendment; noted that it referred to "non-commercial personal use only" and asked if coin collecting and selling coins over the internet or taking eggs or vegetables to a farmers market is considered a hobby or whether it is commercial or non commercial; does selling extra eggs to a farmers market make this commercial use. He noted that he had an issue with accessory structures because he lives in a flood plain and is unable to build an accessory structure on his property. Mr. Wordes stated "I ask that I be exempted from the entire ordinance and be grandfathered in because if I am held to the same standards everyone else is with the new ordinance, I'll have to get rid of every chicken I own." No further comments.

**Council comment:**

Councilmember Dippolito stated that an issue regarding the mobile structure had been brought up by the Planning Commission and that it had been previously pointed out that some of the chicken coops are no larger than a dog house. He asked staff if there was a way to add flexibility to the text amendment so that an accessory structure permit is not required. Planning and Zoning Director Brad Townsend responded that he was sure there is some latitude relating to determining an accessory structure. City Attorney David Davidson stated the City's definition of structure is anything that is permanently attached to the ground. By changing it from a structure to an enclosure, it might be possible to have some sort of mobile enclosure. Councilmember Dippolito stated that by requiring an accessory structure that is really something fairly substantial when in a lot of cases it is not even necessary, and in Mr. Wordes' case, he cannot build one and has to have something more mobile and smaller, he suggested that staff take a look at that before the second reading to make it more appropriate. Mr. Townsend clarified that the term accessory structure is used in **Section (e), Poultry enclosed**. Councilmember Dippolito stated that was correct. Councilmember Dippolito asked Mr. Davidson how the City defines "non-commercial." Mr. Davidson stated there is a definition of "commercial" but Council could decide to exempt farmers market

for this text amendment; it could be worded for personal use, or non-commercial uses other than farmers market so that farmers market is allowed but not the retail sale of eggs at the house. Councilmember Dippolito responded that the intent is not to have a chicken farm or someone's property but we want them to have some flexibility to use the eggs.

Councilmember Dippolito stated he was in favor of backyard chickens and the idea of supporting urban agriculture in Roswell. He commented that it is something that is coming forward throughout the country and needs to be addressed in the City of Roswell. He suggested that Council address the people who do not act as responsible owners of backyard chickens. He supported the ordinance, was in agreement with the Planning Commission comments and the elimination of geese and turkeys since those are larger birds and there was great argument as evidenced by Mr. Wordes' display earlier this evening with the small quail. Twenty-five birds seem to be a reasonable number as long as the birds are not of a larger size. Councilmember Dippolito said that at this point, he was not in favor of adjusting the number in favor of lot size and would stick with the flat number of twenty-five birds; wording of commercial use would be addressed, as just discussed. The language regarding motion activated lighting is unnecessary; this is the last line of Section (f). He agreed that the City needs to have a grandfather clause which allows whatever is currently in place to remain, and would not want to restrict that.

**Motion:** Councilmember Dippolito moved to approve the *First Reading of RZ09-11 Text Amendment to allow for the keeping of companion animals and poultry in the backyard of single-family residential areas with the Planning Commission recommendations with the exception of the limitation on the lot size (Planning Commission recommendation #3)*. Councilmember Wynn seconded.

**Council comment:**

Councilmember Wynn clarified that she is not opposed to backyard chickens but the numbers need to be limited; she is opposed to roosters because of their noise; she agreed that the citizens who spoke tonight understand the responsibilities of being a good neighbor. Councilmember Wynn asked staff to consider the addition of a section to the ordinance which addresses rooster enclosures and to determine if the noise ordinance will cover this type of noise.

Councilmember Orlans agreed with Councilmember Wynn's point regarding rooster noise; he suggested that a requirement for the overnight enclosure of roosters be included in the ordinance before the second reading and supported the ordinance moving forward.

Mayor Pro Tem Igleheart inquired if Mayor Wood had any comments which he wanted read. Mayor Wood made no comments.

Mayor Pro Tem Igleheart stated he was "okay with looking for grandfathering options and certainly lot size in some areas"; he has concern regarding how this could affect subdivisions homes where everyone lives closely to each other. Mayor Pro Tem Igleheart supported this ordinance moving forward to be worked on before the second reading.

No further discussion or questions.

The motion passed unanimously.