

Planning Board Recommendation to the Town Council

TO: Cape Elizabeth Town Council
FROM: Planning Board
DATE: March 29, 2011
RE: Roosters regulation referral

Introduction

At the August 9, 2010 meeting, the Town Council referred to the Planning Board "a suggestion that the Town should consider the status of roosters in Cape Elizabeth."

Planning Board Process

The Planning Board held four workshops where the regulation of roosters was discussed (October 5, 2010, November 2, 2010, January 4, 2011 and February 1, 2011) and held two public hearings (December 21, 2010 and March 17, 2011).

Public Participation

Comments from the public were forwarded from the Town Council and were also received in writing as part of workshops, in presentations from the Cape Farm Alliance as expert advise at workshops, and in testimony at the public hearings. Public comments included:

- John and Debra Maley, 42 Ocean House Rd, June 19, 2010 correspondence requesting regulation of roosters
- Robert Chatfield, 22 Beacon Lane, August 17, 2010 correspondence requesting regulation of roosters
- Steve Sullivan, owner of two homes on Beacon Lane, August 14, 2010 correspondence, requesting regulation of roosters
- Sherry and Gib Mendelson, 20 Beacon Lane, August 14, 2010 correspondence requesting regulation of roosters
- John Greene, Ordinance Committee Chair, Cape Farm Alliance, September 3, 2010 correspondence recommending addressing rooster complaints under the Noise Ordinance
- Aria Tuki, 16 Beacon Lane, November 3, 2010 correspondence requesting regulation of roosters
- Gib Mendelson, 20 Beacon Lane, December 21, 2010 correspondence and testimony requesting regulation of roosters

- John Greene, Cape Farm Alliance, December 21, 2010 comments requesting no regulation of roosters under the Zoning Ordinance, but possible regulation as disturbing the peace
- John Greene, Cape Farm Alliance, January 4, 2011 comments requesting roosters be addressed as Disturbing the Peace
- Beth Angle, 3 Young Lane, Cape Farm Alliance, expert advice at Planning Board workshop on nature of roosters
- Jodie Jordan, 83 Old Ocean House Rd, March 17, 2011 testimony that does not support regulation of roosters
- Beth Angle, 3 Young Lane, March 17, 2011 testimony supporting regulating roosters similar to barking dogs
- Penny Jordan, 349 Fowler Rd, Chair, Cape Farm Alliance, March 17, 2011 testimony supporting regulating rooster noise as nuisance

Supplemental Information

The Planning Board reviewed the following supplemental information:

- Residential Urban Chicken Keeping: An Examination of 25 Cities, University of New Mexico, 2008, Appendix A, 25 Ordinances Analyzed.
- “A Chicken in Every Lot?” Maine Townsman, October 2010.
- Email from Bruce Smith, Code Enforcement Officer, explaining status of chickens in Zoning Ordinance
- Letter from Michael Hill, Town Attorney, re: status of chickens in Zoning Ordinance
- Email from Police Chief Neil Williams re: applicability of Chapter 12, Miscellaneous Offenses (disturbing the peace and animal control) and Chapter 7, Dogs (barking and howling)

Recommendation

The Planning Board did draft amendments to the Zoning Ordinance that would have required a minimum of 40,000 sq. ft. to keep a rooster, which would have had the effect of prohibiting roosters in the most compact neighborhoods. At the March 17, 2011 Planning Board meeting, a recommendation supporting these amendments failed to pass with a vote of 2-3-1 (abstention).

While the Planning Board agreed that ordinance changes are needed to address noise, they did not support amendments to the Zoning Ordinance, in part because noise can be a problem in any neighborhood regardless of lot size.

At the March 17, 2011 meeting, the Planning Board voted (4-1-1 abstain) to recommend the following:

BE IT ORDERED that the Planning Board recommends that the disruption of the peaceful quiet and enjoyment of property that may be caused by roosters may be more appropriately addressed with amendments to Sec. 12-1-1, Disturbing the Peace, and Sec. 7-1-4, Dog Ordinance.